

Partnerships

A partnership is an agreement in which two or more persons combine their resources in a business. In order to establish the terms of the business and to protect partners/shareholders in the event of disagreement or dissolution of the business, a partnership/shareholders agreement should be drawn up with the assistance of a lawyer.

Partners share in the profits according to the terms of their agreement.

1. General Partnership

All members share the management of the business and each is personally liable for all the debts and obligations of the business. This means that each partner is responsible for and must assume the consequences of the actions of the other partner(s).

2. Limited Partnership

Some members are general partners who control and manage the business and may be entitled to a greater share of the profits, while other partners are limited and contribute only capital, take no part in control or management and are liable for debts to a specified extent only. A legal document, setting out specific requirements, must be drawn up for a limited partnership.

3. Standard Outline for a Partnership or Shareholder Agreement

The ideal time to reach unanimous agreement regarding how a company is organized, operated, changed or liquidated is before the investment transaction takes place. In order to have a productive meeting, you need an agenda and you need to make decisions; decisions that stand the test of being committed to writing in order to deal fairly with future events and consequences that may or may not occur.

Note: This format is designed to help build a consensus among subscribers, but it is NOT a substitute for legal counsel, nor the requirements of the Securities Commission in your province.

- Describe the partners or shareholders and their investments.
- Describe the firm's trade name and style of identity.
- Describe the nature and scope of business activity.
- Identify the official business office address, and phone number.
- Establish a date to review the agreement.
- Detail each equity contribution and include the terms of each shareholder loan.
- Establish all banking resolutions and signing authorities.

- Establish the limits for personal guarantee bonds and postponements before negotiating any bank financing.
- Establish a dividend policy.
- Establish compensation for per diems, bonuses, salaries or drawings for the term of the agreement.
- Establish a policy for the inspection of business records and right of audit.
- Establish insurance coverage(s) and the indemnification of directors for contingent liabilities of the firm.
- Establish provisions for partners or shareholders:
 - wishing to retire;
 - withdrawing equity;
 - settling an estate;
 - in arbitration of disputes;
 - expelling a partner;
 - selling to an outsider.
- Establish provisions to evaluate the share of a retiring or deceased partner's interest.
- Establish rights and options for surviving or remaining partners or shareholders to purchase the interest.
- Establish the terms for restrictive covenants, conflict of interest, and noncompetition agreements for partners leaving the firm.

Many simple companies are forged as 50/50 or equal partnerships in order to avoid the less exciting details of a formal agreement and get on with the business. The buy/sell agreement in these situations is usually just a simple "SHOTGUN" clause (possibly named after a wild west version of the Mexican Standoff). In these situations, one party makes an offer and the recipients of the offer can either sell by accepting the amount, terms and conditions, or turn around and buy on exactly the same basis; thereby forcing the offer back to the issuer. This is quick end befitting a quick beginning!

Agreement forms can be prepared by your lawyer. You may also find "do-it-yourself" forms for sale at book and office supply stores.

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