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and start-up savvy you need to make your small business a success

Small Business Kit

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2nd Edition

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Richard D. Harroch

Attorney and author of
Business Contracts Kit For Dummies

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About the Author

Richard D. Harroch is an attorney with over 20 years of experience in representing start-up and emerging companies, entrepreneurs, and venture capitalists. He is listed in *Who's Who in American Law* and is a corporate partner in a major law firm in San Francisco. He is a Phi Beta Kappa graduate of U.C. Berkeley and graduated from UCLA Law School, where he was managing editor of the *Law Review*. He has edited or co-authored a number of legal/business books, including *Start-Up and Emerging Companies: Planning, Financing and Operating the Successful Business* and *Partnership and Joint Venture Agreements*.

Richard was the chairman and co-founder of AllBusiness.com, one of the premier Web sites for small businesses. He was also the founder, CEO, and chairman of LawCommerce, Inc., an Internet company dedicated to providing products and sources to the legal profession.

He has lectured extensively before various legal and business organizations, including the American Electronics Association, the Venture Capital Institute, the California Continuing Education of the Bar, Law Journal Seminars-Press, the California State Bar Business Section, the Corporate Counsel Institute, the San Francisco Bar, and the Practising Law Institute (PLI).

Richard has served as the chairman of the California State Bar Committee on Partnerships, the co-chairman of

the Corporations Committee of the San Francisco Bar (Barristers), a member of the Executive Committee of the Business Law Section of the California State Bar, and co-chair of the *Law Journal* seminar in New York on “Joint Ventures and Strategic Alliances.”

Richard has experience in the following areas: start-up and emerging companies, corporate financings, joint ventures, strategic alliances, venture capital financings, employment agreements, IPOs, leases, loans, online and Internet matters, license agreements, partnerships, preferred stock, confidentiality agreements, stock options, sales contracts, securities laws, and mergers and acquisitions.

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We're proud of this book; please send us your comments through our Dummies online registration form located at www.dummies.com/register/

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Foreword

When Richard Harroch asked me to write the foreword for his new book, *Small Business Kit For Dummies*, 2nd Edition, I was thrilled. I have known Richard for many years, and I have seen him in action as a lawyer and advisor to start-up and emerging businesses. I knew this would be a great volume.

Why do you need a business kit like this one? Starting a business can be a daunting process. As the Executive Director of the Lester Center for Entrepreneurship at the University of California, Berkeley, I get plenty of proof. Many would-be entrepreneurs with great ideas just never get to first base. They may have the most important and seemingly most difficult part done: They have identified a market opportunity and a profitable way to fill it. They stumble, however, over the “easy stuff,” like raising funding, getting properly organized, and, moreover, running the business in a “businesslike” manner. Lawyers and accountants are important resources, but unless you do your own homework and learn the “basics,” they can be expensive teachers. This volume gives every entrepreneur quick, straightforward advice and tools to use when approaching a new area of business development.

In my work, I have the privilege to teach the MBA candidates at the Haas School of Business at UC Berkeley. These are undeniably some of the best and brightest young business minds, many of whom are

committed to founding their own businesses after graduation. One of the most common complaints I hear about their MBA education is that the faculty don't teach them the fundamentals of organizing and running a small business. That's true. But this book can give you what an MBA education cannot: straightforward guidance on the basics of many of the legal, financial, employment, and management hurdles of starting and running your own business. Topics cover the full spectrum, from the basics of business formation, organization, accounting, and tax and financing to tips for putting your business on the Web and tools for dealing with the press. Chock full with sample forms and templates, *Small Business Kit For Dummies*, 2nd Edition is a treasure chest. The CD-ROM makes everything in the book more directly accessible and customizable for your use.

Starting a business can be the event of a lifetime. The drive of individuals to create new businesses is one of the fundamental engines of our new economy. The oft-quoted statistics are overwhelming: "two-thirds of the net new jobs over the last 25 years have been created by small business. Overall, small business employs one-half of the private workforce."*

Every new business has to start somewhere, and it's a good idea to take things one step at a time (the first customer, the first employee, the first bank loan, the first contract, the first financial statement, and so on). But every "first" entails much for the entrepreneur to learn. This book can be both a guide and a shortcut to getting on with the job!

I have had the good fortune to wear a lot of hats in my career, and for the last twenty years, I've been immersed in starting and running new ventures. In the '80s as the

Director of the Entrepreneurial Services practice for Ernst & Young in the Bay Area, in the '90s as Executive Director of the Lester Center for Entrepreneurship and Innovation, and, more recently, as a founding partner in a venture capital firm, I've had the privilege to work with literally hundreds of entrepreneurs starting their own businesses (and yes, I've founded a few of my own along the way). I can honestly say that in every case, this little volume for us "Dummies" would have come in very handy indeed. I will be referring many of my students to this "Kit" for years to come.

