Have Your Own Business

Insights of a Hands-on Serial Entrepreneur

Practical Steps and Tips

The Center for Entrepreneurs, Innovators & Growth

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Introduction

Welcome to the exciting opportunity of starting and running your own business.

Have Your Own Business is a comprehensive primer written to give you information and tools needed for business success and to help you decide whether to take the next step to being your own boss.

The meat of HYOB are its comprehensive business content, body, definitions, tips and important points, and 27 appendices, each of which provides information and/or examples of required knowledge.

You are not alone in considering this. It is common for people to want to use what they learn in the workplace for their own business and to provide better products and services than others. With changes in the economy, more and more people see the path to financial success and security through having their own company.

Starting and running a Company is based upon vision, opportunity, the economy, skills, capability, and desire for rewards. Having your own business is like having a baby, with similar challenges, rewards and requiring similar commitment. There is a time, perhaps now, when you are thinking about whether to have your own Company and weighing the pros and cons. This is where Have Your Own Business can help. After you decide to move forward there is a lot to do to prepare. Have Your Own Business can help with this too. Then there is the birth. Have Your Own Business can help with this and prepare you for subsequent challenges.

The rewards can be awesome. They include building the Company in your image, having control over how it happens, earning recognition and achieving financial reward and security.

Do it. Make your dream into reality. Use Have Your Own Business to make it happen.

Chapter 1 Truisms

Here are some truisms that place starting a Company in perspective.

- *Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.*
- *Personal respect and identity are a product of being employed.*
- *People work hardest when they are building their future.*
- *People should drive the economy instead of the economy holding people back.*
- *Great is the number of and need for job creation opportunities in this economy.*
- *Creating 20 jobs here and there repeatedly over time adds real value to the economy, particularly in light of the economic multiplier effect.*
- *Leveraging knowledge and skills to great effect is the best way to break through economic distress to arrive at a more efficient, better functioning economy.*

- *Avoid the "Big Surprise". Be knowledgeable and plan well.*
- *Always have a Plan B; best also to have Plans C & D.*
- *Translate your dreams into reality.*

The information being provided will help you identify and understand some of the items to be addressed when considering whether to start your Company and provide information that will help you start and run your Company. The information will not apply to every situation or answer every question but will provide insights regarding what to consider and do and how to get other information you need.

There are federal, state and local agencies that provide information as well as attorneys and CPA's. Information resources are available.

Important Point: You are not alone in wanting to start your own Company. You should not be scared off by what you do not know. Do not expect to have to re-create the wheel. Starting a Company is very common. Knowledge about best practices is available.

This manual is such a resource.

Chapter 2 Initial Considerations

Similar to giving birth and being a parent, running a business requires commitment, dedication and perseverance. Just like with a baby, running a business is not an 8 to 5, 5 days a week job. Instead, it is all-encompassing. There will be times when you will work evenings, in the wee hours of the night, weekends, not all the time but certainly more 24/7 than 8 to 5. You will wake up in the middle of the night to write down an idea so you remember it in the morning. You will want to work late to finish something. You will choose to work during the weekends so you have more time, are not disturbed and are more productive.

Before we go there, let's take a step back. There are some things to be considered before moving ahead with this.

Objectives

Here are questions that will help you identify and understand your objectives.

- Why are you doing this?
- What are your objectives?
- What is important to you?
- What measures and results will tell you that you are on the right track for success?
- How will you know you have succeeded?

For my start-ups, my objectives included –

- Make money.
- Act with integrity.
- Have fun.

These may be your objectives along with being your own boss, getting credit for the work you do, achieving financial security, leaving a legacy. You may have additional reasons that are very personal to you. Understanding why you are doing this will make all you have done seem worthwhile when you achieve the results that are important to you

Viability

Here are economic viability questions.

- Is the business opportunity economically viable?
- Is there demand for the products or services?
- Are the products or services distinguishable/better than those being provided by others?
- Is there a local need?
- Are the unit sales prices sufficient to cover costs and provide required return?
- Is the estimated number of units to be sold sufficient to cover Stakeholder requirements?

Requirements

Here are requirements questions.

- What is required to start the Company and be successful?
- Is equipment required?
- What is the Funding situation?
- How will what is required be funded until a time when the Company is financially self-supporting?

Initial money (Funding) is most often provided to start-up companies by you and your friends and family.

Important Points:

- *A common reason for lack of success is lack of commitment and perseverance.*
- *The probability for success increases with and is in direct proportion to the amount of commitment and perseverance.*

Think of the Company just like you think of a baby, knowing, going in, that you are committed.

What is needed for success?

- Economic viability and commitment.
- Knowledge and skills about the product or service.
- Ability to communicate well with Stakeholders.
- Understanding your strengths and weaknesses.

Exploit your strengths to get as much value as possible from them and cover or backfill your weaknesses. Not everyone is good at everything. Understand your strengths and weaknesses upfront to adjust as necessary so the Company benefits from your strengths and has minimal weakness.

A List of Strengths and Weaknesses is provided in Appendix 1.

Major Factors

Here are major factors to consider when deciding whether to start a Company commercializing university technology.

- Commercially viable.
- Superior economic potential.
- Experienced and capable Management.
- Good inventor/partner/champion.
- Sufficiently tested proof of concept/prototype.

Here are major factors for a Company that is not commercializing university technology.

- Commercially viable.
- Superior economic potential.
- Experienced and capable Management.
- Defined path to market with no delays, barriers, or significant Capital required.
- Sufficiently tested proof of concept/prototype.

20 Criteria for Technology and Business Opportunity Evaluation Are Provided in Appendix 2.

The 20 criteria in the List are rank-ordered in terms of importance. Each business opportunity differs from others so re-ordering of the List may be required. Some of the criteria may not apply. Look at each and assign a relative weight, say from a range of 1 to 10, to identify and focus upon those that are most important for your success.

Tips:

- *Surround yourself with good people.*
- *Delegate.*
- *Establish good relationships.*
- *Communicate.*
- *Plan thoroughly.*
- *Prepare completely.*
- *Act with drive and a sense of urgency.*

Funding

Money is the life blood of the Company. The Company needs sufficient money to be successful and needs a money commitment.

Important Point: A good rule of thumb is the money commitment should be an amount that is twice the amount expected to be needed for twice the length of time expected.

Lack of money is often the cause for failure. Plan accordingly. You can only spend each dollar one time.

Resist the temptation to spend money when there are alternatives to spending.

For example –
- Rent instead of buy.
- Delay as long as possible in spending money.
- Hire and do things on an as-needed basis.
- Outsource functions.
- Be frugal and careful.
- Plan ahead.

Important Point: A common reason for Company failure is running out of money.

To sum up, you should understand what you want to do and your strengths and weaknesses, leveraging your strengths and addressing your weaknesses. The Assessment Questionnaire can be used to identify your strengths and weaknesses.

The Assessment Questionnaire is provided as Appendix 3.

Chapter 3 Choosing the Product/Technology to Commercialize

Congratulations! You most likely have an idea, a product and/or a service that you think can successful in the marketplace. You are well on your way to having your own business.

Market Niche

Now that you have the product in mind, think about the product's market niche and how you get from here to there in terms of entering the market and getting Customers. Here are some suggestions.
- Research the market.
- Focus on your Market Niche.
- Learn the identity of others providing similar products.
- Learn as much as you can about them, their products, and their prices.
- Compare your product to theirs.
- Decide why consumers will choose your product; for example, it is better, cheaper, provides more value for the dollar, is easier to get, better supported with customer service, guaranteed, etc.
- Take time to think about this and write down why you will be successful in selling your product.

Long-term Perspective
Start thinking long term even at this early juncture.

- Is your product or service a platform for additional products and services?
- How can your initial product success be followed by later products?
- What products are potentially in the pipeline?
- How else can you expand your business and be more successful?

Competition
Here are some factors about the competition to consider.

- Competitors' similar products may have brand name or supplier loyalties. This can be a difficult hurdle to overcome if it prevents sales.
- Competition can be a plus if competitors' reputation is not good.

Marketing and Sales
Do you remember the movie, *Field of Dreams*, and the premise, "build it and they will come"? That thinking is often the demise of a start-up Company. Very often a very good product or service will not be successful in entering the marketplace and capturing market share because the business owner does not do a good job of marketing and selling. It is not enough to "build it". Instead, customers need to be aware that the product is available, that buying it is to their advantage, and they have to be incented to buy.

Important Points:

- *Marketing and Sales are critical to the success of the business and directly related to Sales of the product or service.*
- *Think of ways to incent Customers to step away from existing products and buy your products, perhaps through early discount pricing, quantity discount pricing, personal relationships, etc.*
- *Develop brand loyalty through delighting Customers.*
- *Grow Sales through word of mouth.*
- *Make the purchase of your product so attractive that Customers will buy.*

This is your business. Making it successful is all about you and your ability to sell your products.

Chapter 4 Creating the Legal Entity for Your Business

You have chosen the product, done the market research, have a long-term strategy, decided it is economically viable, and have a Funding commitment. You are ready to create the legal entity.

State
Creating the legal entity is simple. First, decide in which state you want to be registered. There are good things to be said about the registration benefits for maybe half a dozen states, things like cost to register, ease of use, ongoing cost. Often it makes sense to register in the state where your business will be located.

Type
Second, decide the type of legal entity. Most popular are Limited Liability Companies ("LLCs") and "C" Corporations. Both provide what is known as the "Corporate Veil". The Corporate Veil serves as a buffer between your personal assets and business creditors and Customers in the normal course of business. This means that creditors can claim the assets of the business but not your personal assets; that is, there is a "veil" between the business and you that protects your assets from most claims. Think about it this way. When you buy a share of stock you can lose only the amount of money you paid for the share. If that Company cannot meet its financial obligations and goes bankrupt, the creditors can only look to the Company for payment. They cannot pierce the Corporate Veil to get payment from you the Shareholder. While this is generally true, the Corporate Veil may not protect you from your personal Management actions within the Company that are found to be fraudulent or grossly negligent. But those are rare exceptions. In most cases your personal assets will be protected by using "C" Corporation or LLC status.

There are other types of legal entities, such as partnerships and "S" corporations. It is likely enough that you file as a "C" Corporation or LLC for the protection provided by the Corporate Veil.

Tip: You may want to use an attorney or CPA to help with this. Another possibility is for an experienced person to help you.

Chapter 5 Legal Formation Documents

Legal formation documentation is more complex when getting money from more sophisticated Investors such as Angels and Venture Capital Firms ("VC's") that invest through private placements. Required documents may include the Bylaws, Confidential Private Placement Memorandum ("CPPM"), Investor Questionnaire, Operating Agreement, and Subscription, Shareholder, and Stock Repurchase Agreements.

Here is a brief description of each.

Bylaws
Bylaws are rules and regulations enacted by a legally organized entity to provide a framework for its operation and management. Bylaws include, among other items, information about the following -

- Shareholder meetings
- Board of Directors
- Officers
- Books and records
- Share certificates and transfers
- Corporate seal
- Fiscal year

Investor Questionnaire

The Investor Questionnaire establishes that the Investor is accredited (qualified) to invest in the Company. It may provide, among other items, the following Investor information -

- Identity
- Education
- Contact information
- Occupation/profession
- Current position/title
- Employer
- Current relationship with the Company as an Investor, officer or Employee
- Whether net worth exceeds a minimum threshold
- Whether net income exceeds a minimum threshold
- Purpose for investing
- Familiarity with liquidity and risk aspects related to investment
- Experience investing in similar speculative Securities
- Ability to bear economic risk of complete loss
- Capability for evaluating the merits and risks
- Nature of previous investments
- Investment needs and objectives

Operating Agreement

The Operating Agreement provides a function similar to that of the Bylaws and tends to be more detailed as to operations. It may include, among other items, the following information -

- Company structure
- Company operations
- Deferred compensation
- Stock option plan

Subscription Agreement

The Subscription Agreement is a contract entered into by the Investor and the Company that provides the terms and conditions for the sale and purchase of the equity shares. It may include, among other items, the following information -

- Terms
- Conditions
- Representations and warranties

Shareholder Agreement

The Shareholder Agreement details Shareholder rights and responsibilities. It may include, among other items, the following information -

- General restrictions regarding transfer of Shares
- Conditions precedent to transfers
- Right of First Refusal
- Option to purchase and release of Option

- Involuntary transfers
- Purchase price and terms of payment
- Marital property
- Transfers in violation of Agreement
- Compliance with Securities Law
- Endorsement on Stock Certificates
- Termination
- Governing law
- Specific performance
- Binding effect
- Spouse's signature

Stock Repurchase Agreement
The Stock Repurchase Agreement describes the terms and conditions for repurchase of shares by the Company. It may include, among other items, the following -

- Restrictions on Shares
- Right of First Refusal
- Additional resale restriction
- Stock Legends
- Escrow
- Stock dividends
- Waiver. modification and termination

Each Agreement is a legal contract. Each only comes into effect after being executed by and between the Investor and the Company.

Stock Certificate Legend
Upon execution of these documents, the purchase of Equity Shares or Member Units can occur. The Investor will be given a Certificate that identifies the Investor as the owner of a number of Shares or Units of the Company. On the back of the Certificate will be a restrictive Legend with words similar to the following.

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR QUALIFIED UNDER ANY STATE SECURITIES LAW, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SECURITIES, OR THE HOLDER RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THE SECURITIES SATISFACTORY TO THE COMPANY, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND THE QUALIFICATION REQUIREMENTS UNDER STATE LAW.

Confidential Private Placement Memorandum
The Confidential Private Placement Memorandum ("CPPM") is the main offering document should you raise money through a private Common Stock or Member Unit offering. Its purpose is to be

comprehensively informative, with an emphasis on identifying and communicating the risk of investment. It may include, among other items, the following information -

- Offering highlights
- The Company
- Outstanding Securities
- Conversion price
- Ownership on a fully Diluted basis
- Reserved Employee interests
- Non-competition restrictions
- Use of proceeds
- Risk factors
- Federal income tax aspects
- Management
- Compensation and fees
- Financial results to date
- Financial forecast
- Disclaimers
- Legal matters
- Investor suitability standards
- The offering

The CPPM may include the following as Exhibits -

- Articles of legal organization
- Bylaws
- Business Plan
- Risk factors
- Disclaimers
- Federal income tax aspects
- Financial Statements
- Financial forecasts
- Investor suitability standards
- Investor Questionnaire
- Subscription Agreement

The purpose for the CPPM is to ensure the Investor is adequately informed and for the Company to meet its notification and Investor qualification due diligence obligations.

<u>Sample Bylaws, Investor Questionnaire, Agreements, and CPPM are provided in Appendices 4-10.</u>

<u>Important Note: These samples are being provided only as examples so that you are aware of their existence and have an idea as to their possible contents. You should use the services of attorneys and funding professionals when preparing these for the Company.</u>

Chapter 6 Legally Protecting Your Idea, Product, or Service

In terms of protecting your idea, product or service, you have choices about whether to get legal protection and which kinds. You can do nothing, keep how you do business a trade secret, and hope the competition will not be able to duplicate what you are doing. The recipe for Coca Cola is an often cited example of a trade secret.

Perhaps what you are providing, such as a service, cannot be legally protected, may not be duplicated, or competition is not a concern.

USPTO/U.S. Copyright Office
In the alternative, perhaps there are aspects of your product that should and can be protected. If so, this can be done through the US Patent and Trademark Office ("USPTO") or the U.S. Copyright Office. Patents may be appropriate if you have a new invention or idea. Trademarks may be appropriate if you want to protect the use of a new name or a combination of new words or marks to describe your product or service offering. Copyright may be appropriate if you want to protect something that is written, such as a book.

Copyright protection is provided automatically with the creation of written intellectual property and is effective in most countries. Formal copyright protection through the U.S. Copyright Office is relatively inexpensive. It may make sense if you are looking to go through the court system for relief from infringement.

You can learn more about this by going to the USPTO website, www.uspto.gov, or the U.S. Copyright Office website, www.copyright.gov. You can search on these sites whether the invention, idea or words you want to use are legally available. Alternatively, you can call them for assistance.

Protecting through USPTO or the U.S. Copyright Office is more complicated and difficult than registering a new legal entity. For this reason you may want to use a patent, trademark or copyright attorney. It may not be legally necessary for you get this protection but doing so may be dollars well spent. You do not want to work on and expend time and effort on a product or idea that is already protected for someone else and have your time and effort later found to infringe. Similarly, you do not want someone else to take your unprotected product or idea and later legally protect it and preclude your use.

Chapter 7 Evolution of the Structure of Your Business

As you start your business you may keep things organizationally simple. It may just be you and a few Employees. In that case you most likely will not need a title. You are the owner and the boss. You make the decisions and people work for you.

As the Company grows and needs Investor money, it is likely you will create an organization structure that has a Board of Directors that represents the interests of various Stakeholders and a structure that has identified positions with defined functions and responsibilities. The organization structure is necessary for an understanding by all as to individual authority and responsibility, functional specialization, and is the basis for people knowing to whom they report.

Board of Directors

The Board of Directors provides direction to Management, for example, to the Chief Executive Officer ("CEO"). The Board may have as few as 3 members with 5 or 7 members common as the Company grows in size. Typically the Owner is on the Board and there will be one or more Investor representatives and other individuals who are Company Stakeholders, for example, Lenders. The Board may also include others who have knowledge, expertise, and influence in the Market Niche served by the Company.

Stakeholder Conflicts

There may be conflicting interests between the Board members. For example, the Owner may have a perspective that relates to vision and how the Company is run, the CEO may represent Management and Employee perspectives, Investors may be interested in a good return and may have a perspective regarding the Company's longevity and exit, Debt-holders want to be repaid, and other Board members may have personal priorities for the Company.

Control and Dilution

This brings us to the matter of "Control". Control is decision-making authority provided by having a majority of the common stock Shares or Member Units either directly or indirectly through a combination of Shares or Units owned by 2 or more Investors.

A start-up or early-stage Company is most often in the decision-making Control of the Owner in that the Owner has given no or very little Equity ownership Shares or Units to friends, family and other Investors. As the Company grows and money is raised from Investors who buy Shares of Stock or Member Units, the Owner's Equity position may be Diluted; that is, the Owner may have a smaller portion of the Company's outstanding Shares or Units. As subsequent fund-raising Rounds occur and more Shares or Units are issued and sold, additional Dilution of the Owner's ownership percentage and loss of effective Control may occur.

It is possible, depending upon how much Equity money is raised and the number of common Stock Shares or Member Units are issued, that the Owner will eventually own and Control less than half of the outstanding common Stock Shares or Member Units. If this happens, the Owner may lose decision-making control of the Company to one or more Investors that together hold more than 50% of the outstanding common Stock Shares or Member Units.

This may not be a bad thing to have happen. Whether it is considered to be bad may depend upon the Owner's priorities, e.g., having decision-making Control vs. increasing wealth. It is most often the case that additional Dilution and related loss of Control equates to making the Shares or Member Units held by the Owner worth substantially more and correspondingly increasing the Owner's total wealth.

You may not need to know now about the effects of Dilution and how it may affect your fund-raising decision-making. The possibility of Dilution and its effect upon you is something that is good to keep in the back of your mind for future reference.

Chapter 8 Organization Structure

Functional specialization typically occurs as a Company grows in size and includes the following categories: Executive, Administration, Marketing, Sales, and Operations. Executive includes the CEO and role of top Management. Administration includes "Back Office" Human Resources and Accounting functions as well as Treasury and other related functions. Operations includes Production or service provision. Each of these functions can be small or combined with others or become very large and very detailed, with additional subcategories as the Company grows and functions become more specialized. For example, initial Production may be Outsourced to a large extent. This also may be true for assembly.

It is often the case for start-up and early stage Companies that much of the Accounting and Human Resource functions are Outsourced until a point in time when it makes dollar and Control sense to establish these within the Company.

Job Descriptions

Job descriptions provide definition of positions and respective roles and responsibilities and are useful for Management and Employees. Job definitions also provide the basis for how much Employees are paid relative to what others in the Company are paid and relative to what others in the marketplace doing similar work are paid for similar levels of responsibility. It is best to have a Job Description for each position.

<u>A sample Job Description is provided in Appendix 11.</u>

Job Hierarchy

Each functional area may be headed by a manager, director or vice president during different phases of the Company's growth. A typical top down order of authority and responsibility is CEO, vice president, director, manager, Employee. As the Company grows in size, these authority/responsibility levels may be further distinguished by adding the words "executive", "senior" and "junior" to job titles to represent differing levels of authority and responsibility. For example, there might be executive vice presidents, senior vice presidents, and vice presidents as well as accountants and junior accountants.

<u>A sample Organization Chart is provided in Appendix 12.</u>

Chapter 9 Confidentiality Agreements

At some point when you are working with others, be they Investors, Lenders, suppliers, Customers, Employees, etc., you may choose to share confidential information. When you do, you first should have in place a Confidentiality Agreement signed by the parties that protects the confidential aspects of your business.

A sample Confidentiality Agreement is provided as Appendix 13.

Chapter 10 Employee and Consulting Agreements

It makes sense for there to be written agreements between the Company and key Employees and pre-employment Consultants. These agreements describe the relationships between the parties and terms and conditions for the relationships. One key provision may be a non-competition provision through which the Employee or Consultant agrees to not compete with the Company for a period of time, often 1-3 years. This protects the Company from the Employee or Consultant leaving the Company and using what was learned to compete against the Company. The non-competition provision may be directly related to a confidentiality provision of the agreement.

Sample Employee and Consulting Agreements are provided as Appendices 14 and 15.

Chapter 11 Legal Representation

As you can see through the required organization documents and other agreements, legal representation may come into play early and may be necessary later for business transactions. As the Company grows in size, it is likely that a line is crossed early when it may be a good business decision to enter into a relationship with an attorney or law firm. As you grow you will be having Human Resources/Employee relations matters and business contracts. It is good to have an attorney review documents to be certain the documents are written properly, represent the interests of and understandings between the parties, and are in compliance with the law and local, state and federal requirements.

It is a good idea to find and enter into a relationship with an attorney early in your Company's life so that the attorney is on record as representing the Company and available as needed. You might think of being represented by an attorney as being similar to having catastrophic insurance. It is better to have the insurance rather than to later have all of your effort and dreams harmed because of a legal oversight the attorney would have seen and prevented.

Tips:

- *To the extent possible and practicable, place all understandings in writing through contracts or agreements. As with the early stage of any relationship, everyone is friendly and hopeful in the beginning but that may change as relationships mature.*

- *It is best to “paper” all understandings to avoid disagreements that may occur.*
- *Be as thorough and complete as possible in what you place in writing and have it signed by all the parties to the understandings.*
- *Enter into a relationship with an attorney at an appropriate early time.*

Chapter 12 Initial Start-up Activities

Additional pre-market-entry business activities include creating a Vision Statement, Mission Statement, Strategic Plan, Marketing Plan, Business Plan and Funding Plan.

Vision Statement
The Vision Statement is a high level description of what you would like your business to achieve or accomplish in the mid-term or long term and is a guide for decision making. Here is a sample Vision Statement.

The Company will inspire its Employees to be the best they can be. We will engage in sustainable practices and anticipate the needs of our Customers. We will maximize return to the Stockholders while maintaining superior quality in our products.

Mission Statement
The Mission Statement is a bit more practical in that it defines the organization's purpose and primary objectives and defines key measures for business success. It is used by the leadership team and Stockholders. Here is a sample Mission Statement.

The mission of the Company is to exceed the expectations of each of our Customers by going above and beyond in providing products and services that delight them.

