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Essentials for Your Partnership Agreement

A national or international Amazon business with friends and/or colleagues can be highly rewarding. You and your partners share a common vision and similar values, and work together to achieve business success. However, disputes arise even among the best of friends and a well-crafted partnership agreement can help you avoid those pitfalls. Partnership agreements aren't required by law. If you don't have a written partnership agreement, the laws of your state will prevail, and you'll be obligated to follow them.

Issues That Should Be Addressed in Every General Partnership Agreement

At a very minimum, a written partnership agreement should propose the purpose of the partnership and precisely what's expected of each partner in terms of time, duties, and financial contributions. For example, will one partner be putting up the financial capital while the other partner puts in the work? Sales and marketing activities on Amazon are a lot of work. So is administrative work, such as bookkeeping, purchasing, and inventory control. There may be times when the person doing all the work feels they're entitled to a bigger piece of the pie, and times when the financial partner feels the other partner isn't working hard enough. For this reason, it's critical for each partner to know what's expected of them from the beginning.

The partnership agreement should also specify whether additional compensation will be paid to a partner who performs work at a specific time (e.g., after so many years, after the financial partner

has recouped his or her investment, if additional work is performed, etc.). Additionally, this agreement should specify when and how the profits of the partnership will be shared, as well as how losses will be divided.

Other terms that should be included in any written partnership agreement include:

Term of the partnership:

- ▶ Purpose of the partnership (Amazon sales or also other business activities) and what outside competitive activities the partners may engage in;
- ▶ Initial capital contributions of the partners (including money, services, and property);
- ▶ Subsequent capital contributions (If the partnership needs additional capital, will the partners be obligated to make additional capital contributions?);
- ▶ How the partnership profits and losses will be allocated among the partners, and when;
- ▶ How the partnership will be managed, including who will make the day-to-day decisions, who will be responsible for what duties, and what acts will require majority approval or unanimous consent;
- ▶ How much time each partner is expected to devote to the Amazon business and other partnership business;
- ▶ Whether new partners can be added, and if so how;
- ▶ Under what circumstances a partner can be expelled;
- ▶ How a partner can withdraw;
- ▶ A means to resolve a deadlock or conflict; and

- ▶ A provision providing for the dissolution of the partnership, and formation of a corporation or LLC for your Amazon business if the partnership business reaches some milestone.

Buy-Sell Agreement

The partners should also execute a buy-sell agreement to address the issue of the transferability of their partnership interest. Absent an agreement to the contrary, a partner may freely transfer his or her partnership interest to another person. In addition, absent a buy-sell agreement, the death, incapacity, bankruptcy, resignation, or expulsion of any partner may automatically dissolve the partnership. For continuity, a buy-sell agreement can provide effective buyout provisions to address various situations.

Whatever form your new Amazon partnership takes, it's crucial that you have a written partnership agreement that is drafted by an attorney. This is true even if your partner is your best friend. While you don't want to go overboard, the more detailed your partnership agreement, the better off you'll be in the long run.

Gary Eisenkraft is the principal of Eisenkraft CPA & Consulting Services in New York City. His firm specializes in creative professional practices, including engineering, architecture, visual arts, and marketing. Mr. Eisenkraft has spoken to various groups on specific topics of interest to the business and not-for-profit communities. He has written and spoken before various audiences including Workshop in Business Opportunities, the Industrial Designers Society of America, and The New York Times.