*— Jerome S. Engel, Executive Director,
Lester Center for Entrepreneurship
and Innovation, Haas School of
Business, University of California,
Berkeley*

**Small Business Job Creation: The Findings and Their Critics* by William Dennis Jr., Bruce D. Phillips, and Edward Starr.

Contents

Title

Introduction

About This Book

Foolish Assumptions

What You're Not to Read

How This Book Is Organized

Icons Used in This Book

Where to Go from Here

Part I : Starting Up Your Business

Chapter 1: Choosing Your Business Entity

Setting Up Sole Proprietorships

Creating a Partnership

Corps Is Short for Corporation, Not Corpses

Helpful Hybrids: Limited Liability Companies

Forms on the CD-ROM

Chapter 2: Business Plans

Writing Your Business Plan

The Key Sections of the Business Plan

Writing a Mini Business Plan

Forms on the CD-ROM

Chapter 3: Organizing a Corporation

A Corp Is Born

[Corporate Actions](#)

[Capitalizing the Corporation](#)

[Forms on the CD-ROM](#)

[Part II : Money Matters](#)

[Chapter 4: Raising Capital for Your Business](#)

[Borrowing from Peter to Pay Paul](#)

[Putting Your Equipment on a Tight Lease](#)

[Placing Your Stock on the Auction Block](#)

[Romancing a Venture Capitalist](#)

[Forms on the CD-ROM](#)

[Chapter 5: Bookkeeping and Accounting Basics](#)

[Choosing Your Accounting Method: Cash or Accrual](#)

[Keeping Records and Books](#)

[The Accounting Toolkit](#)

[Forms on the CD-ROM](#)

[Chapter 6: Small Business Tax Basics](#)

[Thinking about Taxes from the Ground Up](#)

[The Tax Tool Kit](#)

[A Tax for All Reasons](#)

[Elementary, My Dear: Deductions for Your Business](#)

[Where to Go for More Help](#)

[Forms on the CD-ROM](#)

[Part III : Employee and Consultant Issues](#)

[Chapter 7: Employee Hiring Tools](#)

[Finding the Cream of the Crop](#)

[Parlez-Vous Interview?](#)

[Checking 'Em Out](#)

[Hiring Tool Kit](#)

[Forms on the CD-ROM](#)

[Chapter 8: Motivating and Retaining Employees](#)

[Motivating Employees in Good Form](#)

[Digging through the Employee Incentive Tool Kit](#)

[Forms on the CD-ROM](#)

[Chapter 9: Avoiding Employee Problems](#)

[Going by the Handbook](#)

[Appraising Can Be Up-Raising](#)

[Firing Employees](#)

[Conducting Exit Interviews](#)

[Forms on the CD-ROM](#)

[Chapter 10: Independent Contractor and Consultant Agreements](#)

[Forming Relationships with Independent Contractors and Consultants](#)

[Tiptoe through the Tax Forms](#)

[Forms on the CD-ROM](#)

[Part IV : Bulletproofing Your Business](#)

[Chapter 11: Key Contracts](#)

[Understanding Contracts](#)

[Writing and Negotiating Good Contracts](#)

[License Agreements](#)

[Joint Venture Adventures](#)

[Distribution Agreements](#)

[The Skinny on Boilerplate Text](#)

[Amending a Contract](#)

[Forms on the CD-ROM](#)

[Chapter 12: Legal Issues](#)

[Avoiding Legal Wrangles](#)

[Going Down with the Ship \(Not!\)](#)

[Checking into State and Local Laws](#)

[Forms on the CD-ROM](#)

[Chapter 13: Protecting Your Ideas and Inventions](#)

[Pondering Patents](#)

[Copyrights and Copycats](#)

[Tricks of the Trademark](#)

[Can You Keep a Trade Secret?](#)

[Speaking Confidentially . . .](#)

[Forms on the CD-ROM](#)

[Chapter 14: Avoiding Customer Problems](#)

[Doing Preventative Maintenance](#)

[Giving Credit Where Credit's Due](#)

[Getting Your Money the Hard Way](#)

[Forms on the CD-ROM](#)

[Chapter 15: Real Estate Leases for Your Business](#)

[Negotiating an Office Lease](#)

[Offering an Offer Letter](#)

[Forms on the CD-ROM](#)

[Part V : Spreading the Word](#)

[Chapter 16: Web Sites, Your Business, and You](#)

[Determining a Domain Name](#)

[The Web Site Development Contract](#)

[The Web Site Legal Kit](#)

[Forms on the CD-ROM](#)

[Chapter 17: Press Releases and Dealing with the Press](#)

[Drafting Good Press Releases](#)

[Checking Out Some Sample Press Releases](#)

[Meeting the Press](#)

[Forms on the CD-ROM](#)

[Part VI : The Part of Tens](#)

[Chapter 18: Ten Ideas to Make Your Business More Successful](#)

[Team Up with Another Company](#)

[Get Advice](#)

[Send Gifts to Your Key Customers](#)

[Seek Financing When You Don't Need It](#)