Strategic Plan
The Strategic Plan is very practical and specific. It is used to communicate Company goals, identifies critical factors, and charts a course of action to achieve those goals. The Strategic Plan often includes Milestones that are scheduled to be achieved on certain estimated dates. Here is a sample Strategic Plan outline.

- Executive summary
- Brief discussion of the Company
- Vision and Mission statements
- Strengths, weaknesses, opportunities, threats analysis
- Goals and metrics
- Customers and Market Niche
- Competitive analysis
- Marketing Plan
- People and operations plan
- Financial projections

Marketing Plan
The Marketing Plan is a combination of product/service definition, market research, and marketing strategy that are expected to most effectively capture market share. Here is a sample Marketing Plan outline.

- Executive summary
- Market Niche/Customers
- Product/services advantages
- Market entry/capture strategy
- Pricing strategy
- Customer retention strategy
- Marketing materials
- Sales strategy
- Sales milestones
- Sales projections

Business Plan
The Business Plan is a comprehensive macro/micro tool that provides definition and direction so the Company can get from where it is to where it wants to be. Here is a sample Business Plan outline.

- Executive summary
- Company
- Problem, opportunity, Vision and Mission
- Product or service
- Characteristics
- Distinguishing Factors
- Competitive advantages
- Marketing Plan
- Strategic Plan
- Management
- Financial projections
- Key Milestones
- Funding
- Value proposition
- Use of Funds
- Contact information

The Business Plan can be anywhere from 5 to 50 pages in length. My practice is to pack a mini-business plan that is 5 to 10 pages in length into the Executive Summary with the purpose of getting the attention and keeping the interest of Investors.

Important Point: You most likely will have but one opportunity to get the attention of and impress possible Investors. Investors most often look at the Executive Summary and use it in deciding whether to learn more about the investment opportunity. Make the Executive Summary as compelling as possible.

A sample Business Plan Executive Summary Outline is provided in Appendix 16.

Chapter 13 Planning

Importance

The Business Plan, Strategic Plan and Marketing Plan have been described. They illustrate the importance of Planning. Planning takes into account known information, expectations and assumptions in forecasting future scenarios. Planning helps to understand money need, uses, and expected results and provides timetables and metrics.

Planning also helps to be prepared for what happens if the assumptions do not become the fact and instead something else happens. Good planning takes into account known information and considers possible best and worst case alternatives in the assumptions.

Important Point: Think of Planning as a living activity and plans as living documents; that is, plans should be changed to reflect changes in facts and their impact upon assumptions.

Avoid the "Big Surprise"

An important purpose for planning is to avoid the "Big Surprise". The Big Surprise is a surprise that can mortally affect the existence of the Company. Small surprises are expected and can be tolerated. They exist because there are externalities over which the Company has no control. Their effect can be absorbed, changes made, and the Company can continue. In some cases small surprises are small because good planning recognized the possibility of their occurrence.

Investor Perspective

Investors are risk averse. This means Investors avoid risk to the greatest extent possible. A major measure by Investors of Management competence is whether Management has the experience and ability to plan properly, take into account important considerations in their forecasting assumptions, and achieve planned results. Investors find lack of acceptable Planning capability to be unacceptable.

Just as Funding, Marketing and Sales, and the major identified criteria are important for success, so too is excellent Planning.

Strength or Weakness

Planning capability may be a strength or weakness. If Planning is strength, it will go a long way toward providing comfort to Investors. If Planning is a weakness, Management should find a way to add internal Planning strength or strengthen it through the use of outside resources.

Macro and Micro Perspectives

There are a couple of ways to view Planning. One is macro. That is, start with the big picture and desired result and plan activities to get there. The other is micro. That is, to start at the bottom with a focus on details and make decisions that build the foundation for achieving the desired result. A combination of macro to micro and micro to macro most often will produce the best outcome. This is done by providing detail and alternatives with an eye toward overall objectives and goals.

Function Perspective
Another way to view Planning is by function. This approach is used when building the Strategic Plan, Marketing Plan, and Business Plan. Each of these can be further divided into function sub-categories so that there is detailed substance in the plans and a greater probability of achieving their forecasted results.

Time and Cost Considerations
Resources are limited. So too there is a limit as to the time and cost available for and dedicated to Planning. Time and cost must be weighed against the need for other uses of available resources. That being said, Planning is critically important and should be considered when allocating limited available time and money resources.

Dual or Multiple Source Inputs
As part of Planning, identify critical inputs and dual- or multiple-source them. This is one way to avoid the Big Surprise.

Identify Key Milestones and Dates
One of the products of Planning is the identification of key Milestones with set achievement dates. As mentioned before, "without a destination in mind, any road will take you there". Milestones serve as the roadmap.

An example of Milestones is provided in Appendix 17.

Use Money Efficiently
"You can spend each dollar only one time". Effective planning serves for efficient use of each and every dollar, provides comfort and assurance to risk averse Investors, helps avoid the Big Surprise, and increases the probability for success.

Important Point: Be certain to give appropriate attention to Planning and related details.

Chapter 14 Funding

Funding refers to non-product or service Sales money provided to the Company by Investors, Lenders and some other sources. Funding comes from the Sale of common Equity Shares, Member Units, preferred Equity Shares, convertible Securities, Debt, and from Grants, gifts, factoring of accounts receivable, suppliers and vendors, business partners and exit candidate Companies. Lines of credit from banks, suppliers and others may be other Funding sources. A Funding possibility later in a Company's maturity is to receive money from a public Stock offering, sometimes referred to as an Initial Public Offering ("IPO"). Most likely an IPO is miles down the road.

Family and Friends
The most common first Funding source is money from the founder and from family and friends. This may be followed by Grant money and then money from more sophisticated private Investors.

Grants
Grant money most often is very difficult to get because of qualifying factors and because there is a lot of competition for the money. Grants may have certain use restrictions and other obligations. You can learn about available loans and grants from a Small Business Administration ("SBA") office. You can find SBA information online at –

http://www.sba.gov/category/navigation-structure/loans-grants

Crowd Sourcing
Crowd Sourcing, also known as Crowd Funding, investment money may be available as an investment source. Crowd Sourcing money is most often provided for activities that are viewed as being of social value, that are artistic, or for certain other purposes. You can learn more about Crowd Sourcing and Crowd Funding online at –

http://www.crowdsourcing.org/

Investor Money
Investor money is very competitive and even more difficult to get. Investors are risk averse and most often want the Company to be performing well before they will invest. In the past it was easier to get money from individual Angels (wealthy individual Investors) than from Venture Capital Firms. That is not so much the case now. In many locales Angels have joined Angel investment groups and require due diligence and risk minimization similar to that which Venture Capital Firms require. If this is the case in your locale, getting Investor money may be very competitive and difficult to achieve.

You should be aware that you have very little ability to influence Angel and Venture Capital Firm Investors. There is much more demand for their money than there is money.

Terms and Conditions/Valuation
Investors dictate the terms and conditions before they will invest. You do not have to accept their money and related terms and conditions. A common question asked by Investors is the owner's perception as to the Pre-money Valuation of the Company. The best answer is the Valuation amount is negotiable. It is very common to give from 10-40% of the Equity of the Company for the first Round of Angel or Venture Capital Firm Funding. The range is broad and dependent upon the potential of the Company, perceived risk, and investment competition. You should not be surprised when Investors expect 30-40% of the Company's Equity Post-money Valuation. The Equity percentage given is the price and cost of getting their money so the Company can grow to the next level.

Creation of Wealth Example

Here is an example. Let's say you think the Equity of the Company is worth and has a Pre-Money Valuation of $1 million. If you own 100% of the Equity of the Company, your investment in the Company is worth $1 million to you. Let's say you want to expand and want an additional $1 million dollar investment. You put together a presentation and convince Investors but they want 30% of the Post-money Valuation of the Company's Equity. What happens to your personal wealth if you accept their offer and the Equity percentage term? Before the investment the Company provided you with $1 million of wealth. With a $1 million investment for 30%, the Company now has a Post-money Valuation of $3.3 million (the invested $1 million divided by 30%). Your ownership has been Diluted from 100% to 70% (100% minus 30%). At 100% the value of your ownership was $1 million. At 70% ownership the value to you is $2.3 million ($3.3 million Post-money Valuation minus the $1 million to Investors for 30% ownership). By taking $1 million of Investor money for 30% of the Company, you have increased your wealth by $1.3 million ($2.3 million minus $1 million).

Here are comments about the example.

- Valuations are known as "paper" numbers. This means they are only calculations. Your wealth will only be realized when a triggering event occurs, such as the sale of the Company or the sale of your common Shares, and you have the Share Sales money in your pocket.
- Most sophisticated Investors understand they are investing in risky companies. With this in mind, Investors are looking for projected results to provide a return of 10 to 20 times on their investment amount. If you can convince Investors the Company has the potential and an acceptable probability of achieving the expected return multiple, you are well on your way to achieving excellent wealth growth while participating with them.
- The investment may be the first Round of Funding. There may be subsequent Rounds to grow the Company and its Valuation. Each Round will further Dilute your ownership. At some point you may lose decision-making authority and Control. When you get to the point of lost control your Equity should be worth a lot of money. Accepting Investor money is a give and take of loss of Control vs. substantial wealth creation. You have the ability to decide whether to use Investor money.
- Investors are in the business of and most interested in achieving a high return on their investment. That being the case, Investors can be a valuable resource for helping the Company become all that it can be. Investors most likely will be looking for a high return multiple Sale of their Equity Shares within a set number of years. The time of Sale is when they and you will move away from paper Valuation to actual realized wealth. Sale should be very good for you financially and may be one of your desired outcomes.

Investment Decisions Based upon Objectives

You may not want to go through the Investor process because your primary objective may be to own and operate your business for a long time. There is nothing wrong with this objective but it may be inconsistent with the financial objectives and requirements of Investors.

Leveraging Knowledge from Experience

Going through the Investor process does not prevent you from later taking the knowledge and experience you gain and starting a new business, but at that time you may have money to selffund. You will have developed knowledge and a model for how to make money and can repeat using it. One caveat. You may be under a non-compete provision that is for a specific product line Market Niche and time frame. If so, you may have to work around the non-compete provision if you want to start another Company.

Funding = Who You Know
Success in getting Funding often depends upon who you know. It may serve you well to connect with and get to know individual Angel Investors. It will be good for the Company if an Angel becomes an advocate and champion for the Company in terms of personally investing and for recommending to other Angels that they invest. One way to meet Angel investors is through Meet-up groups. Whether you can do this may depend upon whether there are Meet-up groups in your area. You can check into this by going online to –

http://www.meetup.com

Funding Work Plan
As with much of what you do regarding your business, it is best for you to be organized and use best practices while being comprehensive with you knowledge and understanding. Information about funding is provided in the Funding Preliminary Work Plan.

The Funding Preliminary Work Plan is provided as Appendix 18.

The Funding Preliminary Work Plan addresses the following –

- Relationships
- VC's and Angels
- Intermediaries
- User and Supplier Companies
- User and Supplier Company Investors
- Competitive Substitute Product Investors
- Crowd Funding
- Grants
- Brainstorm
- Initial Contact Preparation
- Initial Contacts
- Create Strategic Funding Plan(s)

- Engage Professionals
- Execute the Primary Strategic Funding Plan

Investor Selection Criteria
In terms of funding, you need to have an understanding of the criteria used by venture capital firms, angels, and industry companies to evaluate investment opportunities. This understanding will help you understand whether your opportunity will meet investor selection criteria. It will also

help you to prepare your business so that it meets those criteria. Criteria are provided in the Investment Opportunity Evaluation Template.

<u>The Investment Opportunity Evaluation Template is provided as Appendix 19.</u>

The next step to getting investor funding is to understand investor selection process and what you need to do and the order of what you do so that you have the highest probability of success in getting funding.

Investor Selection Process
In addition to understanding investor criteria, you need to have an understanding of the investor selection process. The process is provided in the Investor Selection Process Template.

<u>The Investor Selection Process Template is provided as Appendix 20.</u>

Funding Documentation: Promissory Note
Depending upon the kind of Funding you are seeking, you will need to have certain documentation. If you are Funding solely through friends and family, the money they provide may be by a gift, by loans supported by verbal promises to repay, or by signed Promissory Notes. Promissory Notes also will be required for loans from banks and other financial institutions.

<u>A Sample Promissory Note is provided in Appendix 21.</u>

University Technology Commercialization: Some Insights
I often think about which is more important, technology or management. Clearly both are important, but which trumps? I think it is a draw. The more outstanding and economically viable the technology is, the greater the probability of success. The more excellent and experienced the management, the greater the probability of success. The bottom line is there must be a mix of the two that satisfies investors and leads to success.

It is not uncommon for a university professor/inventor to decide to head the Company commercializing the technology. The basis for that decision is that the professor/inventor has a history of being successful, is very smart, and is very competent. Tied to that is the belief that management is not that complicated or difficult and can be learned on the job, so to speak, through the use of the internet, advice, and other aids.

My best advice to the professor/inventor is to reconsider the decision to take on management responsibility. The professor/inventor most often already has a more than full plate with teaching, research, advising, inventing, writing, working with the university and industry, being on sabbatical, and other work-related roles, in addition to having personal responsibilities and goals. Being the company management head particularly for a start-up and early-stage Company is a full time, 24/7 job. The probability of success for the Company is directly tied to the percentage of involvement managing the Company.

The professor/inventor should expect to be fully involved, dedicated and committed to the Company regarding the technology. That alone requires considerable time, effort, and focus. It is most often much better for the Company to have a separate experienced and capable management head working alongside the committed and dedicated professor/inventor.

One more point. You may come across a situation where a potential partner company or investor asks you to do something; for example prove the product will perform in a certain way, provide a prototype, show that others are interested or committed to the company, etc. Before you go to the effort and incur the cost of doing this, ask what they will do for you and have this understanding placed in writing; that is, if we do this you will do that. This is important so that there is a real commitment and to identify real potential business partners. The document can be a written contract between your company and the potential business partner. The contract does not have to overly lengthy or legalistic. It simply identifies the parties, the commitments, relevant dates and is signed by both parties. I highly recommend understandings be in writing rather than verbal or a handshake so as to define them and to obligate each party. This may also relate to achievement of milestones.

Important Points:

- *Funding is critically important and most often very difficult to get.*
- *Always work to receive Funding commitments as quickly as possible.*
- *Never assume Funding will happen.*
- *Funding should always be on your mind.*
- *The next Round of Funding activity following receipt of a 3-year commitment should begin after the 1st year and be achieved by the end of the 2nd year.*
- *Recognize that all of your effort and achievements will be for nothing if you run out of money.*
- *Expect "surprises" that will adversely affect finances and expected market entry timing and related revenue flow.*
- *Recognize the importance of Funding and the difficulty in getting it.*
- *Work very hard to get Funding.*
- *Have a very good reason for saying no before rejecting investment money and related terms and conditions.*
- *Enter into written agreements for understandings between you and potential business partners and investors. Avoid reliance on verbal promises or handshakes. The agreements should contain what is expected by each party, dates, other relevant information, and be signed by both parties. This is required so as to avoid wasting effort, time and resources that should otherwise be used and to separate the serious from the interested.*

Chapter 15 Operations

Having done the initial work and getting a Funding commitment, you may now be ready to actually begin running your business.

Operations traditionally are broken into different functions. They include Administration, Production, and Marketing/Sales. Each of these has multiple responsibilities. Descriptions of the functions follow.

Administration

Administration functions are often referred to as Back Office Functions. Back office means there is little direct Customer interaction. Administration includes the following functions -

- Executive
- Strategic Planning
- Legal
- Finance/Treasury
- Human Resources
- Accounting
- Regulatory Affairs
- Government Relations

A brief description of the role for each follows.

Executive is the top Management team and includes the CEO. The Executive function reports to the Board of Directors and is responsible for determining and deploying the strategies and practices that will address the Vision and Mission of the Company. The Executive function does this by providing direction to and overseeing operations. An important role of the Executive function is communication with the many Stakeholders.

A CEO/Owner Responsibilities List is provided in Appendix 22.

The role of Strategic Planning is to identify, define, and evaluate the market environment and select and deploy strategies that most likely will enable the Company to achieve its objectives.

The role of Legal is to coordinate and be responsible for the legal matters of the Company. This may be done through in-house counsel or use of retained counsel. The Company is subject to many legal requirements and may encounter legal matters on a case-by-case basis. While much legal work can be outsourced, there may be a time when the Legal function should be performed within the Company because of control and cost considerations.

Finance/Treasury is an important function because of the critical nature of having money now and into the future. Responsibilities include –

- Planning and securing of needed Capital for future growth and contingencies.
- Maintenance role in managing existing money and satisfying Debt and Equity compliance matters.

Human Resources focuses upon Employee matters that relate to the needs and success of the Company. Here is a list of some of the major responsibilities.

- Establishing Company Policies and Procedures. This is normally done by having a manual with this information.
- Establishing a pay rate basis that is affordable for the Company and reflects the competitive market for jobs at varying levels and with varying scope of responsibility. The pay rate basis provides relative internal pay equity and may be embodied in a Salary Grade Program.
- Becoming familiar with and complying with federal, state and local employment requirements, including monitoring and providing periodic reports.
- Establishing the payroll function so Employees are regularly paid according to government requirements.
- Establishing and maintaining the Benefits program.
- Entering into Employee contracts and Consulting agreements as appropriate.
- Hiring and firing Employees.
- Dealing with leaves of absence.
- Working with Employees on a daily basis to address their workplace and personal concerns.
- Establishing and maintaining Employee records.
- Providing internal communications with Management and Employees and external communications regarding work history inquiries for departed Employees.
- Staying up to date regarding government rules.
- Providing analysis, studies and reports to Management.
- Establishing and maintaining a Leadership Continuity Plan that identifies high performing Employees who may replace key people when they leave the Company.
- Recommending to Management the Human Resource functions to internalize and to outsource.

The roles of Accounting are the recording and reporting of Company Financial Transactions and results and serving as a financial tool for Management to use. Responsibilities include –

- Recording Financial Transactions
- Financial reporting
- Financial analysis
- Budgeting
- Forecasts and projections
- Providing metrics and reporting achieved results
- Payroll
- Reporting financial results to Management and the Board of Directors
- Financial compliance reporting
- Financial audits
- Income tax reporting
- Managing cash receipts, cash disbursements, and cash control
- Cash management reports
- Managing Accounts Payable and Accounts Receivable

Regulatory Affairs and Government Relations may become more important as the Company grows and operations become more specialized. The importance may be dependent upon the role of regulation and government in the running of the business. Some products and services are very regulated and influenced by government relationships; some less so. Regulatory Affairs and Government Relations may be internalized or outsourced as appropriate.

Tips:

- *Do what you are good at doing and let others do the rest.*
- *Identify Core Competencies and Leverage their use for maximum benefit.*
- *Identify the functions for which the Company does not have strength.*
- *Depending upon financial considerations and available resources, consider Outsourcing weaknesses to others who have necessary knowledge and can perform these functions effectively and efficiently.*

<u>Production</u>

Production is the manufacture or creation of the goods or services to be sold to Customers. Production is one of the most important functions of the Company. Without Production there is nothing to sell and no reason to be in business. Production may be in the form of manufacturing, assembly, service delivery, or a combination.

Production may include –

- Purchasing
- Quality Control
- Materials and finished goods inventory control
- Product Development

Capital Requirements

Depending upon the nature of Production, a large amount of money may be needed to purchase equipment. If this is the case, finding the source for and getting the money is important. An alternative may be to lease equipment rather than purchase. Another alternative may be to Outsource Production.

Cost of Production

The cost of Production and of the goods and services you want to sell is a key determinant of financial viability and whether the Company will be successful. As will be discussed later under Pricing, there may be limited ability to adjust Price so that it is high enough to cover Production cost, other related costs, and provide required Return to Investors. Since Production cost is likely the single largest cost, it is important to deploy strategies to minimize Production cost particularly in a Market Niche that has other similar competitive products where you may be fighting to capture market share.

To minimize Production cost look at Production cost components, decide whether they are necessary, and whether there are less expensive alternatives. If there are no less costly alternatives look for ways to reduce the cost of each component. Depending upon your priorities, adjust Production to reflect the lowest cost that is in line with Company objectives.

There may be ways to minimize Production cost. They include –

- Achieve Economies of Scale by manufacturing in large quantities.
- Reduce unit Production cost by running expensive equipment more hours per day.
- Reduce unit Production cost by running expensive equipment more days per year.
- Lower cost of Production inputs by purchasing input materials in bulk.
- Use Just-in-time purchasing of input materials to minimize Production cost.
- Outsource Production domestically or offshore.
- Use technology to mechanize the Production process.
- Minimize the amount of finished goods inventory.

Tips:

- *Since Production is critical to the success of the Company, dual- or multiple-source required materials. This type of sourcing also may be beneficial in getting lowest prices because of competition. For example, a good strategy may be to give a bigger portion of the materials purchased to the Company that provides material at lowest price.*
- *Geographically source input materials to minimize transportation costs.*
- *Source input materials from different geographical areas to assure continued supply of materials by avoiding supply disruption due to geographically isolated area weather or economic problems.*
- *Use a Gantt Chart for Production to identify and address the relationship of critical components. This may provide more effective and efficient Production by providing knowledge of Production interrelationships and timing and serve to avoid Production disruption. Information about GANTT Charts can be found at http://en.wikipedia.org/wiki/Gantt_chart.*
- *Focus upon Product Development and continuous improvement to stay ahead of the competition. This will require constant, updated knowledge of what is happening in Production. Assume the competition is doing this. You will need to do this for Production cost to remain competitive, for the Company to be successful, and products and services to remain economically viable.*

<u>Marketing/Sales/Pricing</u>

Marketing

While Accounting is critical for recording-keeping, Planning, analysis and evaluation of results, Marketing is critically important to the success in generating revenues from Sales. Marketing is often confused with or considered the same as Sales. The definition of Marketing is the action or business of promoting products or services, including market research and advertising. The definition of Sales is the exchange of a product or service for money or consideration. While Marketing and Sales are related and inextricably tied together, they complement each other and one or the other is often mistakenly overlooked or underemphasized.

Also often falling within the purview of Marketing and Sales are the Customer Service and Business Office functions. Customer Service relates to product and service inquiries and post-Sale follow up contact with purchasers. Business office refers to a physical location to which the customer can interact with Customer Service representatives. Customer Service and Business Office most often are a part of the overall Marketing and Sales function because of the direct Customer interaction as compared to Administration Back Office functions and Production which have limited direct Customer Interaction.

When Marketing and Sales are overlooked or underemphasized, those companies live by the "Build it and they will come" mistaken assumption. Those Companies believe others prospective buyers will recognize the inherent worth of the products or services and will independently seek and buy them. This hardly ever happens. This practice leads to failure due to lack of market interest and Sales.

Marketing makes Customers aware of the product or service, helps shape Customer perception, and drives Customer need and demand. Sales uses this in making the transaction happen. Marketing prepares the market for the Sales team to be successful in selling products. Marketing serves to grease the skids for Sales. There would be no purpose for Marketing without the Sales objective and Sales likely would be difficult or unsuccessful without the help of Marketing.

Marketing also serves by providing market research that identifies the Market Niche and provides the strategic Marketing Plan and tools for market entry and capture. The Marketing Plan may include valuable information about Customer demographics, product price, competition, and describes the marketing tools to be used to communicate with potential Customers. Tools may include newspaper, internet, TV and radio advertising, and use of billboards, yellow pages, flyers and word of mouth, among other means, to communicate with potential Customers.

