

CHECKLIST: PARTNERSHIP AGREEMENT

<p>1. Parties</p>	<ul style="list-style-type: none"> • Who are the parties to this agreement? • Contact details
<p>2. Partnership Purpose</p>	<ul style="list-style-type: none"> • Why is the partnership being formed?
<p>3. Partnership / Business Name</p>	<ul style="list-style-type: none"> • The partnership must register a business name with the Office of Fair Trading and obtain an ABN • If you have a unique business name you can register it as a trademark to prevent others from using it. It will also become the partnership brand and will have value in the event the partnership is sold or dissolved.
<p>4. Term</p>	<ul style="list-style-type: none"> • When will the partnership commence? • How long is the partnership to last? • Will the partnership have a trial period? • Is the partnership being formed for a particular project or for a particular duration?
<p>5. Partners' Financial Contributions</p>	<ul style="list-style-type: none"> • What capital/money is each partner contributing to the partnership? • How will future partnership funding occur? • Is there an obligation on the part of each partner to put funds into the business as required? • Any other contributions to be made by each partner (for e.g. intellectual property)?
<p>6. Accounts & Banking</p>	<ul style="list-style-type: none"> • How are the accounts to be kept? • Which accountants will be used? • Who can access the accounts? • Who can sign cheques?
<p>7. Income</p>	<ul style="list-style-type: none"> • When/how will the partners receive partnership income / drawings?
<p>8. Expenses</p>	<ul style="list-style-type: none"> • How will expenses be paid by the partnership?
<p>9. Profits & Losses</p>	<ul style="list-style-type: none"> • When will profits be distributed? • How will profits be divided? • Do all business debts have to be met prior to profit distribution? • How are losses to be met?

<p>10. Meetings</p>	<ul style="list-style-type: none"> • How are partnership meetings to be conducted? • How will partnership decisions be made: <ul style="list-style-type: none"> - By majority; - Unanimously. • Will each partner have equal voting rights? • What are the steps to follow if consensus cannot be achieved on a proposed course of action?
<p>11. Daily Decisions</p>	<ul style="list-style-type: none"> • Who can bind the partnership in daily decisions? • What is the role of each partner in carrying out the business activities?
<p>12. Partners Responsibilities/Duties</p>	<ul style="list-style-type: none"> • Who will prepare the business plan/budget? • What responsibilities do the partners owe? • What duties do the parties have in the daily management of the partnership?
<p>13. Partners Powers/Restrictions</p>	<ul style="list-style-type: none"> • Any powers specific to each partner? • Are there any restrictions on the partners' powers? • Can the partners engage in other employment/subcontracting whilst in the partnership? • Are there any existing contracts in place which will have a bearing on the partnership agreement or partners' powers?
<p>14. New & Departing Partners</p>	<ul style="list-style-type: none"> • How can new partners be added? • Does a partner need to give notice and for what period if they wish to resign from the partnership? • What rights and responsibilities do incoming and departing partners have to the partnership? <ul style="list-style-type: none"> - Are they still liable for agreements entered into while a partner? - Can the partnership continue using the trading name? - What indemnities do departing partners give/receive from the partnership? • Can the partner transfer their interest in the partnership to someone else? • How can a partner be removed? • Automatic expulsion of a partner for e.g. due to bankruptcy, persistent breach of partnership

	<p>agreement, illness or incapacity or death.</p> <ul style="list-style-type: none"> • How are financial matters to be resolved when a partner departs? - Division of existing assets; - Payment of future royalties; - How is their partnership interest to be valued?
15. Intellectual Property & Confidential Information	<ul style="list-style-type: none"> • Who will own intellectual property created by the partnership? • How will the registered intellectual property be shared/transferred if the partnership is dissolved? • How is confidential information to be protected if a partner departs?
16. Disputes	<ul style="list-style-type: none"> • How are disputes to be handled? • Mediation / Arbitration as a first option?
17. Indemnity	<ul style="list-style-type: none"> • Will the partners give cross indemnities to each other partner?
18. Termination	<ul style="list-style-type: none"> • What events will terminate the partnership? • Is the partnership to continue in the event of death or bankruptcy of one of the parties? • What things must a departing partner do before he/she is released from the obligations of the partnership agreement? • What will happen to partnership assets? • Will there be any restraint provisions?
19. Starting Point	<ul style="list-style-type: none"> • Each prospective partner should independently prepare a document setting out their understanding of how the partnership is proposed to operate and what they regard as their role in the partnership. • Those documents should be exchanged and commented on by each partner. If you can negotiate and agree on the points set out above you will essentially have a working partnership document. • While a formal partnership is not required (most states and territories in Australia have legislation which governs partnerships) it is prudent to have a written agreement.

Disclaimer: This checklist contains general information only. It is not an exhaustive checklist and is proposed as a guide only. It is not intended to be given as advice and

should not be relied upon as such. Surry Partners Lawyers recommends that parties to a Partnership Agreement obtain specific advice from an experienced lawyer.