



Frequently Used Business Agreements

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Partnership Agreements

- Creates a ‘true’ partnership.
- Each partner is fully liable.
- Determines each party’s contribution.
- Sets out what each party’s role is.
- Fiduciary duties.





Partnership Agreements (cont'd)

- Each partner has ability to bind the partnership.
- Determines how each partner shares in profits. Unless otherwise determined, would be equal sharing.
- Sets out how decisions are made.
- Decides what happens at end.





Joint Venture Agreements

- Not always clear what a 'joint venture' actually is.
- Will define the capital or service contribution of each joint venturer.
- Defines how each partner shares in profits.
- Sets out how decisions are made.
- Decides what happens at end.





Shareholder Agreements

- Each party holds shares.
- Shares can be of different classes, with different rights.
- Board of Directors make most decisions.
- Officers implement policies set by directors.





Shareholder Agreements (cont'd)

- Shares get dividends.
- Shares can be sold (or agreement will restrict sale).
- Majority vote
- Will often contain rights to purchase shares in certain events.





Royalty Agreements

- Would flow from Aboriginal Title assertion.
- Will determine method of calculation (either a set regular amount or a formula based on profitability or usage).
- If based on formula, should provide for financial disclosure and right to verify.
- Must not prejudice or release Aboriginal Rights or Title.





Licenses and Leases

- Would be on or over reserve lands.
- Fee is charged based on usage of land and size of area.
- INAC involved.
- Process complex.
- Groundlease can provide a steady income flow to First Nation but may not itself be economic development.





Usual Contract Terms and Negotiating Points to Remember

- Identity of parties
- Recitals
- Representations and Warranties
- Conditions Precedent
- Obligations and Responsibilities





Usual Contract Terms and Negotiating Points to Remember

- Critical Dates
- Decision-making
- Financing
- Financial accountability
- Sharing in profits





Usual Contract Terms and Negotiating Points to Remember

- Aboriginal procurement or employment preference
- Collective agreement (union) issues
- Rights of purchase
- Restrictions on sale
- Winding up





Usual Contract Terms and Negotiating Points to Remember

- Default and Termination
- Taxation issues
- Confidentiality
- Non-Competition
- Dispute Resolution





Usual Contract Terms and Negotiating Points to Remember

- Public Announcements
- Applicable law
- Restrictions on Assignment





Questions?



The
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