Here are the parts of a sample Marketing Plan –

- Definition of product or service offering
- Evaluation of product or service offering in terms of distinguishing factors
- Identification of the target Market Niche
- Analysis of the Market Niche in terms of competition
- 80/20 market identification and focus; 80/20 means 80% of revenue comes from 20% of Customers; this suggests a focus on the 20% will be most rewarding in terms of Sales
- Evaluation in terms of customers, product, location, price, tools, resources and process
- Define and deploy Marketing strategy to enter and capture the market

Sales

Sales is the exchange of a product or service for money or consideration and is critically important. Sales ability is a special skill and art. A good Sales person is very valuable. Compensation for Sales employees is often solely or largely on a contingency basis. This means Sales people are paid a portion of the Sales revenue they generate. As with compensation for other Employees, the portion percentage may be based upon industry practice and the specific experience and capability of the Sales person. Some Sales people earn a lot of money. Earning so much is justified and well deserved because of Sales contribution to earnings.

Pricing

Pricing is an art and a science and a driver for successfully executing the Company's Marketing strategy and Sales success. Pricing is a bit like the porridge in the Goldilocks and 3 Bears story. Pricing must not be too hot or too cold. Pricing must be just right from the perception of the customer.

Here are some concepts for you. There are two kinds of pricing - Elastic and Inelastic.

- Elastic pricing means Customers are sensitive to the amount of the price – as price goes up customers will buy fewer units and as price goes down Customers will buy more units. An example is an entertainment event. The amount of ticket sales will go down as the price continues to go up.
- Inelastic pricing means Customer demand is somewhat fixed and not so much influenced by price. An example of this is the price for heating oil. While the amount of oil purchased may go down with an increase in price, generally speaking the amount sold will be less affected by price because the need is fixed and limited substitutes are available.

Neither of these examples has absolute Elasticity or Inelasticity. There always will be a price point where demand will be affected. The examples merely represent that products with Inelastic demand are essential and less sensitive to price and demand for Elastic products is more sensitive to price.

Important Point:

The Pricing "Sweet Spot" is where, due to elasticity and competition, the most Sales revenue occurs when using the right price in combination with selling the most units.

While Marketing helps to inform and interest Customers, Pricing helps to make the Sale. Pricing should be based upon competitive price research of the Market Niche. Pricing also needs to be based upon Customer perceptions as to the value of the item for the price paid. A Sale is more likely to occur if the Customer believes price is less than or equal to the value of the item.

Pricing strategy may also come into play. Some pricing strategies follow –

- Make the Sale more attractive by providing immediate gratification to the Customer through immediate possession of the item while requiring payment over time or at a later time.
- Provide volume discounts that reduce per unit price and increase per unit Customer value.
- Provide menu-based Pricing that distinguishes products and services from those of the competition by letting the Customer select desired characteristics.
- Price for customization of the item.
- Initially price at or below cost to capture market share and then gradually raise prices over time to include full cost and required return.

An effective Pricing strategy is needed for successful Marketing and Sales and for use as an effective Sales tool. Pricing, Marketing, and Sales need to work together to successfully sell products and services.

Capturing and Retaining Customers
In terms of capturing and retaining Customers, recognition of certain facts and use of certain practices lead to success. They are –

- All Stakeholders (Employees, Lenders, Investors, suppliers, etc.) are Customers.
- Act with the belief the Customer is right.
- The needs and wishes of the Customer come first.
- Under promise and over perform.
- Exceed expectations.
- Delight Customers.
- Customer perception is reality.

These practices are a recipe for successful Customer relations.

Though there may be a later time when functional specialization may occur, most likely you initially will be doing most or all of this yourself. This information is being provided so that you are aware of what needs to be done and what may occur as the Company grows in size.

Key Points:

- *Marketing, Sales and Pricing are critically important components of success.*
- *The Company exists because of the Customer.*
- *Success of the Company is based upon Customer relations.*
- *Success of the Company depends upon Marketing, Sales and Pricing effectiveness.*

Chapter 16 Good information to Know

Problem Solving
A major part of what you do is problem solving. You regularly will be approached or be made aware of problems you have to address and fix. Problems may be internal, as with Employee concerns, or external, as with suppliers, Lenders, Investors, government entities, regulations, and on and on.

There is no way for you to know ahead of time which problems will arise and when. All you can do is your best in Planning well to avoid as many problems as possible and effectively deal with problems as they arise.

Part of problem solving is successfully adapting to unanticipated changed circumstances. Very often, sometimes daily, there will be minor surprises. Think of it as 2 steps forward and 1 step back. With good Planning and good luck, there will be 2 pleasant surprises to each unpleasant one.

Unpleasant surprises are unpleasant. A particularly unpleasant surprise may take as long as a day to accept and assimilate into your thinking. When you have done this, you can then focus on what needs to be done to counter the unpleasant surprise. This may be a change in direction or course, a change in timing, or some other change that will effectively negate the unpleasant surprise.

When you have adapted in this way, you again will be stable and the Company will again be on a positive path forward.

An aside, as a distance runner I learned that when I was becoming unusually tired I needed to look around to see what was causing the tiredness. Most often I would see that I had been going up a long slight incline and the tiredness was not something happening within me. Knowing that, I was able to adjust my stride and pace. The same may be true for you and the Company. If you are encountering problems, you should understand they are probably not about you and instead the result of a 3rd party externality. When you recognize this you can make necessary adjustments and adapt. Difficult as it may be, try to keep in mind that the problems you are experiencing most often have nothing to do with you personally and instead are the result of something else over which you have little or no control. You will have greater peace of mind and be more effective in adapting when you do this.

Important Points:

- *Much of what you do is effectively adapting to problems as they arise.*
- *Expect problems.*
- *Expect change.*
- *Adjust and adapt as needed.*
- *Be flexible.*
- *Go with the flow.*
- *Keep long term objectives in mind and keep things in perspective.*
- *Take a deep breath or time-out when necessary.*

Accounting 101

Accounting is the logical and easy-to-understand recording of transactions through Debits and Credits. Accounting is a zero sum game meaning every transaction has an equal amount that is debited and credited. Debits are most often called Assets. Credits are what is given to get Assets. Credits are most often called Liabilities, Debt or Equity. Alternatively, sometimes one Asset is exchanged for another, for example the Asset cash is given for an Asset that is purchased, such as equipment. Debits include Assets and receivables. Credits include Equity, and Debt and payables which are called Liabilities.

There are three primary Financial Statements which are snapshots of how the business is doing financially. They are the Balance Sheet, Income Statement, and Cash Flow Statement. Here are descriptions –

- The Balance Sheet is a snapshot as of a date that shows the amounts of Assets that are recorded as Debits and the amounts of Equity and Liabilities that are recorded as Credits.
- The Income Statement is a snapshot for a period of time, normally a number of months or a year, that shows the results of operations and includes revenues (money or receivables earned from Sales) and expenses, with revenues minus expenses being income.
- The Cash Flow Statement is a snapshot for a period of time, the same period of time used for the Income Statement, and shows cash coming into the business and cash going out.

Each of these Financial Statements can be historical (has already happened) or can be forecasted (estimated for the future). Possible Stakeholders (Investors, Lenders, suppliers, others) may want the historical financial statements and estimated (projected or pro forma) future statements as part of their decision-making as to whether to participate. These projections are most often for 1-year periods for a total of 3 years into the future. They are based upon Assumptions which become less precise the further into the future they go.

Below are simple examples of Accounting entries and the basic Financials they generate.

Accounting entries		Debit	Credit
Debit	Cash	1,000	
Credit	Common Equity		1,000
Cash investment in the Company			

Debit	Office Equipment	100	
Credit	Cash		100
Purchase of start-up office equipment			

Debit	Inventory	400	
Credit	Cash		400
Use of Cash to produce selling Inventory			

Cash		300	
Revenue			300
Sale of part of inventory			

Expense		200	
Inventory			200
Inventory sold			

Financial Statements

Balance Sheet

Assets		*Equity and Liabilities*	
Cash	800	Common Stock	1,000
Inventory	200	Retained Earnings	100
Office Equipment	100		
Total Assets	1,100	Total Equity and Liabilities	1,100

Please notice that the amount of Total Assets equals the amount of Total Equity and Liabilities.

Income Statement

Revenue	300
Less: Inventory Expense	(200)
Net Income	100

Please notice that the Net Income amount is shown on the Cash Flow Statement and is shown on the Balance Sheet as the Retained Earnings amount.

Cash Flow Statement	
Beginning Cash Balance	0
Plus Cash from Common Stock Sale	1,000
Plus Net Income	100
Less Used for Inventory	(200)
Less Used for Office Equipment	(100)
Ending Cash Balance	800

Please notice that the Cash Flow Statement is a summary of the activity during the period of time.

Here is a sample reconciliation by account.

Cash	
Investment	1,000
Sale of Inventory	300
Purchase of Inventory	(400)
Purchase of Office Equipment	(100)
Ending Cash Balance	800

Inventory	
Purchase of Inventory	400
Sale of Inventory	(200)
Ending Inventory	200

Office Equipment	
Purchase of Office Equipment	100
Ending Office Equipment	100

Common Stock	
Investment in Company	1,000
Ending Common Stock	1,000

Retained Earnings	
Net Income	100
Ending Retained Earnings	100

Important Point:

- *Accounting is logical, relatively easy to understand, and a zero sum process in that Debits equal Credits. You do not need to be an Accounting expert but you should understand the basics.*

Combined Interactive Financial Projections are provided in Appendix 23.

Regulation

Regulation affects the Company. Regulation comes into play as the business entity is registered with a state, as federal ("IRS") and state income tax returns are filed, for workplace safety in operations through the Occupational Safety and Health Administration ("OSHA"), for workplace payroll and Employee practices through the US Labor Department and the Federal Labor Standards Act ("FLSA"), for the impact the Company may have on the environment through the Environmental Protection Agency ("EPA"), if the products or services affect food or drugs through the Food and Drug Administration ("FDA"), and if they affect agriculture through the US Department of Agriculture ("USDA").

You can learn more by looking at these websites -

IRS	http://www.irs.gov/
OSHA	https://www.osha.gov/
FLSA	http://www.dol.gov/compliance/laws/comp-flsa.htm
EPA	http://www.epa.gov/
FDA	http://www.fda.gov/
USDA	http://www.usda.gov/

There may be state and local regulations. There are regulations about whether the Company name is legally available, whether the names of products or services are legally available, there may be local use zoning restrictions, and other state and local regulations and rules.

As mentioned earlier, the local or area Small Business Administration office may be an excellent resource for learning what you need to know regarding regulations. You can find the local SBA office by going to this website: http://www.sba.gov/.

Another good resource for learning regulatory requirements may be a local CPA firm, particularly one that includes new businesses as part of its practice. You may want to enter into a relationship with a local CPA firm early in the process of establishing the Company. Most likely the firm will provide an initial free consultation to share information about the services they provide, why the services are important to the Company, and the best timing for using the services.

Negotiations

The Company has many Stakeholders. Each has a vested interest in the Company. You might think of the Company as a Viking ship heading to the New World. On certain really good days the ship is propelled by sail. On many other days it is propelled by a number of rowers. On those days the ship goes nowhere if the rowers do not row.

The same is true for the Company. Think of Stakeholders as rowers. To keep going the Company needs the cooperation and contribution of its Stakeholders.

Stakeholders include –

- Employees
- Customers
- Suppliers

- Investors
- Lenders
- Regulators
- Others

Since each Stakeholder group and individual has his or her own needs, an understanding is required between the parties as to how those needs will be addressed and satisfied. That is where Negotiations come into play.

Negotiations can be simplified to some extent by using customary and best practices. In other words, when entering into Negotiations understand what is and has been done by others in similar circumstances. You can get this information from others who have encountered similar situations.

In some cases one party to the Negotiations may have a superior bargaining or Negotiating position. In some cases you may not have many options and will have to provide the other party what is being requested. In some cases you will have a superior Negotiating position.

As you consider how to Negotiate an outcome that is acceptable, it is important that you think in both the short and long terms. An example comes to mind that the King in a dispute about a baby decided the fair thing to do was to cut the baby in half. Obviously the short term outcome did not serve the long term purpose of either party. Make it a point to keep things in perspective during Negotiations and do what is necessary for the Company's long term success. Sometimes principle becomes an overriding consideration which may provide an unsatisfactory result similar to what happened to the baby.

In most cases you may be able to represent yourself in Negotiations. In some cases you can find and should choose to use others to represent you in Negotiations, particularly if you are not comfortable with or strong in Negotiations. Sometimes it helps to have a less biased third party represent the Company in Negotiations, and even more so if that person is skilled or professional in Negotiating.

Presentations

You will have repeated opportunities and responsibilities to communicate with others through Presentations. You can do this through paper hand-outs, PowerPoint Presentations, phone conference calls, video conference calls, and written communications. As with Negotiations, it may be better in some cases to use someone else to make the Presentations.

Here is a partial list of the presentations you may make.

- Communicate with Stakeholders
- Funding – Angels, VCs, Lenders, government
- Board of Directors and Shareholders
- Industry meetings
- Trade publications
- Trade shows

- Business partners
- Employees
- Press releases
- Media interviews

Important Points:

- *Be able to give the "Elevator Pitch" during which you describe the Company in 15-30 seconds.*
- *Understand what is expected regarding communications in terms of who the audience is/know the audience, the attitude and perspective of the audience, the Presentation format, the timing, the content, appearance/how you should be dressed, whether there will be questions and answers.*
- *Stay on point and be succinct in comments and replies.*
- *Practice so you are comfortable with presenting and knowledgeable about the material.*
- *Be confident and friendly.*
- *Remember – no one knows the Company like you do.*
- *Be straightforward and honest.*
- *Offer to provide follow-up answers to questions if you do not know the answers.*

<u>Distinguishing Factors Communications Tool and Talking Points are provided in Appendices 24 and 25.</u>

<u>International Business</u>

There may be a time when you enter into international relationships. This could be with Customers, suppliers, Investors, and others.

You may want to consider expansion into foreign countries or being represented by someone in those countries. There also may be international legal and regulatory matters to consider.

International opportunities may include –

- U.S. and international staffing specialization
- Production and/or assembly abroad
- Sales relationships
- Customer trials
- Customer and/or Production agreements

- State, federal and foreign government roles
- Representation abroad

Chapter 17 Other Resources

You may want to take advantage of the following local, state and national resources.

- SBA
- SBDC
- Federal government agencies such as IRS, OSHA, FLSA, EPA, FDA, USDA
- Chamber of Commerce
- Economic development organizations
- Entrepreneur organizations
- Law firms
- Accounting firms

Chapter 18 Final Comments

- Life is filled with 10% contenders and 90% pretenders.
- There are those who do and those who criticize.
- There are those who are driven and those who just want to get by.

This is not a judgment of one way of life or another. Each of us is different. Not everything is for everyone.

People have their reasons for doing things and most often their reasons are for their benefit. Certain professions tend to want to protect and shelter people by saying no and finding objections. Counter this with a saying from Thomas Paine - “Lead, follow, or get out of the way”.

You are reading this because you have an idea, a dream, a Vision, of how you might Have Your Own Business and the rewards that come with it.

Having a Company is like having a baby with you being the father and mother. I recommend you embrace change. If you are effective, focused, committed, passionate, persevere and have good fortune it is possible and maybe even likely your tomorrow will exceed your expectations. You have been given the gifts of opportunity and choice. Having your own Company is a way to set yourself apart and be your own boss.

- Go for the gold!
- Others are doing it. Why not you?
- “Without a destination in mind, any road will take you there”.
- Chart your future.

- Make it happen!
- Be among the 10%!

I hope this manual provides information you need and insights that remove some of the sugar coating, and helps to bring you back to reality. Yes, there are possible rewards but they come at a cost of commitment, sense of urgency, and skin in the game.

While I do not know whether you will take the next step and how this will turn out for you, I am assured you will be smarter from the experience. It is said Abraham Lincoln failed 10 times before becoming President yet we remember him for his success as President. It is your choice as to how you will be remembered.

Start-up Checklist

Here is a relatively comprehensive progressive list of 30 items to consider for the decision as to whether to move forward. The list is progressive because a "no" decision is made for you if the answer to any of the items is no and you do not find an alternative that makes it yes.

<u>Initial Considerations</u>

1. Write down reasons for wanting/needing to start your Company.
2. Write down short-, intermediate- and long-term objectives.

<u>Choosing the Product/Technology to Commercialize</u>

3. Decide the products or services you want to sell.
4. Identify the Market Niche.
5. Identify competition and decide whether the Niche is available.
6. Decide whether the product or service can be sold.
7. Decide what distinguishes it – quality, price, value, geographic availability, other.
8. Decide whether the business can be economically viable.
9. Evaluate the opportunity using the List of 20 Criteria.
10. Calculate how much money the Company will need for how long; decide how it will be used.
11. Identify who will provide the money and what will have to be given for it.
12. Raise the money.

<u>Creating the Legal Entity</u>

13. Choose the business name.
14. Decide the kind of legal entity to use and the state in which to form it.
15. Create the legal entity.

<u>Legal Formation Documents</u>

16. Establish the Bylaws.
17. Prepare investment documents when it is appropriate for outside Investor funding.
18. Get Board authorization, open a bank account and deposit the money.

<u>Protecting the Idea/Product, or Service</u>

19. Decide whether the product should be legally protected; if so, protect it.

Initial and Ongoing Start-up Activities

20. Shop around and consult with attorneys and accountants for entering into relationships.
21. Learn from attorneys and accountants what needs to be done and how they can help.
22. Contact the SBA local/area office to learn what needs to be done.
23. Enter into Consulting and Employment Agreements.
24. Customize and prepare Vision and Mission Statements.
25. Prepare the Strategic Plan for market entry and capture.
26. Prepare the Marketing Plan; this includes market research.
27. Establish Milestones and estimated achievement dates.
28. Prepare 3-year Financial Projections; Balance Sheet, Income Statement, Cash Flow Statement; include Assumptions; prepare alternative projections using best and worst case Assumptions.
29. Prepare Business Plan.
30. Begin to work the Business Plan and to move forward with your Company.

Interactive Start-up Checklist and Tips and Important Points are provided in Appendices 26 and 27.

There you have it. Much of the knowledge and many of the steps and tools you will need. A caveat. This is not everything you need to know but it is a substantial part. Each opportunity and Company differs from every other. Do not be overly concerned that you are not an expert in all or any of this and do not know everything. Hardly anyone does. Expect to learn on the job by surrounding yourself with good and knowledgeable people who will help you succeed. Have faith, believe, and be willing to work hard to make it happen.

To quote Spock from the Star Trek TV series, “Live long and prosper.”

Bob Kirschner
Center for Entrepreneurs, Innovators & Growth

About the Author

Bob Kirschner is a serial entrepreneur who has headed many start-up companies most of which he founded. He is a hands-on, sleeves-up, sense-of-urgency business professional. Previous to his start-up companies, Bob was an officer and senior manager with a large company that had 100 subsidiaries. His responsibilities included operations, mergers and acquisitions, finance, human resources, accounting, government relations and regulatory affairs.

Most recently Bob has been commercializing university technologies including biotechnology, aeronautics and nanotechnology. This experience led to developing the step-by-step process that is provided here.

Bob founded and heads The Center for Entrepreneurs, Innovators & Growth which is dedicated to providing start-up business knowledge. He also founded The Exchange for Early Stage Investment which is a funding intermediary that pre-assesses and pre-qualifies start-ups and matches them with investors and their selection criteria using its smart database of investors.

Mr. Kirschner's education includes BBA, MBA and JD degrees. He was licensed as an attorney and CPA.

About the Center for Entrepreneurs, Innovators & Growth

The Center for Entrepreneurs, Innovators and Growth ("CEIG") is a specialized business accelerator. CEIG was established to provide business assistance to business creators so they can make the huge leap from idea to reality. In most cases these individuals are very good at what they do but may not have all of the business knowledge and skills to get from here to there. CEIG's purpose is to help entrepreneurs, inventors and innovators achieve their objectives. CEIG helps by becoming a partner committed to success of the business.

Definitions

A

Accounts Payable are the obligations due to third parties for received goods and services.

Accounts Receivable are the obligations due from third parties for goods and services provided.

Accounting Function is the recording, analysis and reporting of business transactions.

Angel is a wealthy person who is an individual Investor.

Articles of Organization is the legal document that describes the organization of a legal entity.

Assets are things of value of a Company or other entity, often recorded as Debits in the records of a Company.

B

Back Office Functions are those with very little customer contact. They include Executive, Strategic Planning, Legal, Finance/Treasury, Human Resources, Accounting, Regulatory Affairs and Government Relations.

Benefits in this context refers to various types of non-wage compensation provided to Employees in addition to normal wages or salaries.

Big Surprise is an unexpected occurrence that is fatal to the Company.

Board of Directors is a body of members who oversee the activities of a Company.

Build It and They Will Come refers to the practice of focusing on products or services and ignoring or underemphasizing the importance of Marketing and Sales.

Business Plan describes the nature of the business and includes the sales and marketing strategy, financial forecasts, and milestones and their dates.

Business Plan Executive Summary is a condensed summary of the Business Plan.

Bylaws are the rules and regulations that provide a framework running the business.

C

Capital is financial wealth used to start or maintain a business and often provided by the issuance of debt or equity.

C Corporation is a legal corporate entity that pays taxes on its profits.

CEO is the Management leader of the Company.

Company refers to the instant Company or to an entity organized to do business.

Confidentiality Agreement is a legal agreement between parties that protects confidentiality.

Confidential Private Placement Memorandum is the primary offering document for raising money from Investors.

Consultant is a person or legal entity that provides business services.

Consulting Agreement is a legal agreement setting the terms and conditions for a consulting relationship.

Contract is an agreement between two or more parties.

Control has two definitions; one refers to directly or indirectly having sufficient common Shares to make Company decisions; the other relates to business operations and refers to authority over business inputs, etc.

Copyright is legal protection given to original works of authorship.

Core Competencies are the focus and strengths of the Company represented by skills, products and relationships.

Corporate Veil is the protection provided to Investors against claims for their personal property.

Corporation is a legal entity that is set up to conduct a business owned by shareholders.

Crowd Sourcing also known as Crowd Funding is a means of raising small amounts of Equity money.

Customers refers to Stakeholders and also means persons or entities that buy products.

D

Debt is a financial obligation to a third party and can be short term or long term. Debt may be used as a funding source for the Company.

Dilution is the reduction in the proportion of ownership due to the issuance of additional Shares/Units.

Distinguishing Factors are reasons the Company and its products are better than those of the competition.

Documentation is paperwork that supports a transaction or legal relationship.

E

Employee is a person who works for another, most often the Company.

Employment Agreement sets the terms of the relationship between an Employee and the Company.

Equity is the ownership interest of Investors initiated by the Sale and purchase of common or preferred Shares of Stock or Member Units and affected by the financial results of the Company.

Executive Function is the highest level senior Management of the Company.

F

Finance/Treasury Function is responsible for Funding, cash management, and financial compliance.

Financials are the product of financial transactions; they may be historical or projected.

Financial Transactions are the exchange or promise to exchange money for something else.

Funding is the raising of money, also known as capital, which may be Equity, Debt or some other form.

G

Gantt Chart uses a series of horizontal lines to show work done or Production completed in certain periods of time in relation to the amount planned. The Gantt Chart also highlights critical inputs and relationships.

Government Relations Function serves to be aware of and influence government as it may affect the Company.

Grants are sources of money from government, institutions, and organizations often at little or no cost.

H

Human Resources Function acts as the intermediary between and serves the interests of Employees and the Company.

