

General Partnerships

- The general partnership has the following features:
 - Unlimited liability for all partners
 - All partners can manage the company
- The general partnership is a contractual agreement between the owners in which they agree how to run a business and includes:
 - Two or more competent people
 - A lawful business
 - Sharing of profits and losses

Reasons for General Partnership Agreements

- Written (or even oral) agreements are not absolutely necessary for a GP. However, without an agreement, the default rules apply, which includes:
 - Each partner is an equal owner
 - Even if they invested a different amount of capital to the business
 - No partner is entitled to a salary more than any other
 - Equal division of management responsibility and powers
 - Equal allocation of profits and losses
 - Default rules governed by the UPA

Clauses in General Partnership Agreements

- Title
 - This should identify the nature of the agreement
- Names and addresses of all partners
- Name of the partnership, its business purpose and where its principal place of business is located
- Duration of the Agreement
 - Unlike a corporation, this is presumed to be terminable at will by any party unless stated otherwise!
- Initial contribution of partners
- To whom expenses will be allocated

Clauses in General Partnership Agreements 2

- Ownership of partnership and partnership assets
 - Presumed to be equal unless stated otherwise
- Accounting procedures
 - Including maintenance of capital account belonging to each partner, etc.
- Distribution of profits and losses
 - Presumed to be equal unless stated otherwise
- Liability of each partner to the others
- Compensation for services
 - Presumed to be none unless stated otherwise

Clauses in General Partnership Agreements 3

- What happens if a partner resigns or dies
 - Default rule: the partnership terminates
- Dispute resolution
 - Including arbitration clause, if desired
- Termination and what happens upon termination
- Other miscellaneous clauses, as negotiated, including:
 - How notice is given to each party
 - How agreement is modified
 - Costs and attorneys fees
 - Life insurance agreements??
- Agreement must be executed by all parties

Limited Partnership

- This contains general partners and limited partners.
 - The general partners have rules similar to the partners in a general partnership
 - The limited partners invest money, but:
 - Have no management function; and
 - Have no personal liability (the most a limited partner can lose is what he or she invested into the business)
- A Limited Partnership must be created through a filing with a state agency, unlike the general partnership

Contents of a Limited Partnership Agreement

- A limited partnership agreement should have everything a general partnership agreement has PLUS:
 - The class of each partner
 - One partner can own a share that is a general partnership share and a share that's a limited partnership share
 - so that s/he can transfer the LPs share if desired and still remain on as a general partner
 - The contributions of each general and limited partner
 - Any additional liabilities the limited partners would have in addition to his or her investment
 - Distribution of profits
 - Rules governing transfer of limited partnership interest

Joint Venture

- A joint venture is an agreement to enter a business deal between any two people or entities (such as between 2 corporations).
 - Joint ventures are usually formed as partnership.
- A joint venture agreement should contain the following:
 - An allocation of control of venture assets
 - An agreement as to which parties are contributing what assets
 - How the profits or losses are to be shared
 - The liability of each party
 - The duration of the agreement
 - How the parties will allocate the tax consequences of the venture

Dissolution Agreement

- This is the document by which partners dissolve the partnership
 - If in a manner not called for by the agreement, then all partners must consent
- The agreement should contain:
 - Identification of all parties involved
 - Statement that the partnership is being dissolved
 - Agreement to liquidate the partnership assets and the manner in which that will be done
 - Execution of the agreement by all partners

Limited Liability Company

- This is an entity similar to the Limited Partnership in that it can be created only through filing with the state. Some differences:
 - The owners are “members” and not “partners”
 - All members can have management functions; though the principal manager is called the “managing member”
 - There is no need for any owner to have unlimited liability – all members have limited liability
 - It is not automatically dissolved if one person leaves or dies, unlike the default rule for a partnership
 - There are often filing fees or franchise tax on an LLC in many states which sometimes can make it a less attractive option than a partnership