

Pre-Speech Questionnaire
R. Shawn McBride
Speaker, Attorney, CPA

R. Shawn McBride Live! Pre-Event Questionnaire

Please complete the following Pre-Speech Questionnaire

Name: _____

Name of your Organization: _____

Type of Business: _____

Questions:-

1. Do you feel comfortable with your current business plan? Is it adequately prepared for eventualities and mishaps to the owners during a business life cycle?

2. What will happen to the business if one owner dies?

3. If a partner becomes disabled, how will profits be distributed to the disabled partner?

4. If a partner gets divorced, what will happen to the divorcing partner's ownership?

5. Who will prevail if the owners disagree on business decisions?

6. Do you sign business contracts individually or on behalf of your business? Are you doing things to ensure you are not held personally liable?

7. Does your business have a governing document in place (e.g. bylaws or LLC agreement)? Does it document your future plans?

If you answered yes to Q7, then answer the following:-

- Is there insurance for your managers? _____
- Do your bylaws provide indemnity protection to directors or managers? _____
- Do your bylaws allow for one owner to buy out the other co-owner's stake in case of a disagreement? _____

8. Have you taken funds from friends and family in exchange for ownership in your business? Have you complied with/violated securities laws in the process?

9. Are your books and records in order?

10. Are you remitting taxes and completing government reports on time?

11. Have you given personal guarantees to banks for business loans? If yes, have you revisited loan terms to make sure personal guarantees are replaced with business guarantees as the economics improve?

12. Has ownership of all intellectual property been transferred to the company?

13. Have you canceled powers of outgoing managers or officers? If yes, have you notified banks, etc. of cancelation of such authority?

14. Do you have a plan for the systematic review of your contracts?

15. Do you usually agree to indemnify your clients, suppliers and third parties under contracts?
Are those risks usually within your control?

16. Have you considered capping your liability exposure under your contracts? If not, why?

17. If you are licensing your IP, is your IP described clearly? Does your contract also protect derivatives of the IP produced by the licensee?

18. Do you usually agree to laws of a different state other than yours? Have you thought about how might that affect you?

19. Do you usually agree to waiver of trial by jury?

20. If you are the owner, have you properly defined what is included in confidential information?

21. If you are the recipient, have you agreed to returning and/or destroying all copies of confidential information you may receive? If yes, can you realistically comply with such terms?

22. Are your contracts usually of a fixed term or continuous term subject to auto-renewal?

23. Will an auto-renewal of a contract be an issue to your business if you desire to terminate in the future?

24. Do you foresee a situation where you may have to assign your obligations?

This questionnaire is prepared by McBride For Business, LLC based on our years of experience of our staff.

Disclaimer: This checklist is intended to be a planning tool to familiarize readers with some of the key provisions typically present in most contracts that are negotiated in the lifecycle of a business. This is not meant to be a comprehensive checklist for business owners. Additional advice should be sought with transaction planners including attorneys, accountants, consultants, bankers, and other professionals who can provide advice for your circumstances. This should not be treated as legal advice to any person or entity as this may not be suited to a particular context and transaction.

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