I

Intellectual Property is a term representing products of the mind such as inventions.

Investor is a person or entity who provides money or other consider to the Company for an Equity position.

Investor Questionnaire is a Funding document used to determine whether a potential Investor is qualified to invest.

J

Job Description serves to define a job, scope of its responsibility and authority, and reporting relationships.

Just-in-time refers to material purchasing and Production that occur in anticipation of or after orders are received, though there may be small inventories as necessary.

L

Leadership Continuity Plan serves to identify high potential replacements for key Management Employees should their positions become vacant.

Legal Function addresses the legal needs of the Company. This can be done in-house or Out-sourced.

Lender is one who gives something to another with the understanding that it will be returned either directly or indirectly.

Leverage has 2 meanings. One is financial and means using Debt to expand operations. The other is general and means to expand by applying and benefitting from repeated use of an existing resource.

Liability is the legal responsibility to pay and often referred to for Companies as Liabilities and shown as Credits in the records of the Company.

LLC (Limited Liability Company) is a legal entity that is set up to conduct a business owned by Member and run by officers and directors.

M
Macro means to take a big picture and/or long term perspective.

Management refers to people in positions in the Company hierarchy who direct the work of others.

Marketing Plan is the document that provides market research, strategy, and tools for Sale of products.

Market Niche is the identified possible group of product Customers. The Niche also may be geographic.

Member refers to one who owns Member Units of an LLC.

Member Unit is the ownership measure of an LLC similar to Shares of a Corporation.

Member Unit Certificate documents ownership of LLC Member Units.

Micro means to take a detailed ground-up and/or short-term perspective.

Milestones are key measures of progress toward meeting Company objectives. Projected Milestones are often accompanied by expected achievement dates.

Mission Statement is a formal summary of the aims and values of the Company.

N
Negotiations are the interactions between parties that occur before coming to an agreement.

O
Option to Purchase is a legal right to purchase that may be exercised by a party.

Organization Chart is the pictorial representation of the Company Management structure.

Outsourcing is the use of external third parties to provide goods or services to the Company.

Owner is often the founder of a Company. Owner may also refer to a party that has majority Control.

P
Patent is formalized governmental legal protection given to inventions, discoveries and designs.

Personal Property is the property owned by an individual rather than a legal entity.

Policies and Procedures are published workplace rules and guidelines.

Post-money Valuation is the estimated value of the Company's Equity after new money is invested.

Pre-money Valuation is the estimated value of the Company's Equity before new money is invested.

Pricing is the process of setting a market price for products that reflects the Company's objectives and marketing and Sales strategies.

Product Development is the process of improving and adapting products and services to Customer needs and requirements.

Promissory note is a legal document of obligation that is given by the borrower to the Lender.

Q

Quality Control is the process of testing and ensuring that products and services meet required standards.

R

Regulatory Affairs Function serves to be aware of and comply with government rules. This may include having relationships with government entities.

Representation is the conveying of information and understandings.

Return is the amount earned on Capital.

Right of First Refusal is a contractual right to match an offer made by another.

Round of Funding refers to going to the Investor marketplace to raise money.

S

Salary Grade Program serves as the compensation foundation of the Company in that it provides pay equity for positions at similar levels and at different levels within the Company and as also compared to pay levels in the overall market.

Sales are the exchange of one thing for another, often products or services for cash.

Securities are any proof of ownership or debt that has been assigned a value and may be sold.

Securities Law refers to U.S. and state laws relating to purchase, Sale, transfer and ownership of Securities.

Shares are units of Stock of a Corporation.

Shareholder Agreement is a legal document between the Shareholder and the Company that provides and describes the terms and conditions of the relationship.

Small Business Administration is a U.S. government entity that provides business services to small Companies.

Stakeholder is an individual or legal entity with a legal interest in a legal entity as an Investor, Lender, creditor, supplier, etc.

Stock is ownership interest in a Corporation.

Stock Certificate is the document that evidences Company ownership by an entity.

Stock Certificate Legend is writing on the Stock Certificate that describes restrictions on the use and transfer of the Shares.

Stock Repurchase Agreement is a legal document that provides the terms and conditions for re-purchase by the Company of outstanding Shares or Member Units.

Strategic Plan places in writing the objectives of the Company and the steps to be taken to achieve them.

Strategic Planning Function provides focus on the direction the Company takes to achieve its objectives.

Subscription Agreement is a legal contract that provides terms and conditions and binds an entity regarding the Sale of Shares or Member Units to an Investor.

T

Talking Points is a tool for communicating Distinguishing Factors with others.

Trade Secret is commercially valuable information or process that is protected by being kept a secret.

Trademark is a mark or symbol used to identify goods or services.

U

US Copyright Office is a U.S. office that protects written intellectual property.

USPTO or U.S. Patent and Trademark Office is a U.S. government entity that protects inventions and markings.

V

Valuation may have 2 definitions. One refers to plant, equipment and physical Assets. The other refers to the market value of the equity of the Company.

VC or Venture Capital Firm is an entity that is in the business of investing by purchasing common or some other form of Equity.

Vision Statement is a Macro description of what a business would like to achieve or accomplish in the mid-term or long-term future.

W

Warranties are stipulations in assurance of terms of contracts.

Appendices

Appendix 1 – Strengths and Weaknesses List

Strengths and Weaknesses List

This is a list of possible strengths and weaknesses; decide which apply, whether they are strengths or weaknesses, and add additional strengths and weaknesses as appropriate.

Personal

- Product/service knowledge, work ethic, energy, enthusiasm, attitude, drive, sense of urgency, hunger to succeed, business skills, money, time conflicts, support of family and friends

Business – Internal

- Sales team
- Market research
- Product line: quality, innovation, guarantees/warranties
- Marketing expertise
- Pricing
- Employees: skills, quality, whether enough
- Internal communications
- Processes
- Location
- Customer service
- Prompt delivery time
- Extremely polite and helpful
- Management team
- Whether products and services can be improved
- Reliability
- Funding
- Parking
- Equipment
- Ability to meet deadlines
- Cash availability
- Record keeping

Business - External

- Competition
- Market visibility/recognition
- Customer loyalty
- Reputation
- Supplier sources
- Whether supplier always delivers exactly what is wanted

Appendix 2 – 20 Criteria for Business Potential Evaluation

20 Criteria for Business Evaluation
Based upon Weighted Criteria Applied to Each Opportunity

1. Commercially viable
2. Superior economic potential
3. Experienced and capable management
4. Good inventor/partner/champion
5. Sufficiently tested proof of concept/prototype
6. Unoccupied market space
7. State-of-art technology with no next best alternative
8. Platform technology for additional future applications
9. No competitive or other barriers to entry
10. No unusual or significant delays to market entry
11. No significantly burdensome capital requirements
12. Intellectual property protected; no infringement challenges
13. Defined path to market
14. Defined path to exit
15. University relationship, professionalism, reputation, resources
16. No large opportunity cost
17. Available researchers for technology development
18. Available and defined investors
19. Available and defined possible development partners and exit entities
20. Reasonable licensing terms and conditions

Appendix 3 – The Assessment Questionnaire

The purpose of the questionnaire is to assess and evaluate the business opportunity and provide the information needed for recommending steps and actions to be taken.

1. Today's date:
2. Name of person completing the questionnaire:
3. Phone number:
4. What are your main objectives? Please check all that apply.
   a. Own and run a company for the long term.
   b. Provide jobs for you and your family members.
   c. Make a lot of money from selling the company.
   d. Provide the company to your successors.
   e. Other.
5. What is your work background?
   a.
   b.
   c.
   d.
6. What is your business background?
   a.
   b.
   c.
   d.
7. How would you rate your level of overall business knowledge? Please check one.
   a. Somewhat weak.
   b. Some.
   c. Good.
   d. Very good.
8. What is your level of knowledge for the following skills? Rate from 1-10 with 10 being the highest.
   a. Industry.
   b. Product or service technical knowledge.
   c. Marketing.
   d. Selling.
   e. Computer.
   f. Financial.
   g. Management.
   h. Social and people.
   e. Negotiation.
   f. Communication.
   f. Decision-making.
9. What is the product or service to be sold?
10. Who are your customers?
11. What is the demand for the product or service? Please check one or both.
    a. Unmet.
    b. Being met by others.
12. What experience and ability do you have for doing this?
    a.
    b.
    c.
    d.
13. Have you conducted competitive market research for the product or service?
14. If so, are the results available?
15. Are there similar products or services being sold in the marketplace?

16. If so, who are the leading sellers?
    a.
    b.
    c.
    d.
17. If so, what are the reasons your product or service will be purchased instead of theirs?
    a.
    b.
    c.
    d.
18. Does the company have any of the following? Please check those that are available.
    a. Vision statement.
    b. Mission statement.
    c. Strategic plan.
    d. Marketing plan.
    e. Business plan.
    f. Organization chart.
    g. Financial projections.
    h. Job descriptions.
19. Is the product or service ready for the market or does it require research and development? Please check one or both.
    a. Ready for market entry.
    b. Requires research and development.
20. If research and development is required before market entry, how long do you realistically expect it will take before the product or service is ready for market entry? Please check one.
    a. 6 months.
    b. 1 year.
    c. 2 years.
    d. Longer.
21. What is the expected sales price per unit?
22. What is the expected cost per unit?
23. How many units are expected to be sold in the 3rd year after sales begin?
24. How many units are expected to be sold in the 5th year after sales begin?
25. How much money has been raised so far?
    a. From you.
    b. From family and friends.
    c. From loans.
    d. From grants.
    e. From crowd sourcing.
    f. From other investors.
    g. From other sources.
26. Do you expect to be able to raise money from any of the following and how much from each? Please provide amounts for all that are applicable.
    a. You.
    b. Family and friends.
    c. Loans.
    d. Grants.
    e. Other investors.
    f. Other.
27. Is there a requirement for purchase of equipment? If so, please list substantial pieces of equipment and their prices?
    a.
    b.
    c.
    d.

28. Are there other company financial requirements and/or obligations? If so, please list to whom or for what and provide the amounts.
    a.
    b.
    c.
    d.
29. Are you presently receiving payment from the company?
30. How much annual income do you require?
31. How long can you work for the company without pay? Please check one.
    a. 3 months.
    b. 6 months.
    c. 1 year.
    d. 2 years or longer.
32. Has the company been legally organized? If so, please check one.
    a. Corporation.
    b. Partnership.
    c. Limited liability company.
    d. Other.
33. Does the company have a board of directors? If so, please provide the following information.
    a. Number of board members.
    b. Name of the board chair.
34. Does the company have the following documents? Please check those that it has.
    a. Confidentiality agreement.
    b. Consulting agreement.
    c. Bylaws.
    d. Operating agreement.
    e. Stock certificates.
    f. Subscription agreement.
    g. Shareholders agreement.
    h. Stock repurchase agreement.
35. Has the company selected professional service providers? Please check those that apply.
    a. CPA.
    b. Law firm.
    c. Insurance provider.
    d. Other.
36. Does the company have an operating history?
37. If so, for how many years has the company been in operation?
38. If so, please provide the following information for the most recent years.
    a. Year: Revenue: Net Income (Loss):
    b. Year: Revenue: Net Income (Loss):
    c. Year: Revenue: Net Income (Loss):
39. Does the company have key employees?
40. If so, please provide the names and titles.
    a. Name: Title:
    b. Name: Title:
    c. Name: Title:
    d. Name: Title:
    e. Name: Title:
41. Does the product or service require intellectual property protection? If so, please check which apply and indicate yes or no as to whether there is protection.
    a. Patent.
    b. Trademark.
42. What are your biggest concerns about the business?
    a.
    b.
    c.
    d.

43. What do you see as the biggest problems to be overcome by the business?
    a.
    b.
    c.
    d.
44. Is there anything else you would like to discuss?
    a.
    b.
    c.
    d.

Appendix 4 – Bylaws

Important Note: This is being provided only as an example. Please consult with an attorney as appropriate.

Bylaws
of
“Company Name”

Adopted “Date”

ARTICLE 1
Number of Directors

The number of directors of the corporation shall be “xx”.

ARTICLE 2
Shareholders' Meetings

The annual shareholders' meeting shall be held on the first “day” in “month” of each year, at “xx” o'clock “am/pm”, beginning with the year “xxxx”, or at such other date and time within 30 days before or after this date as may be fixed by or under the authority of the board of directors, for the purpose of electing directors and transacting such other business as may come before the meeting. Special shareholders' meetings may from time to time be called by the board of directors. In addition, the president or secretary of the corporation shall call a special meeting if the holders of at least 10% of all the votes entitled to be cast on any issue proposed to be considered at a proposed special meeting sign, date, and deliver to the corporation one or more written demands for the meeting describing one or more purposes for which it is to be held.

ARTICLE 3
Directors' Meetings

Regular board of directors' meetings shall be held immediately following each annual shareholders' meeting. Special board of directors' meetings may be called by the president or any one director and may be held on 48 hours' prior notice.

ARTICLE 4
Notice of Meetings; Waiver of Notice

Notice of either an annual or any special shareholders' meeting shall, unless otherwise required by law, be given not less than “xx” nor more than “xx” days before the meeting date. Any required notice of a shareholders' or board of directors' meeting may be given orally or in any other manner authorized by law. Any notice of a special shareholders' meeting shall describe the meeting's purpose. Notice of any shareholders' meeting may be waived at any time. Notice of any board of directors' meeting may be waived, either before or after the date and time stated in the notice.

ARTICLE 5

Action without a Meeting

Shareholders' actions may be taken without a meeting by the unanimous written consent of the shareholders entitled to vote on the matter as provided by law. Directors' actions may be taken without a meeting by the unanimous written consent of the directors as provided by law.

ARTICLE 6

Appointment of Officers; Designation of Duties

The board of directors shall appoint such officers and designate their respective duties as it deems appropriate. The board of directors may delegate the duties of any officer to any other officer or to any assistant officer or other person designated by it for that purpose.

ARTICLE 7

Amendments

These bylaws may be amended by the board of directors or by the shareholders.

Appendix 5 – Investor Questionnaire

Important Note: This is being provided only as an example. Please consult with an attorney as appropriate.

Investor Questionnaire

Individuals

1. Name: ____

2. Relationship to the Company (if any): ______________________

3. Social Security No.: ______________________________________

4. Date of Birth: ____

5. Schools and Degrees: _____________________________________

6. Home Address: ____

7. Home Telephone: ____

8. Occupation or Profession: _________________________________

9. Current Position or Title: _________________________________

10. Employer: ____

11. Business Address:____

12. Business Telephone Number: ______________________________

13. Are you currently an executive officer or Director of the Company? __Yes __ No

14. Is your net worth (or joint net worth together with your spouse) in excess of $1,000,000? __Yes __No

    Net worth shall not include the value of a primary residence without taking into consideration the amount of mortgage debt secured by the primary residence. Therefore, the indebtedness on a primary residence should be deducted from the fair market value of the primary residence. If the mortgage debt secured by the residence exceeds the fair market value of the residence, the excess of such debt such be considered a liability and deducted from an accredited investor's net worth.

15. Have you had an income in excess of $200,000 in each of the two most recent years and do you reasonably expect an income in excess of $200,000 in the current year? __Yes __No

16. Have you and your spouse had a joint income in excess of $300,000 in each of the last two most recent years and do you reasonably expect a joint income in excess of $300,000 in the current year? __Yes __ No

17. Are you currently an employee of the Company? __Yes __ No

18. Are you purchasing for investment for your own account and not with a view to resell or otherwise distribute the Common Shares? __ Yes __ No

19. Are you familiar with the liquidity and risk aspects of investments such as the Common Shares? __Yes __No

20. Have you previously invested in similar speculative securities? __ Yes __ No

21. Are you financially able to bear the economic risk of a complete loss of your contemplated investment for an indefinite period of time? __Yes __No

22. Do you consider yourself sufficiently knowledgeable and experienced in financial and business matters to be capable of evaluating the merits and risks of your investing in the Company without the advice or assistance of a purchaser representative? __ Yes __No

23. If not, please list the name, affiliation, and address of the person (not affiliated with the Company) who you hereby designate as your purchaser representative in connection with evaluating the merits and risks of your investing in the Company (if none, so state): _______

____

____

____

24. If you have not listed a purchaser representative, have you reviewed this investment with your accountant and/or lawyer? __Yes __No If yes, please state the name and address of such accountant or lawyer: ____

____

____

25. Describe the nature of any independent investment decisions that you make (e.g., stocks, real estate, investment partnerships, business): ____

____

____

26. Describe your investment needs and objectives (e.g., income, cash flow, capital appreciation): ____
____
____

27. The undersigned prospective investor hereby certifies that the undersigned has furnished the above answers to this Prospective Investor Questionnaire and that they are correct and complete.

Signature: ________________________________

Title (if applicable): __________________

Appendix 6 – Operating Agreement

Important Note: This is being provided only as an example. Please consult with an attorney as appropriate.

Operating Agreement

This Operating Agreement outlines Investor Understandings for (" "; also, "Company") discussed and agreed to by the Company and Investors: (each individually generically known as "Investor" and in the aggregate as "Investors" or "Founders").

Company Structure

Company is a "type of legal organization" organized under "state of organization" law.

The Company has ____ Shareholders, ____ Board members and ____ Officers. ___________ is CEO. There are ___ employees at this time. Additional employees will be hired on an as needed basis.

Company Operations

It is agreed by the Company that any contract or agreement that binds the Company will be reviewed and approved by all directors when possible and by a majority of the directors when necessary.

____________ has been named CEO and as such has overall responsibility for the Company with input from Directors on an as needed basis.

The office and legal address of the Company is ________________________.

The CEO will open checking and investment accounts. The checking account will be used to pay bills and reimburse expenses on an as needed basis. The CEO and all Directors will be signatories of this account and only one signature is necessary to validate checks.

Deferred Compensation

The CEO with Board approval may authorize deferred compensation in lieu of or in addition to immediate cash compensation. Deferred compensation may be payable per agreement, and also at such time as authorized in the sole discretion of a unanimous decision of the Founders, and at such time as an ownership of more than 50% of the Company or any of its subsidiaries changes hands.

Stock Option Plan

The Company may have a Stock Option Plan by which options may be granted as approved by a unanimous action of the Board of Directors. Options will be exercisable for a set period of time at $___ each. Stock options may be issued periodically and the stock value will be calculated periodically.

This Operating Agreement is being adopted by the Company and may be modified from time to time by a majority of directors as formalized in writing. Each of the directors has read and approves this Operating Agreement and has signed below.

Signed By ________________________
Written Name_____________________
Date____________________________

Signed By ________________________
Written Name_____________________
Date____________________________

Signed By ________________________
Written Name_____________________
Date____________________________

Appendix 7 – Subscription Agreement

Important Note: This is being provided only as an example. Please consult with an attorney as appropriate.

Subscription Agreement

The undersigned (the "Subscriber") hereby offers to purchase and subscribe for $_________________ in Common Shares (the "Common Shares") in "XYZ" Company, Inc., a "state of legal organization" "type of legal entity". Upon fulfillment of the terms of this Subscription Agreement the Subscriber agrees to become a shareholder of the Company.

The Subscriber hereby specifically approves, ratifies and agrees to be bound by each and every provision of the Articles of Incorporation, (the "Articles") and the Company's Bylaws (the "Bylaws") of the Company substantially in the forms attached to the Confidential Private Placement Memorandum as Exhibits A and B. Upon acceptance of this subscription by the CEO of the Company (the "CEO"), the undersigned shall become a shareholder of the Company.

Subject to the terms and conditions contained herein and in the Confidential Private Placement Memorandum of the Company dated "date of the CPPM" and all exhibits attached thereto (the "Memorandum"), the Subscriber hereby subscribes to purchase the Common Shares as described above.

Upon acceptance of this Subscription Agreement, the Subscriber agrees to pay to the Company the full purchase price of the Common Shares subscribed for in the form of cash, check, certified check or money order within three (3) days of acceptance.

The Subscriber hereby represents and warrants as follows:

1. The Subscriber has received and thoroughly reviewed the Investment Letter, including the Articles, the Operating Agreement and the Risk Factors, and is relying upon the information contained therein, together with books and records of the Company and other information made available to it on request, in making this subscription. All documents pertaining to this investment have been made available for inspection by the Subscriber, its attorney, accountant and Purchaser Representative, if any. No oral representations have been made or oral information furnished to the Subscriber or its advisor(s) in connection with the offering of the Common Shares nor has the Subscriber relied on any such representations. The Subscriber has entered into this Subscription Agreement with a thorough knowledge and understanding of the investment and its risks.

2. All information provided by the Subscriber to the Company is true and correct in all respects as of the date hereof.

The Subscriber and its Purchaser Representative, if any, have had an opportunity to ask questions of and receive answers from the CEO, or a person or persons acting on his behalf, concerning the terms and conditions of this investment and all such questions have been answered to the full satisfaction of the Subscriber.

3. The Subscriber does not intend or anticipate that this investment will be a source of current income.

4. The address set forth below represents the true and correct place of residence of the Subscriber, if an individual, or place of business of the Subscriber if an entity, and if an entity, has no present intention of having a place of business in any other state or jurisdiction.

5. The Subscriber has been informed by the Company in writing and understands that the Common Shares have not been registered under any federal or state securities laws in reliance on exemptions therefrom for non-public offerings or other exemptions, based in part upon the Subscriber's representations herein, and further understands that the Common Shares have not been approved or disapproved by the Securities and Exchange Commission or any other federal or state agency.

6. The Subscriber has sufficient liquid assets to pay for the Common Shares and agrees that the Company shall have all the rights set forth in this Subscription Agreement and the Articles and the Operating Agreement.

7. The Subscriber is acquiring the Common Shares for the Subscriber's own account, for investment purposes only, and not with a view to the sale or other distribution thereof, in whole or in part, and is aware of the following:

i. The Company has only limited financial or operating history;

ii. The Common Shares are a speculative investment and involve a high degree of risk of loss;

iii. There are substantial restrictions on the transferability of the Common Shares;

iv. No resale or other transfer of the Common Shares by the Subscriber will be allowed which is not (and Investors have no right to require that the Common Shares be) registered under the Securities Act of 1933 and/or under applicable state securities laws or exempt from all such registration. There will be no public market for the Interests; accordingly, it may not be possible for an Investor to liquidate his or her investment in the Company. The Common Shares have not been registered under any state securities laws, including those of the state in which the Subscriber resides, and may not be sold or transferred without registration under said laws, or an exemption therefrom; and

v. Any federal income tax benefits, which may be available to the Subscriber, may be lost through adoption of new laws, amendments to existing laws or regulations, changes in the interpretation of existing laws and regulations.

THE FOREGOING REPRESENTATIONS AND WARRANTIES SHALL BE TRUE AND ACCURATE AS OF THE DATE HEREOF AND AS OF THE DATE OF PAYMENT TO THE COMPANY AND SHALL SURVIVE THE SAME.

The Subscriber acknowledges that the Subscriber understands the meaning and legal consequences of the representations and warranties contained in this Subscription Agreement, and hereby agrees to indemnify and hold the Company and each Investor thereof harmless from and against any and all loss, damage or liability due to or arising out of a breach of any representation or warranty of the Subscriber whether contained in the Prospective Investor Questionnaire or this Subscription Agreement.

Notwithstanding any of the representations, warranties, acknowledgements or agreements made herein by the Subscriber, the Subscriber does not hereby or in any other manner waive any rights granted to the Subscriber under federal or state securities laws. It is understood that this subscription is expressly conditioned upon:

A) The Subscriber's prior completion, execution and delivery to the Company of a Prospective Investor Questionnaire and, if appropriate, a Purchaser Representative Questionnaire.

