

## **BUSINESS START-UP CHECKLIST**

Following is a non-exhaustive list of things for you to consider before entering into a new business relationship. The more things you can consider and decide before you commence operations, the less you will have to deal with if things do not go as planned. If nothing else, agreeing on some of these matters initially allows the principals of the business to know what to expect from each other in the future.

Please answer the following questions, either in writing or by discussing them with me over the telephone:

1. What is the name of the company? Where is the principal place of business going to be located?
2. Who will serve as the registered agent for service of process and other matters and where will the registered office of the company be located?
3. How long will the company continue in existence? This usually should continue until the company is dissolved in accordance with its organizational documents, but can be for a specified duration if you wish.
4. What business will the company conduct? This does not need to be specific (any lawful purpose is usually selected) but may be if you wish. How many employees will you have? Who will be responsible for handling payroll and managing the day to day operations of the business? Who will have the authority to make hiring decisions and other determinations regarding personnel?
5. What type of entity (e.g., corporation, limited liability company, partnership, joint venture) will best suit the needs of the owners of the company? (this is something we will discuss).
6. Who will be the owners of the company? Their interest in the company is specified in terms of a percentage of ownership. What will be the amount and type of investment in the company? Will some owners put up money, and the others "sweat equity", or will all contributions be equal? If 50/50 on everything, how do you deal with situations where the 50/50 owners do not agree? Does one owner get to break the tie at one time, with the other breaking it the next time? Are some decisions so big that if you cannot agree, you need to dissolve the company? If so, what are those types of decisions, and what type of mechanism (buy-out, forced sale, arbitration or mediation) should you use to determine same?

7. Who will operate the business of the company? The number and duties the directors/managers will have is something you need to determine. What powers will be given to the directors/managers, and what actions will need the approval of all of the owners before being undertaken (like incurring debt in excess of \$500.00, etc.)? Will directors/managers have to devote all of their time to service of the company, or can they be involved in other business activities? Will directors/managers be compensated? If so, who will determine their compensation and how will it be adjusted? Can directors/managers be removed by vote of only the owner who elected them, or is majority vote of the owners all that is required?
8. When, where and how often will directors/managers and/or owners conduct meetings regarding the operation of the company? What types of notice for such meetings is required?
9. What capital contributions will be required of the owners? Will the owners be contributing cash only, or will other property or services be credited as a capital contribution? How will net cash flow be determined/divided and when will owners begin receiving a return on their investment? What happens if more capital is needed for the company--is it raised by additional owner contributions, loans or bringing in new owners? If one owner has more invested in the company than the other, is he treated as owning a larger interest in the company or is he simply repaid his excess contribution before the other owner receives anything? Will loans by owners to the company bear interest or will they be treated as additional equity contributions?
10. How will profits and losses of the company be allocated among the owners (usually in accordance with their respective ownership interests, but you could decide to make special allocations)?
11. How and under what circumstances can transfers of interests in the company be made? Will restrictions on transfer be imposed? If so, what will they be? How do other persons become owners, if at all?
12. Will the company indemnify directors/managers and owners from claims arising out of conduct of the company's business? What types of expenses will be reimbursed by the company? Who will keep the company's records and how often will financial information be prepared and distributed to the owners?