

Start Up Business Checklist

If you're thinking of starting a new business, you should have solid answers for these questions. Partnerships may be especially vulnerable to problems when the unexpected happens and you don't have a previously agreed upon process to handle the issue. Comprehensive Shareholder and Operating Agreements are needed to be your "Road Map" to cover every eventuality. The best marriages of business owners are the ones where there is an understanding of the agreements reached and how issues will be resolved. This allows everyone to stay focused on the goals of the company. If you have any questions after you think through this checklist of course we'll be glad to help you out. At Thompson, Crawford & Smiley our focus is helping entrepreneurs run successful businesses and minimize their problems.

The relationship between the owners.

- Have you previously done business together? Yes No
- If yes, for how long? Months Years
- What was the nature of the business relationship? _____
- Were there issues from that experience that need to be addressed? Yes No
- Has there been a personal relationship? Yes No
- Previous experience in a start-up business? Yes No
- Is there experience in this specific business? Yes No
- Is the role of each owner defined clearly? Yes No
- Are the owners going to be equal (50/50) partners? Yes No
- If yes, is there a tiebreaker mechanism? Yes No

What capital or other resources is each owner contributing to the new business?

- Has value been placed on goods/equipment if contributed by 1 owner? Yes No
- If owners are contributing capital is it debt? Yes No
- If owners are contributing capital is it equity? Yes No
- Is owner taking a security interest in company's assets to secure loan? Yes No
- If debt, what is the interest rate and repayment terms to the owner? _____

Is the entity going to incur other debt? Perhaps bank loans, equipment or vehicle loans/leases?

Will either or both owners be personally guaranteeing any of this debt? Yes No

Is owner going to have "right of contribution" from other owner if they are forced to pay on the guaranty? Yes No

If yes, what is the percentage of contribution? %

How is the return of owners' capital determined? _____

What type of entity should be formed?

Limited Liability Company Yes No

If no, skip to Corporation. If yes, answer the following

Manager managed or member managed? Manager Member

Who is the manager? _____

Is there a successor manager? Yes No

What are the specific duties of the manager? _____

How can the manager be removed if he is not performing his duties? _____

If the LLC is member managed what are the duties and responsibilities of the members? _____

How is profit and loss distribution controlled? _____

How is profit and loss tax allocation controlled? _____

Corporation

Taxed as a Subchapter S Corporation Yes No

Taxed as a C Corporation Yes No

How are the shares owned? _____

Who are the officers? _____

Who are the directors? _____

Is a super majority vote required for certain issues? Yes No

Compensation to Owners

Is there an agreement on how owners are going to be compensated? Yes No

Is an owner eligible for bonuses? Yes No

If yes, how are they determined? _____

What other benefits does the owner receive? _____

What expenses will the company reimburse an owner? _____

Can the owners' employment be terminated? Yes No

If yes, under what circumstances? _____

Are there any provisions for death or disability of owner? Yes No

Are owners subject to restrictive covenants? Yes No

If yes, what are the length of time and the geographical scope of limitations? _____

Stocks and Membership Interest Considerations.

Upon an owner's termination, is the company required to buy owner's stock? Yes No

If yes, how should the value be determined? _____

How are the value and payment terms determined? _____

If buyout is company's option, how is the price the buyout determined? _____

Upon owner's death/disability, mandatory buyout of owner's interest? Yes No

How are price and terms going to be determined? _____

Is the buyout going to be funded by insurance? Yes No

Can either of the owners force the other owner to sell? Yes No

If yes, under what conditions? _____

What is the price and terms of the forced sale purchase? _____

If you feel comfortable with all these questions – and your answers to them – Congratulations! If not, call Thomas Thompson at 850-386-5777! Begin by visiting our website at www.TallahasseeTrialLawyers.com.

These questions are just the beginning of what solid Shareholder and Operating Agreements should be prepared to cover. Thanks to our years of experience we can quickly help you put together comprehensive documents that will keep your business, and your business relationships intact long term.