B) The acceptance by the CEO on behalf of the Company of the Subscriber as a qualified offeree eligible to receive an offer to purchase and subscribe for the Common Shares.

C) The Subscriber's completion, execution and delivery to the Company of this Subscription Agreement, in duplicate.

D) The acceptance by the CEO on behalf of the Company of this Subscription Agreement, which determination shall be within the complete discretion of the CEO.

E) Tender to the Company of the full purchase price of the Common Shares for which the Subscriber is subscribing.

This subscription is not transferable or assignable by the Subscriber.

IN WITNESS WHEREOF, the Subscriber has executed this Subscription Agreement Signature Page as of the date set forth below.
SUBSCRIBER

______________________________ Date: ______

Signature

____

(Print Name of Subscriber)

____

Street Address, City, State, Zip

____

Social Security Number

The Company by its CEO will determine, in its sole discretion, whether the investment is suitable for the Subscriber and whether to accept this subscription.

Accepted ___________________Rejected ____________________Date:_______

“XYZ” a “state of legal organization” “type of legal entity”

By:___________________________________ Date: ____________________

“name”, CEO

Appendix 8 – Shareholders Agreement

Important Note: This is being provided only as an example. Please consult with an attorney as appropriate.

Shareholders Agreement

This Shareholders Agreement is made as of the ____ day of _____, ___ between (Company Name), a (legal entity) organized under the laws of _________ ("XYZ"); and (name of Shareholder), an individual residing in the city of ____________, in the State of _________ ("Shareholder").

WHEREAS, the Shareholder is the owner and holder of record of ______ shares of $___ per share par value Common Stock (hereinafter the "Shares") of XYZ; and

WHEREAS, the Shareholder believes it is in the interest of all Shareholders of XYZ to preserve the closely-held nature of XYZ and to provide for an orderly transition of ownership of the Shares; and

WHEREAS, the Shareholder accordingly agrees to impose certain transfer restrictions on the Shares;

NOW, THEREFORE, acknowledging consideration, the Shareholder hereby agrees as follows:

1. General Restrictions. No Shareholder shall Transfer any Shares to any Person, except as specifically permitted or required by this Agreement and only in accordance with the terms of this Agreement. The Corporation shall not be required: (A.) to Transfer on its books any Shares, nor (B.) to treat as the owner of the Shares, or otherwise to accord voting or dividend rights to, any transferee to whom the Shares have been Transferred in contravention of this Agreement.

2. Conditions Precedent to All Transfers. Any transfer otherwise permitted hereunder shall be allowed only if the proposed transferee concurrently shall agree to sign any documents deemed necessary or appropriate by XYZ to impose on the Shares so transferred all of the obligations of the Shareholders contained in this Agreement so as to bind such transferee as if such transferee were a party hereto.

3. Right of First Refusal.

(a) If a bona fide offer has been received by the Shareholder for the purchase of any of the Shares, and such offer is one which the Shareholder would in good faith accept, then before accepting the same, the Shareholder shall first offer to sell such Shares to XYZ, which offer shall be in writing and accompanied by a copy of the third-party offer. For purposes of the Agreement, the term "bona fide offer" shall mean an offer in writing, signed by an offeror or offerors (who must be a person or persons or entity or entities financially capable of carrying out the terms of such offer) not affiliated in any manner with the Shareholder, and in a form legally enforceable against such offeror or offerors.

XYZ shall have the exclusive option for a period of ninety (90) days following its receipt of the said written offer, to purchase all (but not less than all) of the Shares so proposed to be transferred. The price, terms of payment and conditions of sale or transfer of Shares subject to this option shall, at the discretion of XYZ, be the price, terms and conditions set forth in the said written offer, or the price determined in accordance with the provisions set forth in numbered paragraph 6(a) of this Agreement and the payment terms set forth in numbered paragraph 6(b) of this Agreement.

If the said option to purchase is not exercised by XYZ in writing within the ninety (90) day option period, or if the said option is, within the ninety (90) day option period, rejected by XYZ in writing, the Shareholder shall have the right to transfer the offered Shares to the prospective transferee(s) identified in the said offer, at the price and under the same terms and conditions set forth in the said offer, for an ensuing period of ninety (90) days from and after the date of expiration of the said option period or the date of the said rejection. If no such transfer is consummated within the said ninety (90) day period, the restrictions set forth in this Agreement shall be restored and shall continue in full force and effect.

(b) If the Shareholder desires to pledge any of the Shares or transfer any of the Shares by means of a gift or other conveyance pursuant to which the Shareholder receives no consideration, then before transferring the same, the Shareholder shall first offer, in writing, to sell such Shares to XYZ at the price determined in accordance with the provisions set forth in numbered paragraph 6(a) of this Agreement, and in accordance with the payment terms set forth in numbered paragraph (6)b of this Agreement.

XYZ shall have the exclusive option for a period of ninety (90) days following its receipt of any such offer, to purchase all (but not less than all) of the Shares so proposed to be pledged or transferred. If the said option to purchase is not exercised by XYZ in writing within the ninety (90) day option period, or if the said option is, within the ninety (90) day option period, rejected by XYZ in writing, the Shareholder shall have the right to pledge or transfer all (but not less than all) of his or her Shares identified in the said offer in the manner set forth therein, for an ensuing period of ninety (90) days from the date of expiration of the said option period or the date of the said rejection, provided, however, that the Shareholder shall continue to be subject to all of the terms and provisions of this Agreement with respect to any remaining present or future interest whatsoever which he or she may have in the pledged or donated Shares, and further provided that the pledgee or donee shall likewise be subject to all such terms and provisions as though he or she were a party hereto. If no such pledge or transfer is consummated within the said ninety (90) day period, the restrictions set forth in this Agreement shall be restored and shall continue in full force and effect.

4. <u>Option to Purchase and Release of Option</u>. Upon the death of the Shareholder, XYZ shall have the Right of First Refusal. See Section 3.

5. Involuntary Transfers. Whenever the Shareholder has any notice or knowledge of any impending or consummated involuntary transfer of or lien or charge upon any of the Shares, whether by operation of law or otherwise, he or she shall give immediate written notice thereof to XYZ and shall immediately disclose to XYZ all pertinent information in his or her possession relating to such matters; and whenever XYZ has any other notice or knowledge of any such impending or consummated involuntary transfer, lien or charge which would require the payment of an amount in excess of Five Thousand Dollars ($5,000.00) to discharge or satisfy, then XYZ shall, at all times at which the Shares continue to be the subject thereof, have the immediate and continuing option to purchase the Shares by notice to the Shareholder. Such option may be exercised by XYZ by the delivery of written notice of exercise to the Shareholder.

The price and terms of payment of Shares subject to this option shall be the price determined in accordance with the provisions set forth in numbered paragraph 6(a) of the Agreement and the payment terms set forth in numbered paragraph 6(b) of this Agreement. The closing of the purchase and sale of the Shares shall take place no later than ten (10) days following the date of XYZ's exercise of its purchase option.

Notwithstanding the foregoing, such option shall terminate at the time the Shares are no longer the subject of the attempted, impending or consummated involuntary transfer, lien or charge.

6. Purchase Price and Terms of Payment.

(a) For purposes of the purchase options referred to in numbered paragraphs 3 through 5 of this Agreement, the purchase price of the Shares subject thereto shall be determined as follows:

(i) XYZ and the Shareholder shall first attempt to mutually agree upon a value of the Shares, and in the event of such an agreement, the purchase price of the Shares shall be the value so agreed upon.

(ii) If such an agreement cannot be reached, then XYZ and the Shareholder shall each name an appraiser, and these two appraisers shall together determine the value of the Shares. In the event that these two appraisers cannot reach a common value for the Shares, then these two appraisers shall select a third appraiser who shall determine the value of the Shares. The failure of any party to name an appraiser within ten (10) days of the date of delivery to such party of written notice from the other party requesting that an appraiser be named shall constitute a waiver or such party's right to name an appraiser, and any determination of value by the other party's appraiser shall be deemed to be the appraised value of the Shares for purposes of this numbered paragraph 6. The cost of all such appraisals shall be shared equally by XYZ and the Shareholder.

In the event the purchase price of the shares has not been determined in the manner set forth above within twenty (20) days of the commencement of any option period provided in numbered paragraphs 3 through 5 of this Agreement, then such option period shall remain open for a period of ten (10) days following the date on which the purchase price is finally determined in the manner set forth above.

(b) The purchase price of any Shares purchased in accordance with the provisions of numbered paragraphs 3 through 5 of this Agreement shall be payable in cash at the time of purchase.

7. Marital Property. The spouse of the Shareholder hereby joins in the execution of this agreement for the purpose of subjecting his or her marital property interest (if any) in the Shares to the terms of this Agreement. The execution of this Agreement by any spouse shall not by itself create any marital property interest in the Shares.

The Shareholder shall have the sole right of management and control of the Shares, including the rights to vote the Shares and to transfer the Shares pursuant to this Agreement. In the event of the death of the Shareholder, his or her personal representative shall have the sole right of management and control of the Shares, including the rights to vote the Shares and to transfer the Shares pursuant to this Agreement.

Upon any transfer whatsoever of Shares by the Shareholder or his or her personal representative hereunder, the spouse of the Shareholder shall automatically be deemed to join in any such transfer for the purpose of terminating such spouse's marital property interest (if any) in the Shares so transferred. Such spouse's marital property interest shall automatically attach to the proceeds, if any, of such transfer. Upon the request of any transferee of such Shares, such spouse shall execute such documents as the transferee may deem necessary or appropriate to evidence the termination of such interest.

If the marriage of the Shareholder is terminated by divorce or by the death of his or her spouse, and the Shareholder does not succeed to his or her spouse's marital property interest (if any) in the Shares, then the Shareholder shall purchase all of his or her spouse's interest in the Shares, and his or her spouse (or the personal representative of his or her spouse's estate, whichever is applicable) shall be obligated to sell such interest in the Shares. If the Shareholder and his or her spouse (or personal representative) cannot agree as to the value of such interest, then they shall each name an appraiser qualified to value such an interest, and these two appraisers shall together determine the value of such interest. The failure of any party to name an appraiser with ten (10) days of the date of delivery to such party of written notice from the other party requesting that an appraiser be named shall constitute a waiver of such party's right to name an appraiser, and any determination of value by the other party's appraiser shall be deemed to be the appraised value of the interest for purposes of this numbered paragraph 7. In the event that these two appraisers cannot reach a common value for such interest, then these two appraisers shall select a third appraiser who shall determine the value of such interest. The cost of all such appraisers shall be shared equally by the Shareholder and his or her spouse (or personal representative). The purchase price shall be paid in cash on the date of purchase of such interest and such purchase must be completed within one hundred twenty (120) days after the date of divorce or death of such Shareholder's spouse.

If a spouse (including a spouse by a marriage entered into after the date of this Agreement) of a Shareholder shall refuse or otherwise fail (after reasonable notice) to execute this Agreement or comply with the terms of this Agreement, such Shareholder shall be deemed to have made an involuntary transfer of his or her Shares for purposes of numbered paragraph 5 hereof.

8. Transfers in Violation of Agreement. Any attempt to transfer Shares in violation of this Agreement shall be null and void and of no force and effect. XYZ shall refuse to transfer any Shares on the books of XYZ unless transferred in accordance with the terms and provisions of this Agreement.

9. Compliance with Securities Law. Notwithstanding any other provision on this Agreement to the contrary, no Shares shall be transferred to any person if the transfer of such Shares would violate any applicable federal or state securities law.

10. Endorsement on Stock Certificates. Immediately after execution of this Agreement, the Shareholder shall deliver to XYZ the certificates for all of the Shares owned by him or her and XYZ shall endorse on the face of each such certificate a legend reading substantially as follows:

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR QUALIFIED UNDER ANY STATE SECURITIES LAW, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SECURITIES, OR THE HOLDER RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THE SECURITIES SATISFACTORY TO THE COMPANY, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND THE QUALIFICATION REQUIREMENTS UNDER STATE LAW.

A copy of this Agreement shall be filed with the Secretary of XYZ. During the term of this Agreement, a legend reading as above shall be endorsed on each certificate of stock hereafter issued by XYZ and which is subject to the terms of this Agreement.

11. Termination. All of the restrictions imposed upon the Shareholder under the terms and conditions of this Agreement shall terminate (a) upon registration of the Shares pursuant to a registration statement filed with, and declared effective by, the Securities and Exchange Commission under the Securities Act of 1933, as amended, or (b) upon the action of the Board of Directors of XYZ by a majority of the total number of directors; provided, however, that neither of the foregoing provisions shall be deemed to apply to restrictions imposed by any applicable federal and state securities law, rule or order with respect to the ownership, sale or other disposition of the Shares.

12. Changes in Common Stock. If, and as often as, there are any changes in the Shares by way of stock split, combination, reclassification, stock dividend, or through merger, consolidation, reorganization, re-capitalization or other similar change or transformation of or by XYZ, appropriate adjustments shall be made in the provisions of this Agreement so that the rights and privileges granted hereby shall continue with respect to the Shares as so changed.

13. Inability to Purchase Shares. If at any time XYZ is unable to purchase any Shares which it elects to purchase pursuant to numbered paragraphs 3 through 5 of this Agreement because it cannot do so lawfully, then the Shareholder shall promptly take such measures to vote his or her Shares or to take such other steps as may be appropriate or necessary in order to enable XYZ lawfully to purchase and pay for all of such Shares; provided, however, that nothing contained herein shall be construed to require the contribution by the Shareholder of additional capital to XYZ so as to effectuate the purpose of the foregoing provision.

14. Notices. Any and all notices, designations, consents, offers, acceptances, or any other communication provided for in this Agreement shall be given in writing, either by personal delivery, or by registered or certified mail, return receipt requested, which shall be addressed, in the case of XYZ, to its office in "city and state", and in the case of the Shareholder, to his or her address appearing on the books of XYZ, or to such other address as my be designated by him or her. If mailed, each such notice shall be deemed given at the time it is mailed at any post office or any branch post office regularly maintained by the United States Government.

15. Invalidity. The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if any invalid or unenforceable provisions were omitted.

16. Interpretation. When the context in which words are used in this Agreement indicates that such is the intent, words in the singular number shall include the plural and vice-versa, and words in the masculine gender shall include the feminine and neuter genders and vice-versa.

17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of "___________".

18. Entire Agreement. This Agreement, together with a Subscription Agreement, if applicable, contains the entire understanding between the parties hereto and supersedes any prior written or oral agreements between them respecting the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

19. Modification. No change or modification of this Agreement shall be valid unless the same be in writing and signed by all parties hereto.

20. Specific Performance. Stock of XYZ cannot be readily purchased or sold in the open market and for that reason, among others, the parties will be irreparably damaged in the event that this Agreement is not specifically enforced. Should any dispute arise concerning the sale, gift, encumbrance, assignment, disposition or other transfer of the Shares, an injunction may be issued restraining such sale, gift, encumbrance, assignment, disposition or other transfer pending the determination of such controversy. Any controversy concerning the rights or obligations set forth in this Agreement shall be enforceable in a court of equity by a decree of specific performance.

Such remedy shall, however, be cumulative and not exclusive, and shall be in addition to any other remedy to which the parties may be entitled.

21. Binding Effect. This Agreement shall be binding upon the estate, personal representative, heirs, legatees and assigns of the Shareholder and the successors and assigns of XYZ. It shall also be binding upon any transferee who has received Shares in accordance with the terms and provisions of this Agreement, and the estate, personal representatives, heirs, legatees and assigns of such transferees.

22. Execution in Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one agreement, binding on each of the parties hereto, notwithstanding that each of the parties is not a signatory to the original or the same counterpart.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the date first set forth above.

XYZ
By: ____
CEO

SHAREHOLDER
____
SPOUSE
____

Appendix 9 – Stock Repurchase Agreement

Important Note: This is being provided only as an example. Please consult with an attorney as appropriate.

Stock Repurchase Agreement

This Agreement is effective this ___ day of________, ____, by and between XYZ, a “state” legal entity (the "Company") and ___________ (the "Holder"). Concurrently with the execution and delivery of this Agreement, the Company is granting to the Holder an option to purchase from the Company ___ shares of the Company's $xx par value Common Stock (the "Shares"), at a purchase price of $ ___per share (the "Option"). In consideration of the grant of the Option, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Restrictions on Shares.

The Holder shall not sell, assign, transfer, convey, pledge, hypothecate, or otherwise encumber or dispose of any of the Shares or any interest therein except in accordance with Sections 2 and 3 hereof.

2. Right of First Refusal.

(a) The Holder may not sell or otherwise transfer for valuable consideration all or any part of the Shares unless and until he/she has first given written notice to the Board of Directors of the Company of his/her intention to make such sale or transfer. This notice shall state the number of Shares proposed to be sold (the "Offered Shares"), the price at which the proposed sale is to be made, the terms of payment of the price and the name of the prospective buyer. At any time within ninety (90) days after the receipt of such notice by the Board of Directors, the Company by vote of its Board of Directors (upon which vote the Holder, or the prospective buyer, if either is a director, shall abstain) shall have the right to purchase, or to designate, by action of the Board of Directors of the Company or a committee designated by the Board of Directors, another person or corporation to purchase, all or any portion of the Offered Shares at a price and upon terms of payment equal to the price and terms, or, in the case of a non-cash offer, substantially equivalent to the price and terms of payment, offered by the prospective buyer and specified in the Holder's notice. The Company or its designee shall exercise this purchase right by mailing or delivering written notice to the Holder.

(b) In the event that the Company or its designee does not elect to exercise this purchase right, or in the event that the Company or its designee does not pay the full purchase price within fifteen (15) business days after notifying the Holder of its exercise of this purchase right, the Holder may offer or sell the Offered Shares at any price equal to or greater than the price specified in his/her notice, provided that for the purpose of price comparison, a comparison of terms of payment is taken into account. In the event that the Holder has not consummated a sale of the Offered Shares within sixty (60) days from the later of the expiration of the Company's purchase right hereunder or its failure to pay the full purchase price for the Offered Shares, the Offered Shares shall again become subject to the restrictions contained in this Section 2.

(c) The Holder may not, without the prior written approval of the Board of Directors of the Company, sell or otherwise transfer any of the Shares, unless (a) at least twenty percent (20%) of the Shares then held by the Holder are the subject of such transfer and (b) no single transferee receives less than twenty percent (20%) of the Shares then held by the Holder.

(d) The Holder may not pledge or hypothecate any of the Shares as security for money owed unless such pledge or hypothecation has been approved in writing by the Board of Directors.

(e) The restrictions contained in this Section 2 shall not be deemed to restrict the transfer of Shares to the Holder's executor, administrator, legatees or heirs but the Shares so transferred shall remain subject to this Agreement.

3. Additional Resale Restriction.

The Holder hereby agrees that for a period of at least one hundred eighty (180) days after the effective date of the Company's initial public offering, he/she will not, directly or indirectly, sell, offer to sell or otherwise dispose of his/her Shares, other than his/her Shares included in the initial public offering. For purposes of this Section 3, an "initial public offering" shall mean a distribution of securities in an underwritten offering to the general public pursuant to a Registration Statement filed with and declared effective by the Securities and Exchange Commission pursuant to the Securities Act of 1933.

4. Stock Legends.

All certificates representing ownership of the Shares shall bear a legend or legends which refer to the restrictions imposed by this Agreement or by any applicable state or federal securities laws or regulations and which are otherwise in such form as the Company may deem appropriate.

5. Escrow of the Shares.

In order to implement the restrictions imposed by this Agreement, the Holder shall, upon purchase of Shares pursuant to the Option, deposit with the Company, in escrow, a certificate or certificates representing the Shares, together with a stock power with respect to the Shares endorsed in blank. The Company shall, upon the written request of the Holder, deliver to the Holder a certificate or certificates representing any Shares held by him/her upon the expiration of the restrictions set forth in Sections 1, 2, and 3 hereof.

6. Stock Dividends, Etc.

Any shares of the Company's Common Stock received by the Holder as a result of any stock dividend, any stock split-up or other reclassification, any merger or other reorganization, or otherwise, shall be subject to this Agreement in the same manner and to the same extent as the Shares in respect of which they were received.

7. Waiver. Modification and Termination.

The Company, by vote of its Board of Directors, and the Holder, by written consent, may modify this Agreement or may waive their respective rights hereunder, either generally or with respect to one or more specific transfers which have been proposed, attempted or made. This Agreement shall terminate automatically upon the occurrence of any of the following events:

(a) The dissolution of the Company; or the appointment of a receiver of the property of the Company; or the assignment by the Company of its assets for the benefit of creditors or the filing by the Company of a petition, or the approval by a court of competent jurisdiction of a petition filed against the Company, under any bankruptcy or insolvency laws; and

(b) If the Company shall be completely liquidated or if the Company shall be merged into or consolidated with another legal entity and the Company is not the survivor in such merger and a majority of the Board of Directors of the Company do not constitute a majority of the Board of Directors of the surviving entity. Upon termination of this Agreement all obligations and rights of the Company and the Holder shall cease and the Company shall deliver to the Holder the Shares and accompanying stock powers owned by him and held by the Company pursuant to Section 5 hereof.

8. Miscellaneous.

(a) This Agreement shall be binding upon and shall inure to the benefit of the Company and the Holder and his/her respective heirs, executors, administrators, legal representatives, successors and assigns.

(b) All notices required or permitted under this Agreement shall be in writing, signed by the party giving such notice, and shall be delivered personally or sent by registered or certified mail, postage prepaid to the Company at its then principal place of business and to the Holder at his/her address appearing on the books of the Company or, if none, to his/her last known address.

(c) This Agreement constitutes the full and complete agreement of the parties hereto with respect to the subject matter hereof.

(d) This Agreement shall be governed in accordance with the laws of the State of “state name”.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

XYZ

By: ___________________________

Name:________________________
CEO

Holder

By: ___________________________

Name: ________________________

Appendix 10 – Confidential Private Placement Memorandum

Important Note: Appendix I is being provided as an example only. You cannot rely upon its suitability. You should work with a funding professional and attorney when preparing to go to market for private funding.

CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM

Company Name
A “State” “Type of Entity”

Amount: $_________

Up to ____ Shares

at $_____per Share

Dated: __________

“Person Name”, “Title”
“Phone Number”

THIS MEMORANDUM IS SUBMITTED IN CONNECTION WITH THE PRIVATE PLACEMENT OF THE COMMON SHARES BY THE COMPANY AND ANY FURTHER DISTRIBUTION, DIVULGENCE OR REPRODUCTION OF ANY OF ITS CONTENTS, IN WHOLE OR IN PART, IS STRICTLY PROHIBITED. ANY PREDICTIONS OR REPRESENTATIONS, WRITTEN OR ORAL, WHICH DO NOT CONFORM TO THOSE CONTAINED IN THIS MEMORANDUM SHALL NOT BE RELIED UPON OR PERMITTED.

OFFERING HIGHLIGHTS

These highlights are meant merely to be a brief summary of the information in this Confidential Private Placement Memorandum, are not intended to be complete or definitive, and are qualified by and should be read in conjunction with the more detailed information in this Confidential Private Placement Memorandum.

