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Guide to Partnership Agreements

A guide by Burton & Dyson

Introduction

Partnerships are currently one of the most popular business structures. In its simplest terms, this is when a business is run by at least two joint owners. Any decisions affecting the running of the business should be agreed by all of the partners.

Forming a partnership means the work load is shared, enabling each partner to specialise in their own area of the business, as well as cover for other partners' absences through holiday or illness. Unfortunately, the liability for any debts is also shared, unless you are a limited liability partner.

More finance can also be raised within a partnership, due to the greater investment from the owners and also the greater chance of securing other sources of finance, such as bank loans.

Due to the liability for other partners' debt, it is wisest to go into partnership with someone you trust and who will bring new skills to the venture. However, things can still go wrong and business partners may fall out, which is why you should draw up a partnership agreement before you start.

What is a Partnership Agreement?

A Partnership Agreement enables you to structure your business in the way that is most suitable to you and your partners, and defines the share of the profits (and losses), responsibilities and rights for each partner.

It is best to use a solicitor when drawing up the agreement, to ensure you get the right advice before defining your level of commitment to the business. Any issues that are not included within the agreement will be determined by the statutory rules, which can be inadequate and impractical.

It is important that all the partners are present when the document is created and that they all sign it to confirm they understand and agree to the terms contained within.

Why should we have a Partnership Agreement?

The primary purpose of a partnership agreement is to protect the partners' investment in the firm and to establish a fair relationship between them.

Disagreements will occur in any partnership, which can result in partners dissolving the business if an agreement can't be reached. A partnership agreement tackles all the issues that may occur, and details the actions that will be taken to solve them.

Without such an agreement, conflicts will be settled according to either The Partnership Act, 1890 or The Limited Partnership Act, 1907, which may produce an unsatisfactory result in some cases.

What should be contained in a Partnership Agreement?

A partnership agreement sets out detailed and practical rules for the firm and its partners, and will generally cover the following areas:

- **The name of the business and its partners**: the agreed trading name of the business and the full names of all the partners.
- **Commencement of the partnership**: the exact date when you will begin trading.
- Nature of the business: a brief description of what your business offers, whether that is the products you sell/manufacture or the services provided.
- **Business location**: a list of all the addresses that the business will be run from.
- **Investment**: the initial amount of capital invested in the business by each partner.
- **Ownership**: the percentage ownership for the business – although owning less does not make a partner less liable, except for limited liability partners.
- **Contribution**: what each partner will bring to the business, whether it be premises, use of their car or their home computer in emergencies.
- **Job description**: the role each partner will play in the business and whether they will work full or part-time.
- **Decision making and voting rights**: outlining circumstances where a joint decision will be required and the action to take if the partners can't agree.
- **Profit sharing**: how the profits will be shared, when the partners can withdraw this money and any reinvestment back into the business.
- **Wages and expenses**: the amount of money each partner can draw from the business and the limit on the amount of expenses that can be claimed.
- **Liability sharing**: the level of liability each partner will be responsible for.
- **Bank account and cash management**: the name and address of the bank and any terms related to managing the account or interacting with the bank.
- **Accounts**: when these will be completed and by whom. If this is a third party, their name and address should be specified.
- **Holidays**: the number of days each partner can take off while receiving full pay.
- **Illness**: what will happen if one of the partners falls ill or has an accident, making them incapable of doing their work, and the terms for maternity leave.
- **New partners**: the terms and conditions for partners joining, their level of investment and their rights and benefits for doing so.
- **Retirement**: what the retirement package will be for the partner leaving and how the business will continue to be run.
- **Dissolution**: how the business will be split between the partners if it ceases to trade.
- **Death**: how to split a partner's share in the business in the unfortunate event of their death.
- **Unfair competition**: what type of employment a partner can go into if they leave, especially in terms of not being in direction competition.
- **Dismissal**: under what circumstances a partner can be dismissed and any payout they will receive.

At Burton & Dyson, we can advise you on how your firm might benefit from a partnership agreement and can draft an agreement appropriate to the needs of your firm.

To find out more about how we can help you, please contact us:

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