Issuing Entity:	"XYZ" Company, Inc. ("XYZ")
Size of Offering:	$________ .
Type of Offering:	__________Common Shares at $_____ per Share.
Investor Suitability:	Accredited Investors. See page 6 and Exhibit I.
Risk Factors:	Substantial. See page 3 and Exhibit D.
Investment Objectives:	Use investment for "__" months of funding to expand operations and market entry.
The Business:	"XYZ" is further expanding and commercializing its line of "xxx".
Licensed Intellectual Property:	"XYZ" has patented and patent pending intellectual property.
Management:	"xxx", CEO

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CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM
"XYZ"

"XYZ" Company, Inc, a "state" "type of legal entity" (the "Company" or "XYZ"), hereby offers for sale exclusively to accredited investors, $_______ in Common Shares (the "Shares") at $_____ per Share (the "Offering"). The money is for "xx" months of operations and sales ramp-up and commercialization of "product or service description". The Company sells "product or service" designed to provide competitively superior features that accommodate users' needs and provide competitively favorable value for the price. The Company is governed by the Articles of Incorporation attached as Exhibit A (the "Articles of Incorporation"), the Company's Bylaws attached as Exhibit B (the "Bylaws"), and the "state of organization" Business Corporation Statutes. The remainder of this Confidential Private Placement Memorandum is qualified in its entirety by reference to the Articles of Incorporation, the Bylaws, and the "state of organization" Business Corporation Statutes.

THIS IS A SPECULATIVE INVESTMENT, WHICH INVOLVES SUBSTANTIAL RISKS. See "Risk Factors" herein and Exhibit D with respect to the various risks that should be considered before investing in the Offering.

The Company has agreed to make available, prior to the consummation of the transactions contemplated herein, to each prospective investor and his or her advisors, the opportunity to ask questions of and receive answers from the Company, or any person acting on its behalf, concerning the Company and the terms and conditions of this Offering, and the opportunity to obtain any additional information, to the extent the Company possesses such information or can acquire it without unreasonable effort or expense, as may be necessary to verify the accuracy of the information set forth in this Confidential Private Placement Memorandum and exhibits attached hereto. The descriptions and summaries of the documents in this Confidential Private Placement Memorandum do not purport to be complete and reference is made to the actual documents for a complete understanding of their contents. Copies of all documents described herein, which are not included as exhibits to this Confidential Private Placement Memorandum may be reviewed at the office of the Company or its law firm.

The following is a summary of certain information concerning the Offering. This summary is not intended to be complete or definitive and should be read in conjunction with the more detailed information appearing in the attached exhibits and such other subsequent written information as may be obtained from the Company's CEO upon request and which specifically states that it modifies and amends the information provided herein. This Confidential Private Placement Memorandum supersedes all written and oral information, documentation and representations about the investment, which the Company, its officers, any of their related entities or any others may have provided to the offerees or their advisors prior to the date hereof.

<u>The Company</u>. "XYZ" Company, Inc. ("company name" or "the Company") is a "state of legal organization" "type of legal organization" located in "city located" that sells "product". These "products and a description of their distinguishing characteristics".

The Vision of "XYZ" is provide the line of gold standard "kind of products" that accommodate the needs of users by providing "reasons why products or services are superior". The Mission of "XYZ" is to "description of mission".

"XYZ" owns the rights to "provide any pending or issued patent information".

Outstanding Securities. The founders own "xx"% of the common equity of the Company. This is the initial equity funding for the Company. Upon the successful fully subscribed conclusion of this offering, the outstanding issued Common Shares of the Company provided to investors of this funding will be a calculated number of Shares. The total amount of Shares that will be issued and outstanding and the amount of Shares to be held by the founders will be dependent upon the equity terms of the purchase of the Shares.

At some point in the future, it is expected Founders and Management may receive amounts for certain services provided to the Company and deferred until a triggering act (see "Compensation and Fees" herein) (decide whether this provision is needed).

Reserved Employee Interests. The Company may reserve a number of Common Shares, including under any employee stock option plan adopted by the Board, equal to "xx"% of the fully diluted Shares for issuance to key employees, directors, officers and consultants of the Company. The Reserved Employee Shares may be issued from time to time under stock option agreements or plans, share restriction agreements or arrangements, contracts or plans as approved by the Company's Board of Directors. (decide whether this provision is needed)

Non-Competition Restrictions. Each Officer and key employee of the Company will be required to enter into a Non-Competition, Non-Disclosure and Assignment of Inventions Agreement. The non-competition for officers and key employees will be enforceable for one year following termination of employment. (decide whether this provision is needed)

Use of Proceeds. The following is the current, anticipated ("xx") months use of proceeds. The amounts below are in millions. The Company's management in its discretion reserves the right to modify such use if a different amount is raised or it otherwise believes such modification would be in the best interests of the Company.

Loaded Payroll	$xx
Production Material	xx
Working Capital and Other	xx
Total Uses of Funds	$xx

Risk Factors. An investment in the Offering is highly speculative and involves various substantial risks inherent in early stage companies, including:

a) The Company expects to incur losses in the near future.

b) The Company's growth cannot be assured. Even if the Company does experience growth, the Company cannot assure investors that the Company will grow profitably.

c) The Company operates in a highly competitive market and the Company may not be able to compete effectively.

d) There is no certainty the Company's product line will provide the benefits at the expected levels and at the expected cost.

e) If the Company fails to attract customers in a cost-effective manner, its ability to grow and become profitable may be impaired.

f) The Company's product line and its features may infringe on claims of third-party patents or other intellectual property rights, which could adversely affect its business.

g) The Company will depend heavily on the continued service and performance of its Owner and Management team. If the Company does not continue to attract and retain qualified personnel, the Company may not be able to expand its business.

h) There is no established market for the Company's Common Shares and the Company cannot guarantee there will ever be a market for its equity.

i) There is no assurance that the Company will be able to raise the full $________ in this offering to have the funds available for the desired expenditures set forth in the Use of Proceeds. Moreover, the Company may need additional funding to reach its potential even beyond the $_______. There is no assurance that the Company will be able to obtain additional debt or equity funds or do so on favorable terms. See Exhibit D.

Federal Income Tax Aspects. THE OFFEREE IS URGED TO CONSULT WITH THE OFFEREE'S PROFESSIONAL TAX ADVISORS WITH RESPECT TO THE TAX ASPECTS OF THIS OFFERING (PARTICULARLY THE ASPECTS DESCRIBED IN EXHIBIT F). ALTHOUGH CERTAIN PROVISIONS OF THE INTERNAL REVENUE CODE ARE DESCRIBED GENERALLY THEREIN, SUCH DISCUSSION IS NOT COMPLETE AND IN SOME CASES IS MADE IN THE ABSENCE OF CLARIFYING REGULATIONS, RULINGS AND CASE LAW, WHICH MAY SIGNIFICANTLY CHANGE THE DESCRIPTIONS HEREIN. THE DESCRIPTIONS HEREIN OF TAX AND OTHER MATTERS DO NOT CONSTITUTE, AND SHOULD NOT BE CONSTRUED AS, LEGAL OR TAX ADVICE. See Exhibit F.

Management. The Company's Senior Management team currently includes its CEO, "name" and its President & Owner, "name, if different". The Owner has ownership control of the Company.

"name" is "XYZ's" CEO and a Director. "name" has "description of relevant background".

"name of owner" has controlling interest "XYZ", is President and has managed "XYZ" since its inception. Owner provides vision, identifies product and market opportunities, creates and adapts "XYZ" to address those opportunities, and brings depth and breadth of XYZ product or service experience and perspective. Owner's relevant background.

Compensation and Fees. Upon funding, the company's senior management will begin receiving these annual amounts of salary:

"name", CEO $_______

Financial Results to Date. The financial statements attached hereto as Exhibit G (the "Financial Statements") were prepared by the Company's management. The Company believes they accurately and fairly represent the financial results achieved to date. The Company will select an auditor subsequent to the close of the Offering.

Financial Forecast. The financial forecast attached hereto as Exhibit H (the "Financial Forecast") was prepared by the Company's management based upon the assumptions set forth in the Business Plan in Exhibit C. No independent verification of the information has been made and no representations are made as to the accuracy of the projected figures or that the assumptions upon which they are based are realistic.

Disclaimers. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND ARE INTENDED OR SHOULD BE INFERRED WITH RESPECT TO THE ECONOMIC RETURNS OR ANY TAX BENEFITS WHICH MAY ACCRUE TO THE INVESTORS. A PROSPECTIVE INVESTOR MUST BE AWARE THAT THIS CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM CONTAINS A FINANCIAL FORECAST WHICH HAS BEEN PREPARED ON THE BASIS OF ASSUMPTIONS AND HYPOTHESES DESCRIBED HEREIN. NO REPRESENTATION OR WARRANTY OF ANY KIND IS OR CAN BE MADE WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF, AND NO REPRESENTATION OR WARRANTY SHOULD BE INFERRED FROM, THE PROJECTIONS OR THESE ESTIMATES, ASSUMPTIONS OR HYPOTHESES. See Exhibit E.

Legal Matters. There are no legal matters pending before the Company and management is not aware of any forthcoming. (use and revise as appropriate)

Investor Suitability Standards. The purchase of the Offering involves numerous risk factors. See "Risk Factors" herein and Exhibit D. Accordingly, the purchase of the Shares is suitable only for persons who meet certain minimum financial suitability standards and who have no need for liquidity with respect to their investment in the Company. The Shares may be sold only to prospective investors who make a representation that they are "accredited investors" as defined in Regulation D under the Securities Act of 1933, as amended. See Exhibit I.

The Offering. In order to be considered by the Company as an Investor, the offeree must complete and sign the Prospective Investor Questionnaire attached as Exhibit J and the Subscription Agreement and Signature Page attached as Exhibit K, stipulating that the offeree meets the Investor suitability standards and is purchasing only for investment purposes and not for resale. See "Investor Suitability Standards" herein. The Company has reserved the right to accept or reject, in whole or in part, any subscription for any reason. Upon acceptance by the Company of the offeree as an Investor, such offeree is to deliver the full purchase price of the Interests to the Company.

This Offering will expire on "insert a future date" unless closed on an earlier date or extended to a later date by the Company in its sole discretion. The Company's management in its discretion may also determine that it is appropriate to sell more or less Shares than is indicated above, but not to exceed a maximum funding of $__________.

Exhibit A - ARTICLES OF LEGAL ORGANIZATION
Exhibit B – BYLAWS
Exhibit C – BUSINESS PLAN
Exhibit D – RISK FACTORS

THE PURCHASE OF THE COMMON SHARES INVOLVES VARIOUS SUBSTANTIAL RISKS.

Because the Company has a limited operating history, it is difficult to evaluate its business and prospects.

The Company will begin to significantly expand operations in (select and insert year). As a result, the Company has very limited operating history from which investors can evaluate its business and its prospects. The Company will encounter risks and difficulties frequently experienced by early-stage companies. Some of these risks relate to its ability to:

- commercialize its technology by launching products into the market;
- attract and retain customers on a cost-effective basis;
- expand and enhance its product offerings and distribution channels;
- expand and defend its patents;
- operate, support, expand and develop its operations;
- diversify its sources of revenue;
- maintain adequate control of its expenses;
- raise additional capital;
- respond to design changes; and
- respond to competitive market conditions.

If the Company is unsuccessful in addressing these risks or in executing its business strategy, its business, financial condition or results of operations probably will suffer.

The Company has very limited operating history and it expects to incur losses in the near future.

To date, the Company has financed its activities primarily through grant funding and contributions from its Founders. The Company's Founders have no obligations to make further investments or loans and the Company does not anticipate that they will do so.

Under its business plan, the Company will need to commercialize its technology with and through business partners in order to earn revenues and become profitable. The Company's ability to generate revenues is dependent upon its ability to successfully develop and commercialize its product line and the Company may not be able to do so sufficiently. The Company cannot predict with certainty whether or when it will become profitable. If its business does not expand enough to increase its revenues sufficiently, or even if its business does expand but it is unable to manage its expenses, the Company may not achieve or sustain profitability.

The Company's growth cannot be assured. Even if the Company does experience growth, the Company cannot assure investors that the Company will grow profitably.

The Company's ability to offer products and services that will attract a significant amount of revenue is not certain. If it does not occur, the Company's growth will be limited. The Company plans to commercialize its present and planned product line and at this early stage the Company cannot assure investors that its plans will be successful or that the Company will actually proceed with them as described.

The Company will be operating in a competitive market and the Company may not be able to compete effectively.

All or almost all of the Company's competitors likely have longer operating histories, larger customer bases, greater brand recognition and significantly greater financial, marketing and other resources than the Company has. The Company cannot assure investors that the Company will be able to effectively compete with other and/or emerging competitors.

If the Company fails to attract business partners and/or customers in a cost-effective manner, its ability to grow and become profitable will be impaired.

It may be necessary to spend substantial amounts to enhance the Company's recognition and attract industry companies and/or customers to its product line. The Company cannot assure investors that its efforts will be effective to attract industry companies and/or customers. If the Company fails to attract industry companies and/or customers in a cost-effective manner, its ability to grow and become profitable presumably will be impaired.

The Company's wheelchair features may infringe on claims of third-party patents or other intellectual property rights, which could adversely affect its business.

The Company cannot assure investors that others have or will not obtain and assert patents or other intellectual property rights against it affecting essential elements of the Company's business. If intellectual property rights are asserted against the Company, the Company cannot assure investors that it will be able to obtain license rights on reasonable terms or at all. If the Company is unable to obtain licenses, the Company may be prevented from operating its business and its financial results may therefore be harmed.

If the Company does not continue to attract and retain qualified personnel, the Company may not be able to expand its business.

The Company will depend substantially on the continued services and performances of and additions to its senior management team. These individuals may not be able to fulfill their responsibilities adequately or may not remain with the Company. The Company's success also depends on its ability to hire, train, retain and manage other highly skilled employees. The Company cannot assure investors that the Company will be able to attract and retain a significant number of qualified employees or that the Company will successfully train and manage the employees the Company hires.

The Company is relying on pending patent applications being issued and the issuance of patents for future patent applications.

The patent applications upon which the Company is relying may never result in issued patents. The Company cannot assure investors that the Company will have the patent rights for the patent applications if no patents are issued for those applications.

There is no current liquidity for the equity of Company.

There is no established market for the Company's Common Shares and the Company cannot guarantee there ever will be a market for its equity.

Need for additional capital. There is no assurance that the company will be able to obtain financing for the continuation of business following this round of funding. Failure to obtain additional funding when needed will have severe adverse effects on the Company and its survivability.

Business strategy. The business strategy adopted by the Company may not be the best plan to maximize shareholder value. Decisions will be made in areas such as long-term revenue growth that may adversely affect the ability of the Company to become profitable in the near term.

Control by officers and directors. The Company's officers, directors, and key employees will, in the aggregate, beneficially own a significant portion of the Company's outstanding Common Shares on a fully-diluted basis following the successful completion of this Offering. These members acting together may be able to control substantially all matters requiring approval by the shareholders of the Company.

Forward looking statements. The projections within Exhibit H are based upon assumptions as to future events that may not occur or may occur differently than assumed. Due to the many uncertainties involved (including risks described herein), it can be assumed that the actual results will differ from those estimated. The Private Securities Litigation Reform Act of 1995 provides a "safe harbor" for forward looking statements. Certain information included in this Confidential Private Placement Memorandum and exhibits contain statements that are or will be forward looking, such as statements relating to future expenditures, financing and competition. Such forward-looking information involves important risks and uncertainties that could significantly affect anticipated results in the future, and, accordingly, such results may differ from those expressed in any forward looking statements contained in this Confidential Private Placement Memorandum.

Conflicts of interest. Various potential conflicts of interest between the Company's officers, directors, members and employees, on the one hand, and the potential subscribers for the Common Shares in this offering, on the other hand, are or will be present in connection with this Offering and the management and operation of the Company and its business.

Dilution. The Common Shares are subject to unlimited dilution to the extent the Company issues additional Common Shares. See Exhibit A and “Outstanding Securities” in the Confidential Private Placement Memorandum.

Illiquid investment. No current public trading market exists for the Common Shares and no such market will result from this Offering or is expected to develop for an indefinite period of time hereafter, if ever. While the Company’s long-term objective may be to either sell itself to a strategic partner or to attempt to ultimately establish a public market for its Common Shares, there can be no assurance that it will ever be able to do so or, if such market is established, that it will be maintained. In the event a public market is not established (and effectively maintained), persons purchasing Common Shares will be severely restricted in their ability to sell or otherwise liquidate any or all of their Common Shares. Moreover, even if a public market for the Company’s Common Shares is established and maintained, those Common Shares would be considered “restricted securities,” which would not be freely saleable on the public market except in strict compliance with Rule 144 under the Act. Accordingly, purchasers must assume that they will hold their Common Shares for an indefinite period.

Unregistered Common Shares. The Common Shares being offered hereby have not been registered for public sale under the Act or the securities laws of any state and, therefore, cannot be sold or otherwise transferred unless either subsequently registered thereunder or sold or transferred in a transaction that is exempt from such registration requirements. No federal or state agency has made any review of the Company, this Confidential Private Placement Memorandum or the terms of this Offering, or made any findings or determinations as to the fairness of the terms or the merits and risks of the investment, or the adequacy of the disclosure in this Confidential Private Placement Memorandum. Therefore, potential subscribers must forego any assurances that such a review might provide and must independently rely on their own examination of the Company, this Confidential Private Placement Memorandum, and the terms of this Offering, including the substantial risks involved.

Offering price and valuation. The Offering price for the Common Shares and the valuation were determined by the Company without any review by independent third parties. There can be no assurance that investors will be able to sell their Common Shares for their purchase amount, or for any amount.

No assurance of a fully subscribed Offering. The Common Shares are being offered on a “best efforts” basis by the officers of the Company. There can be no assurance that any or all of the Common Shares being offered by this Confidential Private Placement Memorandum will be sold. The Company has set a goal of $__________ as a level of proceeds from the Offering. However, the Company has set this only as a goal and may use any of the proceeds from the Offering immediately upon receipt for Company purposes, starting with the first subscription, and even if no significant additional funds are raised in the Offering. See “Use of Proceeds” within the Confidential Private Placement Memorandum. There can be no assurance that the use of these proceeds, particularly if the Offering is less than fully subscribed, will result in the achievement by the Company of all or any of its objectives. The officers and directors of the Company have little or no experience selling securities.

State tax aspects. This Confidential Private Placement Memorandum does not purport to contain any discussion of the pertinent aspects of the effect of various state tax laws on an investment in the Company. Investors are urged to consult with their own advisors on this topic. No warranties or representations are made with respect to such laws and their effect on the Company, or an investment in the Company. Such laws will have an impact on a prospective Investor's investment in the Company.

Indemnification. The corporate documents provide limitations on the officers' and directors' liability to Investors and provides for indemnification of the officers and directors under certain circumstances. Investors may have more limited rights than they would absent such limitations.

Exhibit E – DISCLAIMERS

NO REPRESENTATIONS OR WARRANTIES OF ANY KIND ARE INTENDED OR SHOULD BE INFERRED WITH RESPECT TO THE ECONOMIC RETURNS OR ANY TAX BENEFITS WHICH MAY ACCRUE TO THE SECURITIES HOLDERS OF THE COMPANY. EACH PROSPECTIVE INVESTOR MUST BE AWARE THAT THIS CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM CONTAINS A FINANCIAL FORECAST. NO REPRESENTATION OR WARRANTY OF ANY KIND IS OR CAN BE MADE WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF, AND NO REPRESENTATION OR WARRANTY SHOULD BE INFERRED FROM, THE PROJECTIONS CONTAINED THEREIN.

PROSPECTIVE INVESTORS ARE NOT TO CONSTRUE THE CONTENTS OF THIS CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM AS LEGAL OR TAX ADVICE. EACH PROSPECTIVE INVESTOR SHOULD CONSULT SUCH INVESTOR'S OWN COUNSEL AND ACCOUNTANT AS TO LEGAL, TAX AND RELATED MATTERS CONCERNING SUCH INVESTOR BECOMING A SECURITIES HOLDER OF THE COMPANY.

This Confidential Private Placement Memorandum contains forward-looking statements of the Company. Forward-looking statements are statements that estimate the happening of future events, are not based upon historical fact and are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements may be identified by the use of forward-looking terminology such as "may," "will," "expect," "should," "could," "estimate," "anticipate," "possible," "probable," "continue," or similar terms, variations of those terms or the negative of those terms. The "Risk Factors" set forth in this Confidential Private Placement Memorandum and in Exhibit D constitute cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statements. The forward-looking statements contained in this Confidential Private Placement Memorandum have been compiled by the Company on the basis of assumptions made by its management and considered by the Company to be reasonable. Future operating results of the Company, however, are impossible to predict and no representation, guaranty, or warranty is to be inferred from those forward-looking statements. Therefore, prospective purchasers of the Common Shares are urged to consult with their advisors (the opinions of which may differ from those specified in those forward-looking statements) with respect to those assumptions or hypotheses.

The assumptions used for purposes of the forward-looking statements specified in this Confidential Private Placement Memorandum represent estimates of future events and are subject to uncertainty as to possible changes in economic, legislative, industry and other circumstances. As a result, the identification and interpretation of data and other information and their use in developing and selecting assumptions from and among reasonable alternatives require the exercise of judgment. If the assumed events do not occur, the outcome may vary substantially from anticipated or projected results, and, accordingly, no opinion is expressed on the achievability of those forward-looking statements.

The forward-looking statements specified in this Confidential Private Placement Memorandum have been compiled as of the date of this Confidential Private Placement Memorandum and should be evaluated with consideration of any changes occurring after the date of this Confidential Private Placement Memorandum. No assurance can be given that any of the assumptions relating to the forward-looking statements specified in this Confidential Private Placement Memorandum are accurate or that they will prove to be applicable to a particular purchaser of the Common Shares. It is the responsibility of the purchasers of the Common Shares and their advisors to review those forward-looking statements to consider the assumptions upon which those forward-looking statements are based and to ascertain their reasonableness.

The Confidential Private Placement Memorandum, including the Financial Statements, the Business Plan and other exhibits attached thereto, supersedes and replaces in their entirety any and all letters, memoranda, projections, proposals and any and all other information or representations, both written and oral, which have been made to any potential Investor, or any employee, agent, representative, consultant, accountant or attorney of any of the foregoing which may have been made prior to the date hereof by the Company, its officers, or any representative, agent, employee, consultant or attorney of any of the foregoing. No investment is authorized to be made on the basis of any such superseded or replaced documents or representations.

No literature, other promotional material or oral representations in whatever form shall be employed or may be relied upon in connection with the proposed sale of the Interests except for the information contained in the Confidential Private Placement Memorandum and the exhibits attached thereto. No person has been authorized to make representations or give any information with respect to the Company, other than the information contained therein except that any relevant Company document not attached thereto as an exhibit will be made available to a prospective Investor and/or such Investor’s advisors upon request. Only information or representations contained therein, or contained in documents furnished by the Company upon request and initialed by an officer of the Company in the upper-right corner of the cover page, may be relied upon as having been authorized by the Company or affiliates thereof, and no others.

The Confidential Private Placement Memorandum must not be considered to be an offer to sell or the solicitation of an offer to buy to any person not a qualified and approved potential Investor. The information and opinions therein are as of the date thereof and subject to change without notice, and neither the delivery of the Confidential Private Placement Memorandum nor any sale of the Common Shares there under shall create any implication that there has been no change in the affairs of the Company or that the information or opinions are correct as of any time subsequent to the date thereof.

THE SECURITIES BEING OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY STATE SECURITIES LAWS BY REASON OF SPECIFIC EXEMPTIONS UNDER THE PROVISIONS OF THE AFOREMENTIONED ACT AND LAWS AND/OR RULES AND REGULATIONS THEREUNDER RELATING TO SECURITIES OFFERED AND SOLD ONLY TO ACCREDITED INVESTORS AND TO TRANSACTIONS NOT INVOLVING A PUBLIC OFFERING. NO STATE OR FEDERAL AGENCY HAS APPROVED OR RECOMMENDED THESE SECURITIES, GUARANTEED OR PASSED UPON THE FAIRNESS OF THE TERMS OF THE OPERATING AGREEMENT, THE SAFETY OF THESE SECURITIES AS AN INVESTMENT, THE REALIZATION OF ANY ECONOMIC RETURN OR ANY TAX BENEFITS FROM SUCH AN INVESTMENT, OR PASSED ON THE ACCURACY OR ADEQUACY OF THE CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Exhibit F – FEDERAL INCOME TAX ASPECTS

This discussion outlines some of the most significant aspects of federal income tax law that might affect or result from an investment in the Company. No attempt has been made in the following discussion to comment on all federal income tax consequences affecting prospective Investors, nor does the discussion address the effect of any applicable state, local or foreign tax law, except as expressly stated. (See “State Income and Other Taxes,” below.) Thus, the analysis contained herein is not a substitute for careful tax planning, particularly since certain of the income tax consequences of an investment in the Company will not be the same for all Investors. ACCORDINGLY, EACH PROSPECTIVE INVESTOR IS URGED TO CONSULT ITS OWN TAX ADVISOR WITH REFERENCE TO SUCH INVESTOR’S OWN TAX SITUATION, INCLUDING THE APPLICATION AND EFFECT OF STATE, LOCAL AND OTHER TAX LAWS AND ANY POSSIBLE CHANGES IN THE TAX LAWS AFTER THE DATE HEREOF.

Much of the following discussion is not applicable to tax-exempt Investors, such as pension plans and Individual Retirement Accounts. These Investors, in particular, should consult their own tax advisers regarding the tax aspects of an investment in the Company.

The statements in this discussion are based upon current provisions of the Code, existing and currently proposed Treasury Regulations thereunder (“Regulations”), existing administrative rulings and judicial decisions, all of which are subject to change. No assurance can be given that legislative, judicial or administrative changes will not be forthcoming which would affect the accuracy of any statements in this discussion. Such changes may cause the tax consequences to vary substantially from the consequences described below. Additionally, any such changes may be retroactive with respect to transactions entered into or contemplated prior to the effective date of such changes.

Counsel for the Company has not rendered any opinion with respect to the tax consequences of an investment in the Company. Prospective Investors should also be aware that, although the Company intends to adopt positions it believes are in accord with current interpretations of the federal income tax law, the IRS may not agree with the tax positions taken by the Company and that, if challenged by the IRS, the Company's tax positions might not be sustained by the courts.

Exhibit G– FINANCIAL STATEMENTS

Exhibit H- FINANCIAL FORECAST

Exhibit I - INVESTOR SUITABILITY STANDARDS

The purchase of the Interests involves a high degree of risk. See Exhibit D. In addition, the long-term nature of this investment, the restrictions on transfer, and the lack of a market for sale of the Common Shares, renders them non-liquid as opposed to other possible investments. ACCORDINGLY, THE PURCHASE OF THE COMMON SHARES IS NOT RECOMMENDED FOR PERSONS WHO DO NOT MEET CERTAIN MINIMUM FINANCIAL SUITABILITY STANDARDS OR FOR INVESTORS WHO DO NOT HAVE ADEQUATE ADDITIONAL ASSETS TO BE ABLE TO AFFORD A LONG-TERM ILLIQUID INVESTMENT.

Unless otherwise specifically approved in writing by the Company after consulting with legal counsel, the Common Shares will be offered and sold only to prospective investors who represent in writing to the Company that, among other things:

The investment is financially suitable for such person in that such person is an accredited investor as defined in Rule 501 of Regulation D ("Regulation D") under the Securities Act of 1933 ("Accredited Investor") by virtue of being:

A natural person having a net worth, either alone or with his or her spouse, exceeding $1,000,000 at the time of the purchase of the Interests. Net worth shall not include the value of a primary residence without taking into consideration the amount of mortgage debt secured by the primary residence. Therefore, the indebtedness on a primary residence should be deducted from the fair market value of the primary residence. If the mortgage debt secured by the residence exceeds the fair market value of the residence, the excess of such debt such be considered a liability and deducted from an accredited investor's net worth;

A natural person having an individual net income in excess of $200,000 in each of the most recent two years, or joint income with his or her spouse in excess of $300,000 in each of those years, and having a reasonable expectation of reaching at least the same income level during the current year;

A Limited Liability Company, partnership or 501(c)(3) organization not formed for the specific purpose of acquiring the Common Shares, with total assets in excess of $5,000,000;

A Limited Liability Company, partnership or other entity all the equity investors of which satisfy the standards set forth in (1) through (3); or

Otherwise an "accredited investor" as defined in Rule 501(a) on the grounds specified below (please attach additional sheets if necessary to provide complete information).

Such person is purchasing the Common Shares for his, her, or its own account for long-term holding purposes and not with a view toward the sale or other distribution thereof;

Such person, either alone or together with his, her or its advisors, has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of this investment;

Such person is able to bear the substantial economic risk of this investment and could afford a complete loss of the investment.

Any prospective transferee of the Common Shares will be required, among other things, to make the same or similar representations in writing to the Company. The Company will require the prospective Investor and its transferees to complete the Prospective Investor Questionnaire as set forth in Exhibit J and the Subscription Agreement and Signature Page as set forth in Exhibit K relating to the suitability of the investment for the prospective Investor or transferee, and will make or cause to be made such further inquiry into suitability as it deems appropriate; and the Company will have sole and absolute discretion regarding admission of any Investor. The Company has discretionary authority to vary, after consultation with legal counsel, the terms and conditions of the Offering for particular offerees under special circumstances. See "The Offering" in the Confidential Private Placement Memorandum.

Exhibit J - PROSPECTIVE INVESTOR QUESTIONNAIRE

Exhibit K–SUBSCRIPTION AGREEMENT AND SIGNATURE PAGE

Appendix 11 – Job Description

Job Description - Vice President of Administration

BRIEF DESCRIPTION

The Vice President of Administration position has the following characteristics -

- Reports to and directly responsible to the CEO
- Responsible for planning, finance, human resources, accounting and other appropriate duties designated by the CEO
- Represents the Company in appropriate relationships of importance to the Company
- Integrates and coordinates all financial and business matters

ESSENTIAL FUNCTIONS

The Vice President of Administration is authorized and directed to -

- Further the interests of the Company.
- Adhere to the objectives of the Company and make recommendations to the CEO regarding plans, policies, and procedures in the areas of delegated responsibilities.
- Integrate and coordinate the work with other areas of Company activity.
- Provide professional leadership and supervision in recruiting and developing staff members.
- Serve as a major adviser to the CEO on business matters.
- Prepare and provide reports and analyses requested by the CEO.
- Responsible to the CEO for the administration of all business affairs.
- Formulate business policies, develop operating procedures, establish accounting and reporting methods, and coordinate and be responsible for day-to-day business operations.
- Direct budgetary controls and monitor expenditure activity.
- Review RFP proposals and provide insights for the allocation of funds.
- Formulate policies and procedures for the collection, custody, investment, disbursement, and accounting of all monies and maintain a system of financial and related statistical reporting, including monthly financial reports.
- Provide information and data analysis regarding stakeholder requirements.
- Be responsible for information technology resources.
- Provide funding alternatives and solutions for new initiatives and special projects.
- Take action on the findings and recommendations presented by independent auditors.
- Perform other related duties as may be assigned by the CEO or as appropriate.

JOB REQUIREMENTS

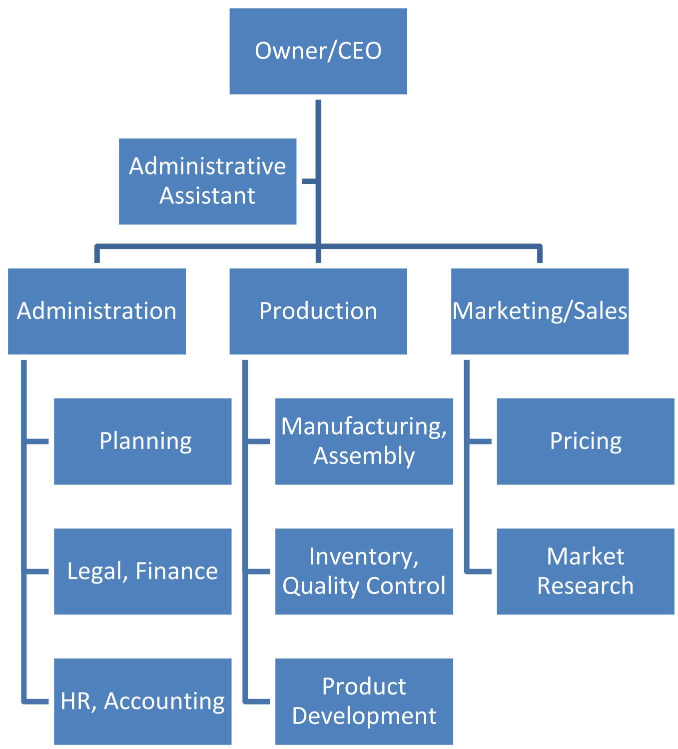
- Professional level of knowledge of a related discipline.
- 4-year business administration degree or work equivalence.
- Experience: Seven or more years of related experience.

COMPENSATION

Compensation is commensurate with payment for individuals with similar experience and capability in similar positions in the industry.

Appendix 12 - Organization Chart

Organization Chart



Appendix 13 – Confidentiality Agreement

Confidentiality Agreement

This Confidentiality Agreement (hereinafter referred to as "Agreement") dated this xx day of xx, xxxx, is entered into by and between "outsider name" (hereafter "ABC" and "company"), (hereafter "XYZ").

WHEREAS, Confidential Information is defined as all the proprietary and valuable trade secrets and unique information XYZ owns, including but not limited to scientific information and data, manufacturing methods and processes, intellectual property, marketing and financial plans and data, and product development information and strategic plans ("Confidential Information");

WHEREAS, ABC and XYZ, hereafter jointly referred to as "the parties", intend to engage in discussions and work assignments regarding the business, and in the course of such discussions and work, the parties may disclose certain Confidential Information;

NOW, THEREFORE, in consideration of the premises, the disclosures by the parties and the agreements hereinafter contained, the parties hereto agree as follows:

1. The parties agree that all information, materials, documentation, and data provided by the parties and reproductions thereof relative to Confidential Information are exclusively confidential and proprietary property and shall be held in strictest confidence by the parties. Such information shall be disclosed only to such persons in the direct employ of the parties who have a business need to know it and who shall have agreed to abide by the terms of this Agreement. Neither the nature nor the content of the parties' Confidential Information shall, directly or indirectly, be disclosed to others or used without the prior written permission of the parties. The parties recognize that unauthorized use or disclosure of such information could cause irreparable harm to the parties.

2. Confidential Information shall not include any information or data which:
   a. was, at the time of its disclosure by the parties, already known to the parties through a person other than the parties and without breach of any confidentiality agreement with the parties; or
   b. is or becomes publicly known through no wrongful act of the parties; or
   c. is independently developed by the parties for other than the parties and without use of any Confidential Information; or
   d. is approved for release by written authorization from the parties.

3. The parties recognize and agree that nothing contained in this Agreement shall be construed as granting or conferring any rights by license or otherwise, express or implied, to the Confidential Information disclosed or obtained pursuant to this Agreement.

4. The parties recognize and agree that nothing contained in this Agreement shall be construed as constituting a commitment or contract for the purchase of any product, goods, or service.

5. The parties further agree that neither shall represent to anyone that it has been approved as an approved supplier or licensee unless it first receives that designation in writing from the other.

6. Upon termination of the discussions or business relationship contemplated hereby, or upon either parties request, the parties agree to return all Confidential Information and all copies and summaries thereof as requested by the other in thirty (30) days.

7. The parties shall have the right to monetary damages to the extent proven to be financially injured by non-performance of the provisions of this agreement and as ordered by a "state" court of law.

8. This Agreement is deemed to have been made in and shall be governed by and construed in accordance with the laws of "state name".

9. Term and Termination. The obligations of this Agreement shall be continuing until the Confidential Information disclosed to either party is no longer confidential.

10. Survival of Rights and Obligations. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by XYZ, its successors and assigns.

12. This Agreement is effective as of the date first written above.

IN WITNESS WHEREOF, the parties hereto have duly caused this Confidentiality Agreement to be executed by a duly authorized representative of each.

By: XYZ______________________________ Date:

____
CEO

By: ABC ______________________________ Date:

____
ABC

Appendix 14 – Employment Agreement

Employment Agreement

This Agreement, entered into this ___ day of ______, ____, between “XYZ”, a “state name” “type of legal organization” ("Company"), and “name” ("Employee"),

The parties want to enter into this Agreement to define and set forth the terms and conditions of employment of the Employee by the Company;

In consideration of the terms set forth below, it is hereby agreed by the Company and the Employee as follows:

1. Position; Employment Period

The Company will employ the Employee as its “title”, and the Employee hereby agrees to serve in such capacity, for the period beginning , , and ending on the date on which the Employee's employment is terminated in accordance with paragraph 8 below (the "Employment Period").

2. Performance of Duties

The Employee agrees that during Employment “she or he” shall devote “his/her” full business time to the business affairs of the Company and shall perform “his/her” duties faithfully and efficiently subject to the direction of the “supervisor title” of the Company; provided that the foregoing shall not limit or prevent the Employee from serving on the board of directors of charitable organizations or other business corporations not in competition with the Company. Employee duties are described in a general and non-inclusive manner on the job description. Employee shall not be assigned duties and responsibilities that are not generally within the scope and character associated or required of the position.

3. Compensation

(a) Subject to the following provisions of this Agreement, during the Employment Period the Employee shall be compensated for his services as follows:

(b) Base compensation. “She/he” shall be an “exempt/non-exempt” employee and receive an annual salary payable in monthly or more frequent installments in an amount which shall initially be $xx per annum, subject to such increases as may from time to time be determined by the CEO of the Company.

(c) Vacation time. He shall be entitled to vacation time of xx weeks in the first year and yy weeks per year for each following year with such vacation available for use during that year.

(d) Health insurance provision. He shall be entitled to “xx”.

(e) Stock. He shall earn xx% of Company’s common stock per year upon completion of that year for each of the first “xx” years of employment for a total of “x”%. Each year’s earned shares shall be dilutable in the event subsequent shares are issued to others. Vesting and issuance of shares to occur for the shares earned during the first 3 years at the end of the 3rd year or earlier as discussed below, and thereafter annually at the end of each year. Vesting of earned common stock also is triggered by-

(i) the sale of controlling interest in Company
(ii) the sale of a subsidiary or a developed right of use
(iii) involuntary termination
(iv) Employee death

(f) Other. He shall be entitled to such other perquisites as may be customarily granted by the Company to employees of similar rank and position.

4. Expenses

As a condition of employment and for the benefit of the Company, Company agrees to reimburse employee for pre-approved individual expenses relating to company business for amounts exceeding $xxx and for other individual company business expenses that are less than $xx in amount.

5. Competing Businesses

During the period of "his/her" employment under this Agreement, the Employee shall not be employed by or otherwise engage in or be interested in any business in competition with the Company or with any of its subsidiaries or affiliates.

6. Confidentiality

During and after the Employment Period, the Employee will not divulge or appropriate to his own use or to the use of others, in competition with the Company, any secret or confidential information or knowledge pertaining to the business of the Company, or of any of its subsidiaries, obtained by him in any way while he was employed by the Company or by any of its subsidiaries. In addition, Employee will enter into and abide by the Company's Confidentiality Agreement.

7. Remedies

The Employee acknowledges that the Company would be irreparably injured by a violation of provision 5 or 6 and agrees that the Company shall be entitled to an injunction restraining the Employee from any actual or threatened breach of provision 5 or 6 or to any other appropriate equitable remedy without any bond or other security being required.

8. Amendment and Termination

This is At Will Employment meaning either party can terminate the Agreement with no liability at any time, for any reason permitted by law, with or without cause and with or without notice. Further, if at any time the Employee violates to a material extent any of the covenants or agreements set forth in provisions 5 and 6, the Company shall have the right to terminate all of its obligations to make further payments under this Agreement.

This Agreement may be amended by mutual agreement of the parties without the consent of any other person and, so long as the Employee lives, no person, other than the parties hereto, shall have any rights under or interest in this Agreement or the subject matter hereof. Employment shall terminate for any of the following reasons.

(a) Upon the date that Employee or Company unilaterally chooses.

(b) The last day of the month in which the date of the Employee's death occurs; or the date on which the Company gives notice to the Employee.

(c) For cause. For purposes of this Agreement, "Cause" means the Employee's gross misconduct resulting in material damage to the Company or willful and material breach of this Agreement.

9. <u>Miscellaneous Provisions</u>

(a) Notices

Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by registered mail to the Company at its principal executive offices or to the Employee at the last address filed by him in writing with the Company, as the case may be.

(b) Entire Agreement

This Agreement represents the complete and exclusive statement of the employment agreement between Employee and Company. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by the parties regarding the employment agreement.

This Agreement supersedes any and all prior Agreements or understandings between the parties, including letters of intent or understanding, except for those documents specifically referred to within this Agreement.

(c) Non-Assignment

The interests of the Employee under this Agreement are not subject to the claims of his creditors and may not be voluntarily or involuntarily assigned, alienated or encumbered except in the event of the death of the Employee in which case they may be assigned to “her/his” estate.

(d) Successors

This Agreement shall be binding upon, and inure to the benefit of, the Company and its successors and assigns and upon any person acquiring, whether by merger, consolidation, purchase of assets or otherwise, all or substantially all of the Company's assets and business.

(e) Applicable Law

The provisions of this Agreement shall be construed in accordance with the laws of the State of “state name”.

(f) Counterparts

The Agreement may be executed in two or more counterparts, any one of which shall be deemed the original without reference to the others.

IN WITNESS WHEREOF, the Employee has hereunto set his hand, and the Company has caused these presents to be executed in its name and on its behalf, all as of the day and year first above written.

By: ____

"Employee name"
Employee

XYZ

By:____

"Name
CEO

Appendix 15 – Consulting Agreement

Consulting Agreement

This Agreement is made and entered into effective “date”, by and between “Company name”, a “state of legal organization” “type of legal organization” (hereinafter referred to as “Company name”) and “Consulting entity name” (hereinafter referred to as “Consulting entity name”).

WHEREAS, “Company name” has a need for management consulting services, and

WHEREAS, “Consulting entity name” has the expertise to perform management services,

NOW, THEREFORE, the parties, in consideration of the mutual promises herein contained, hereby agree as follows:

1. <u>Retainer</u>. “Company name” retains “Consulting entity name” on a month-to-month basis to provide management services.
2. <u>Services</u>. “Consulting entity name” shall provide these services to “Company name” as a consultant. “Consulting entity name” shall provide these services on roughly an “xx”-time basis for the period “xx through yy”.
3. <u>Direction of Services</u>. “Company name”, through its CEO, shall direct and control the services provided by “Consulting entity name”, provided, however, that “Company name” shall not impose duties or constraints of any kind which would require “Consulting entity name” to violate any ordinance or law.
4. <u>Fees for Services</u>. It is intended that the consulting fees of this Agreement shall be equal to the reasonable value of “Consulting entity name” services to “Company name”. The consulting fees shall be as follows. (provide amounts) These fees shall be in two components: one being the immediately payable portion and the other being the deferred portion. Immediately payable fees in the amount of $xx per month shall be paid in advance on the first working day of each month. The amount of immediately payable fees may be increased at the discretion of the Board. Fees not paid on the first working day of the month shall be deferred. Deferred fees shall be paid in payments as received from money whose specific purpose as management cost has been authorized and included in grants or other sources of capital, upon receipt of that grant money or other capital. In that regard, “Company name” shall include appropriate management costs as a component of grant applications and other requests for capital. Half of remaining unpaid deferred fees shall be paid by “Company name” at the time that “Company name” has generated $xx of net sales and shall be fully paid and all fees for services shall become immediately payable at the time that “Company name” generates $yy of net sales. Deferred fees also become immediately payable upon the change of ownership of xx% of the common shares of

"Company name". In such a case it is permissible as an alternative to cash payment for remaining deferred fees to be converted into common shares at the market value of those shares. Deferred fees incurred under this agreement remain a legal obligation of "Company name" until paid.

5. Expenses. "Company name" shall reimburse "Consulting entity name" for all expenses incurred in the furtherance of "Company name"'s business; provided, however, that "Consulting entity name" shall be required to obtain authorization for such reimbursements from the CEO and render to "Company name" a complete and accurate account of all such expenses. Reimbursements shall be made within 30 days of approval. In accordance with the rules and regulation of "pick appropriate state" law, reimbursement obligation accrues to "Company name" and does not accrue as a personal obligation to its investors.
6. Relationship of Parties. The relationship between "Consulting entity name" and "Company name" is that of consultant and client. "Consulting entity name" shall have no authority to enter into any contracts binding upon "Company name" except as specifically authorized by the Board.
7. Termination or Revision. This Agreement may be terminated or revised at any time by "Consulting entity name" or by "Company name" by a majority vote of the Shareholders of "Company name".
8. Non-Competition. "Consulting entity name" agrees not to perform any competing services or do any competing work for any client of "Company name" during the term of this Agreement and for a period of "xx" months after its termination.
9. Confidentiality. "Consulting entity name" acknowledges and agrees that all product specifications, proposals, manufacturing methods, technology, intellectual information, lists of "Company name"'s customers and suppliers, marketing or advertising information, product planning information, and other data related to "Company name"'s business ("Confidential Information") are valuable assets of "Company name". "Consulting entity name" shall not disclose any Confidential Information to any person or use any Confidential Information for the benefit of any other person except for the benefit of "Company name". Confidential Information shall not include information that "Consulting entity name" can conclusively establish (1) entered or subsequently enters the public domain without "Consulting entity name"'s breach of any obligation owed to "Company name" or (2) became known to "Consulting entity name" from a source other than "Company name" other than by a breach of an obligation of confidentiality owed to "Company name"; or (3) is independently developed by "Consulting entity name" outside of "Consulting entity name"'s involvement with "Company name".
10. Binding Effect. This Agreement shall be binding upon and inure to the benefit of both "Company name" and "Consulting entity name" and their respective successors, heirs and legal representatives. "Consulting entity name" cannot assign his obligations under this Agreement.

11. Waiver of Breach. The waiver by either “Company name” or “Consulting entity name” of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
12. Attorney’s Fees. If any suit or action shall be instituted to enforce or interpret this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to statutory costs, such sums as the court may adjudge as reasonable for the prevailing party’s attorney’s fees in such suit, action or appeal thereof.
13. Applicable Law; Jurisdiction. This Agreement shall be interpreted and enforced under the laws of the State of “select and insert state name”. The parties consent to jurisdiction in “state” courts and agree that venue in “xx” County, “state”, is proper but not exclusive.

IN WITNESS WHEREOF, this Agreement has been executed by “Company name” and “Consulting entity name” on the latest date shown below.

“Company entity name”

By: ________________________ Date: __________________
“Name”, CEO

“Consulting entity name”

By: ________________________ Date: __________________
“Consulting entity name”

Appendix 16 – Business Plan Executive Summary Outline

Business Plan Executive Summary Outline

<u>Company</u>
The Ask
Background
Product and Why It Is Better
The Process
The Problem, the Opportunity, and the Company's Vision
Identified Uses

<u>The Product/Services</u>
Description
Concepts and Processes
Characteristics
Distinguishing Factors

Competitive Advantages

Development Process

Management Team

Key Milestones

Financial Results

The Ask

Exit Strategies

Appendix 17 – Milestones

Milestones

This is an example of a list of early stage milestones and dates for a technology start-up.

Milestones	Achieved	Scheduled
Stage 1 – Pre-Funding		
Patents filed		
License rights		
Testing		
Market research and contacts		
Business strategy		
Business plan		
Management team		
Investor funding		
Stage 2 – Post-Funding		
Hire management and technical staff		
Establish business office and laboratory		
Begin development		
Stage 3 – Initial Sale		

Completion date dependent upon application development period

Appendix 18 – Funding Preliminary Work Plan

Relationships

1. Learn if there are investor relationships among the co-founders, enthusiasts and others.
2. If so, with whom? Get the contact information and introductions.
3. Leverage relationships through direct funding or indirectly through people they know.
4. Decide whether to go this route.

VC's and Angels

5. Identify vc's, angels, etc. investing in the market niche.
6. Rank order them in terms of amounts invested.
7. Learn their investment criteria.
8. Learn their geographic criteria.

Intermediaries

9. Identify funding intermediaries serving the niche.
10. Contact them about their interest, terms and conditions.
11. Rank order them.
12. Decide whether to use their services.

User and Supplier Companies

13. Identify market niche user and supplier companies that do not have a similar product.
14. Learn their investment criteria.
15. Learn whether they may invest to remain competitive with their competition.

User and Supplier Company Investors

16. Identify market niche user and supplier company investors.
17. Rank order them in terms of amounts invested.
18. Learn their investment criteria.
19. Learn their geographic criteria.

Competitive Substitute Product Investors

20. Identify market niche substitute product competitors and their investors.
21. Learn investor criteria.
22. Learn whether the investors may invest.

Crowd Funding

23. Identify crowd funding entities which may be a good fit.
24. Learn whether money is available.
25. Learn their criteria.
26. Learn their funding amounts and the most probable funding amount outcome.
27. Learn their costs including control and legal constraints.
28. Rank order them.

29. Decide whether to pursue crowd funding based upon the total picture.

Grants

30. Identify possible grant funding.
31. Learn criteria and amounts.
32. Rank order prioritize.
33. Decide whether to pursue grants based upon total picture.

Brainstorm

34. Brainstorm about other funding sources.
35. Prioritize and decide whether to pursue.

Initial Contact Preparation

36. Finalize pro forma financials.
37. Create talking points.
38. Create elevator pitch.
39. Prepare initial contact presentations.

Initial Contacts

40. Start making investor contacts to confirm/verify their current possible interest.
41. Learn if we fit into their market niche.
42. Learn whether they have money.
43. Learn their most important criteria.

Create Strategic Funding Plan(s)

44. Select "A" list (most attractive) investors.
45. Select "B" list investors.
46. Select "C" list investors.
47. Establish investment strategic plans.
48. Assign probabilities and amounts for each strategic plan.
49. Select primary strategic investment plan.
50. Rank order other strategic investment plans.

Engage Professionals

51. Engage professional assistance (legal, graphics, presentation production, etc.) as and when appropriate.

Execute the Primary Strategic Funding Plan

52. Create legal, financial and other required documentation (offering documents, agreements).
53. Create presentations.
54. Decide who will be presenting, respective roles.
55. Contact investors and others to confirm their interest.
56. Schedule road show.

57. Make presentations.
58. Evaluate offers.
59. Negotiate.
60. Close.

Appendix 19 – Investment Opportunity Evaluation Template

Evaluation/Selection Criteria

1. Pro forma/projected financials indicate acceptable total funding requirement, amounts and timing of rounds and sufficient return multiple.
2. Business plan includes acceptable marketing analysis and plan, strategic plan, and milestones and dates.
3. Technology/opportunity is legally available; i.e., there are no patent or IP infringement issues. As appropriate and necessary, IP has been or is being protected.
4. There is verifiable confirmation that the technology/product consistently and effectively does what it is described to do.
5. The technology/opportunity is disruptive/revolutionary or significantly/sufficiently evolutionary.
6. There is verifiable confirmation that there is substantial market demand for the products/services of the technology/opportunity.
7. The technology/opportunity provides desirable multiple platform opportunities.
8. Present technology stage of development is sufficiently and acceptably advanced; further R&D required for market entry is defined in terms of cost, steps, and timing.
9. Market research indicates the market niche/space is neither prohibitively competitively occupied nor about to be occupied with competitive new entrants.
10. Financial analysis indicates sufficient per unit margin and units sold for required return.
11. Revenue projections indicate pricing verifiable confirmed to be acceptable to customers and recognition/balancing of pricing elasticity as part of maximizing revenue strategy.
12. The cost of production is understood and acceptable in terms of margin and recognizes economies of scale, multiple sourcing and risk avoidance.
13. Supplier input requirements are known, management has excellent relationships with suppliers, and there are no issues or concerns.
14. There are no legal, people, technology, opportunity or competition constraints or issues.
15. The technology/opportunity is not unnecessarily capital intensive.
16. The technology/opportunity is a fit with investors' market niche.
17. The technology/opportunity is significantly superior to other available opportunities.
18. Verifiably confirmed analysis indicates that there are no other substitutes under consideration or about to enter the market niche.
19. Management experience and capability is acceptable in terms of strategic planning, setting objectives, and being successful.
20. Management has relationships within the market niche that increase success probability.
21. Management is a good fit for investors. Investor management participation is acceptable to the founders and management.
22. Exit is acceptable to founders and shareholders. The timeframe to exit is acceptable to all.

Appendix 20 – Investor Selection Process Template

Venture Capital Firms and Angels

Angels are most often a part of and represented by Angel groups. When they are, their due diligence and selection process is very similar to that of VC's. Occasionally there will be stand-alone Angels who will have less demanding and less competitive selection criteria. In those cases selection may well be more based upon the personal relationship than on due diligence. That is not to say that relationships with individual Angels within Angel groups are not important. They are. But non-group Angels may be more receptive and less constrained.

Here are steps for the VC and Angel Investor Selection Process.

1. Identify your stage. Stages include start-up, early and seed, growth, and late. Angels most often fund start-up and early and seed. VC's most often fund growth and require revenue history.
2. Identify the market niche of the technology/opportunity. There may be multiple niches for a platform technology/opportunity. If so, all uses should be identified, and each evaluated, rank ordered, and processed as appropriate. This may lead to more than one funding source or a funding source that can accommodate more than one use.
3. Identify investor groups that fund the market niche/s. Common niches include pharmaceuticals, medical devices, IT, consumer goods, and others. You can search online for investor groups that fund your niche.
4. Research the identified investor groups to learn whether they have money and are investing and their criteria. This should significantly reduce the number of possible investor groups. One of the criteria may be geographical location.
5. Contact those groups for whom the opportunity satisfies their criteria to begin establishing relationships and to get more information about their criteria and their selection and funding process.
6. Provide the required information and present to the investment group. Follow this up with contacts and information.
7. Understand the process is very competitive, that investment groups will be oversubscribed and they only select the best of the best. Some investment groups fund on the order of 1 of 100 requests.
8. With this in mind, I have two precepts. The first is to never say no to the money and its terms and conditions unless the terms and conditions are truly unacceptable. The second is to do everything you can to meet the terms and conditions, even if it means establishing operations, production or an office within geographic proximity. Find a way to make it happen.

Industry Companies.

1. Much of the above applies to Industry companies, be they retailers, suppliers or other.

2. Industry companies may want to perform their own due diligence. Work with them.
3. Request they fund your costs for their due diligence to avoid wasted time and resources due to their simply testing the market.
4. Be certain to get a written agreement that states that when you do what they request, they will enter into a relationship with you under the terms and conditions defined in the agreement.
5. Regarding terms and conditions think of the big picture for the relationship and include a provision for possible exit with sale of the business to them.
6. As with other investors, establish relationships and do everything you can to make it happen.

Appendix 21 – Sample Promissory Note

SAMPLE PROMISSORY NOTE

$________ (AMOUNT) ___________________ (DATE)

FOR VALUE RECEIVED, the undersigned, (the "Maker"), hereby promises to pay to the order of _____________________ (LENDER NAME) ("Payee"), the principal sum of $ _____________ pursuant to the terms and conditions set forth herein.

PAYMENT OF PRINCIPAL. The principal amount of this Promissory Note (the "Note") and any accrued but unpaid interest shall be due and payable in ____________ (NUMBER OF PAYMENTS) (CIRCLE ONE: equal monthly installments / equal quarterly installments / payments as described below) beginning ____________________ (DATE OF FIRST PAYMENT). All payments under this Note shall be applied first to accrued but unpaid interest, and next to outstanding principal. If not sooner paid, the entire remaining indebtedness (including accrued interest) shall be due and payable on __________________ (DATE OF FINAL PAYMENT).

INTEREST. This Note shall bear interest, compounded annually, at _________ (ANNUAL INTEREST RATE) percent.

PREPAYMENT. The Maker shall have the right at any time and from time to time to prepay this Note in whole or in part without premium or penalty.

REMEDIES. No delay or omission on part of the holder of this Note in exercising any right hereunder shall operate as a waiver of any such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion. The rights and remedies of the Payee shall be cumulative and may be pursued singly, successively, or together, in the sole discretion of the Payee.

EVENTS OF ACCELERATION. The occurrence of any of the following shall constitute an "Event of Acceleration" by Maker under this Note:

(a) Maker's failure to pay any part of the principal or interest as and when due under this Note; or

(b) Maker's becoming insolvent or not paying its debts as they become due.

ACCELERATION. Upon the occurrence of an Event of Acceleration under this Note, and in addition to any other rights and remedies that Payee may have, Payee shall have the right, at its sole and exclusive option, to declare this Note immediately due and payable.

SUBORDINATION. The Maker's obligations under this Promissory Note are subordinated to all indebtedness, if any, of Maker, to any unrelated third party lender to the extent such indebtedness is outstanding on the date of this Note and such subordination is required under the loan documents providing for such indebtedness.

WAIVERS BY MAKER. All parties to this Note including Maker and any sureties, endorsers, and guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

EXPENSES. In the event any payment under this Note is not paid when due, the Maker agrees to pay, in addition to the principal and interest hereunder, reasonable attorneys' fees not exceeding a sum equal to 15% of the then outstanding balance owing on the Note, plus all other reasonable expenses incurred by Payee in exercising any of its rights and remedies upon default.

GOVERNING LAW. This Note shall be governed by, and construed in accordance with, the laws of the State of ____________________ (STATE NAME).

SUCCESSORS. All of the foregoing is the promise of Maker and shall bind Maker and Maker's successors, heirs and assigns; provided, however, that Maker may not assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the holder of this Note.

IN WITNESS WHEREOF, Maker has executed this Promissory Note as of the day and year first above written.

Maker: ______________________________ (BORROWER SIGNATURE)

______________________________ (BORROWER NAME)

Appendix 22 – CEO/Owner Responsibilities

CEO/Owner Responsibilities

- Provide leadership
- Create and establish vision, translate into reality, make happen
- Maximize ROR
- Stakeholder communication and representation
- Overall responsibility for all phases of work
- Coordinate resources, planning, management, budget, personnel, contracts
- Expedite operations and resolve problems
- Grow company
- Move company to next level
- Develop ST and LT plans and budgets based upon goals and objectives
- Organize business operations
- Improve effectiveness, efficiency and profitability
- Create organization structure that meets company needs
- Establish operations, financial metrics, benchmarks
- Staff properly, address employee development
- Responsibilities, authorities and accountability clearly defined and understood
- Establish practices, policies and procedures
- Ensure strong working relationships with key customers, vendors and others
- Anticipate, prevent and resolve problems
- Communicate policies, directives and procedures to employees
- Plan, communicate, and implement ST and LT projects and initiatives
- Work with entire management team
- Represent company in relationships and with investment community and media
- Develop and evaluate new business opportunities
- Identify opportunities, constraints, threats, bottlenecks, 3rd party control
- Work the business model and segment it for ST, intermediate, LT
- Evaluate individual functions, define resource requirements, establish schedules
- Prioritize market opportunities, identify capital and personnel resource requirements, and focus activities
- Evaluate vendor proposals
- Create organization chart, staffing plan, and space requirements and implement
- Create marketing, sales and pricing strategies and tactics
- Create market implementation/deployment plan and schedule
- Assist with financing through representation and proposal evaluation
- Provide legal advice
- Leverage relationships for effective, expedited and successful market entry

Appendix 23 - Combined Interactive Financial Projections

XYZ
Balance Sheets
Year-end 20xx-20xz

Assets	20xx	20xy	20xz
Current Assets			
Cash	940	940	1,440
Inventory	100	300	700
	1,040	1,240	2,140
Equipment	200	600	1,200
Total Assets	1,240	1,840	3,340
Liabilities and Shareholders' Equity			
Shareholders' Equity			
Common Stock	1,000	1,000	1,000
Retained Earnings	240	840	2,340
	1,240	1,840	3,340
Liabilities	-	-	-
Total Liabilities and Equity	1,240	1,840	3,340

XYZ
Income Statements
20xx-20xz

Revenue	1,000	2,000	4,000

Marketing and Sales			
Loaded Salary	50	100	200
Other	50	50	50
	100	150	250
Production			
Loaded Salary	100	200	300
Materials	100	200	300
Other	50	100	200
	250	500	800
General & Administrative			
Loaded Salary	100	200	300
Consulting	50	50	50
Legal and Accounting	50	50	50
Other	50	50	50
	250	350	450
Total Expense	600	1,000	1,500
Pre-tax Income	400	1,000	2,500
Income Taxes	160	400	1,000
Net Income	240	600	1,500

XYZ
Cash Flow Statements
20xx-20xz

Beginning Cash Balance	-	940	940
Cash Provided from Equity	1,000	-	-
Cash from Operations			
After Tax Profit (Loss)	240	600	1,500

Cash Used for Equipment	200	400	600
Cash Used for Material Inventory	100	200	400
Ending Cash Balance	940	940	1,440

Appendix 24 – Distinguishing Factors Communications Tool

Distinguishing Factors

"XYZ" – (brief high level macro description statement of distinguishing characteristics)

"XYZ" - platform technology
(provide short list of beneficial differentiators)

Established efficacy
(provide short list of beneficial differentiators)

Time to market penetration and capture
(provide short list of key milestones and dates)

Large economic value
(provide end of year 3 projected net income and revenues)

("Acquiring or Investing" select one) company benefits (below are examples)

- Recognition as the market leader and innovator
- Distinguished for product excellence
- Market-leading superior product
- Market share dominance with no competitive alternative
- Higher prices from greater customer value
- Substantially improved revenues and net income

Exclusive worldwide rights to patented intellectual property
(talk as appropriate about why the company and its products/services are protected)

Founder/s	"name", Owner & CEO – add any supporting credentials
Contact	"name", Owner & CEO Telephone: (xxx) xxx-xxxx Email: xxxxxxxxxx@xxxxxx.com

Appendix 25 – Talking Points

Talking Points

This is an example and should be customized to fit your company for use with Stakeholders and for the elevator pitch.

XYZ
Talking Points
Date

- Who we are – XYZ owned by founder
- What we do – describe
- Why – delight "market niche"
- When – brief citing of market entry plan and capture dates
- Market strategy – (tied to marketing strategy and key milestone dates)
    - Initially (describe)
    - Phase 1 (describe)
    - Phase 2 – (describe)
    - Phase 3 – (describe)
- Reasons why the company will be successful – relationships with
    - _______ companies
    - _______companies
    - _______suppliers
- Results expected at end of projections period (___years)
    - Projected revenues of "$_____"
    - Total cumulative revenues over the period of "$______"
- Ask – "$____" (funding sought)
- Time – ___ years (provide milestones and dates)
- Employees – ___ (number of employees at the end of the projections period)

Appendix 26 – Interactive Start-up Checklist

Start-up Checklist

Items	Due Dates
Initial Considerations	
1. Write down your reasons for wanting/needing to start your company.	
2. Write down your short-, intermediate- and long-term objectives.	
Choosing the Product/Technology to Commercialize	
3. Decide the products or services you want to sell.	
4. Identify the market niche.	
5. Identify competition and decide whether the niche is available.	
6. Decide whether the product or service can be sold.	
7. Decide what distinguishes product – quality, price, value, geographic availability.	
8. Decide whether the business can be economically viable.	
9. Evaluate the opportunity using the List of 20 Factors.	
10. Calculate how much money the company needs for how long and its use.	
11. Identify who will provide the money and what will have to be given for it.	
12. Raise the money.	
Creating the Legal Entity	
13. Choose the business name.	
14. Decide the kind of legal entity to use and the state in which to form it.	
15. Create the legal entity.	
Legal Formation Documents	
16. Establish the Bylaws.	
17. Prepare investment documents for outside investor funding.	
18. Get Board authorization, open a bank account and deposit the money.	
Protecting Your Idea/Product, or Service	
19. Decide whether the product should be legally protected; if so, protect it.	
Initial and Ongoing Start-up Activities	
20. Consult with attorneys and accountants for entering into relationships.	
21. Learn from attorneys and accountants what needs to be done.	
22. Contact the SBA local/area office to learn what needs to be done.	
23. Enter into consulting and employment agreements.	
24. Customize and prepare Vision and Mission statements.	
25. Prepare the Strategic Plan for market entry and capture.	
26. Prepare the Marketing Plan; this includes market research.	
27. Establish Milestones and estimated achievement dates.	
28. Prepare 3-year expected financial projections with best and worst cases.	
29. Prepare Business Plan.	
30. Begin to work the Business Plan and move forward with the Company.	

Appendix 27 - Tips and Important Points

Tips and Important Points

Chapter 1 – Introduction

- You are not alone in wanting to start your own Company. You should not be scared off by what you do not know. Do not expect to have to re-create the wheel. Starting a Company is very common. Knowledge about best practices is available.

Chapter 2 – Initial Considerations

- A common reason for lack of success is lack of commitment and perseverance.
- The probability for success increases with and is in direct proportion to the amount of commitment and perseverance.
- A good rule of thumb is the money commitment should be an amount that is twice the amount expected to be needed for twice the length of time expected.
- A common reason for company failure is running out of money.
- Surround yourself with good people.
- Delegate.
- Establish good relationships.
- Communicate.
- Plan thoroughly.
- Prepare completely.
- Act with drive and a sense of urgency.

Chapter 3 – Choosing the Product/Technology to Commercialize

- Marketing and Sales are critical to the success of the business and directly related to Sales of the product or service.
- Think of ways to incent Customers to step away from existing products and buy your products, perhaps through early discount pricing, quantity discount pricing, personal relationships, etc.
- Develop brand loyalty through delighting Customers.
- Grow Sales through word of mouth.
- Make the purchase of your product so attractive that Customers will buy.

Chapter 4 – Creating the Legal Entity for Your Business

- You may want to use an attorney or CPA to help with this. Another possibility is for an experienced person to help you.

Chapter 5 – Legal Formation Documents

- These samples are being provided only as examples so that you are aware of their existence and have an idea as to their possible contents. You should use the services of attorneys and funding professionals when preparing these for the Company.

Chapter 11 – Legal Representation

- To the extent possible and practicable, place all understandings in writing through contracts or agreements. As with the early stage of any relationship, everyone is friendly and hopeful in the beginning but that may change as relationships mature.
- It is best to "paper" all understandings to avoid disagreements that may occur.
- Be as thorough and complete as possible in what you place in writing and have it signed by all the parties to the understandings.
- Enter into a relationship with an attorney at an appropriate early time.

Chapter 12 – Initial Start-up Activities

- You most likely will have but one opportunity to get the attention of and impress possible Investors. Investors most often look at the Executive Summary and use it in deciding whether to learn more about the investment opportunity. Make the Executive Summary as compelling as possible.

Chapter 13 – Planning

- Think of Planning as a living activity and plans as living documents; that is, plans should be changed to reflect changes in facts and their impact upon assumptions.
- Be certain to give appropriate attention to Planning and related details.

Chapter 14 – Funding

- Funding is critically important and most often very difficult to get.
- Always work to receive Funding commitments as quickly as possible.
- Never assume Funding will happen.
- Funding should always be on your mind.
- The next Round of Funding activity following receipt of a 3-year commitment should begin after the 1st year and be achieved by the end of the 2nd year.
- Recognize that all of your effort and achievements will be for nothing if you run out of money.
- Expect "surprises" that will adversely affect finances and expected market entry timing and related revenue flow.
- Recognize the importance of Funding and the difficulty in getting it.
- Work very hard to get Funding.
- Have a very good reason for saying no before rejecting investment money and related terms and conditions.
- To the extent possible, place understanding with potential business partners and investors in writing, identifying the understanding, the details, the dates, other relevant information and have signed by the company and the potential business partner or investor.

Chapter 15 – Operations

Administration

- Do what you are good at doing and let others do the rest.

- Identify Core Competencies and Leverage their use for maximum benefit.
- Identify the functions for which the Company does not have strength.
- Depending upon financial considerations and available resources, consider Outsourcing weaknesses to others who have necessary knowledge and can perform these functions effectively and efficiently.

Production

- Since Production is critical to the success of the Company, dual- or multiple-source required materials. This type of sourcing also may be beneficial in getting lowest prices because of competition. For example, a good strategy may be to give a bigger portion of the materials purchased to the Company that provides material at lowest price.
- Geographically source input materials to minimize transportation costs.
- Source input materials from different geographical areas to assure continued supply of materials by avoiding supply disruption due to geographically isolated area weather or economic problems.
- Use a Gantt Chart for Production to identify and address the relationship of critical components. This may provide more effective and efficient Production by providing knowledge of Production interrelationships and timing and serve to avoid Production disruption. Information about GANTT Charts can be found at http://en.wikipedia.org/wiki/Gantt_chart.
- Focus upon Product Development and continuous improvement to stay ahead of the competition. This will require constant, updated knowledge of what is happening in Production. Assume the competition is doing this. You will need to do this for Production cost to remain competitive, for the Company to be successful, and products and services to remain economically viable.

Marketing/Sales/Pricing

- Marketing, Sales and Pricing are critically important components of success.
- The Company exists because of the Customer.
- The Pricing "Sweet Spot" is where, due to elasticity and competition, the most Sales revenue occurs when using the right price in combination with selling the most units.
- Success of the Company is based upon Customer relations.
- Success of the Company depends upon Marketing, Sales and Pricing effectiveness.

Chapter 16 – Good Information to Know

Problem Solving

- Much of what you do is effectively adapting to problems as they arise.
- Expect problems.
- Expect change.
- Adjust and adapt as needed.
- Be flexible.
- Go with the flow.
- Keep long term objectives in mind and keep things in perspective.
- Take a deep breath or time-out when necessary.

Accounting

- Accounting is logical, relatively easy to understand, and a zero sum process in that Debits equal Credits. You do not need to be an Accounting expert but you should understand the basics.

Presentations

- Be able to give the "Elevator Pitch" during which you describe the Company in 15-30 seconds.
- Understand what is expected regarding communications in terms of who the audience is/know the audience, the attitude and perspective of the audience, the Presentation format, the timing, the content, appearance/how you should be dressed, whether there will be questions and answers.
- Stay on point and be succinct in comments and replies.
- Practice so you are comfortable with presenting and knowledgeable about the material.
- Be confident and friendly.
- Remember – no one knows the Company like you do.
- Be straightforward and honest.
- Offer to provide follow-up answers to questions if you do not know the answers.