[Try Different Ideas](#)

[Motivate and Reward Employees](#)

[Research Your Competition](#)

[Get Favorable Publicity](#)

[Ask Your Employees](#)

[Build a Great Company Web Site](#)

[Chapter 19: Ten Great Web Sites for Small Businesses](#)

[AllBusiness](#)

[Business Week](#)

[The Small Business Administration](#)

[The Internal Revenue Service](#)

[Entrepreneur](#)

[CBS Marketwatch](#)

[American Express — Small Business](#)

[Newspaper Web Sites](#)

[Wells Fargo](#)

[Yahoo!](#)

[Chapter 20: \(Almost\) Ten Great Publications for Small Businesses](#)

[The Wall Street Journal](#)

[Inc.](#)

[Business Week](#)

[Entrepreneur](#)

[Fortune](#)

[Fast Company](#)

[Forbes](#)

[Built to Last: Successful Habits of Visionary Companies](#)

[Business Contracts Kit For Dummies](#)

[Appendix: What's on the CD-ROM](#)

[System Requirements](#)

[Using the CD](#)

[Adobe Reader](#)

[Forms, Forms, and More Forms](#)

[Troubleshooting CD Problems](#)

[: Wiley Publishing, Inc. End-User License Agreement](#)

[Agreement With Respect to the Small Business Kit For Dummies, 2nd Edition Book and Accompanying Software:](#)

Introduction

Wouldn't it be great if all it took to run a business was a great idea or service? You'd just need to satisfy your customers. Wouldn't it be wonderful not to have to worry about things like contracts, taxes, employees, bookkeeping, and liability issues? Sure, it'd be terrific, right up to the time that you woke up.

In the real world, if you want to be the captain of your own ship rather than the first mate on someone else's freighter, you have to remember a ton of legal and financial obligations, filings, and issues. With so much to keep in mind, however, you may have trouble figuring out where to start. Often, the problem boils down to not knowing how much you don't know. And don't try to plead ignorance as an excuse, either. If you fail to do the things the law requires of you, it's your problem.

Well, now you can rest a little easier. *Small Business Kit For Dummies*, 2nd Edition, gives you the practical advice that you need to start a business and find a path through a maze of business laws. It also provides you with the sample forms, agreements, policies, checklists, and letters that you need to turn the legal and business jungle to your advantage.

About This Book

Whether you expect your business to operate on a small scale or plan for your business to be the next Microsoft, this book is for you. *Small Business Kit For Dummies*, 2nd Edition, and its accompanying CD-ROM provide advice and sample forms to businesses ranging from raw start-ups to rapidly-growing companies.

This book is not a murder mystery. You don't have to start at page one, and if you turn to the last chapter, you don't necessarily find out whether the butler did it. This book is set up more like an encyclopedia. In an encyclopedia, you don't have to read through all the *A's* before you can read the *B's*. When you need a certain bit of information, you find what you're looking for, use the information, put the book back on a shelf, and go back to growing your business.

Suppose that you want to find a piece of information that allows you to take an extra business deduction, meaning you and the kids get to go to Disney World. You can use a couple of strategies to find the information that you want. First, you can go to the table of contents and locate the topic. In this case, Chapter 6 — "Small Business Tax Basics." Then you can scan the headings until you find where the information you want is hiding. Second, if you know exactly what kind of information you're looking for, you can go directly to the index and find it there.

Inside the back cover of this book, you can find a CD-ROM chock-full of sample forms and agreements that

you can modify for use with your business. If you ask an attorney to draft these forms, you may spend many thousands of dollars.

Remember, however, that the law is a funny thing. An agreement or a discussion about an agreement that applies to most businesses may not apply in your particular case or location. Always check with your attorney in cases dealing with a large sum of money or potential exposure. (In fact, it never hurts to check with your attorney about any business form or agreement.)

Foolish Assumptions

This book assumes a basic understanding of business practices and concepts. Because this book is primarily focused on providing a wide variety of tools for businesses, I give as much coverage as possible to the forms and their uses. I provide only a limited amount of coverage of general business concepts (though I do my best to explain the background to each topic briefly). If you feel like you need more background business information, check out www.AllBusiness.com, one of the premier small business sites on the Web.

What You're Not to Read

Some of the topics that you have to be familiar with as a business owner are, by their very nature, technical (for

example, taxes, accounting, and contracts). But from time to time, I mark technical explanations that you generally don't need to understand to get the big picture with a Technical Stuff icon (check out the section "Icons Used in This Book" later in the Introduction to find out more about icons). Feel free to skip these discussions — no one's going to get mad.

How This Book Is Organized

This book is organized roughly along the pattern of first things first. Part I covers starting your business, Part II talks about money, Part III moves into getting people to work for you, Part IV gives you information about avoiding legal hassles, and Part V moves into methods for increasing the exposure of your business. The final two parts are the Part of Tens, which appear in any *For Dummies* book, and the Appendix.

Part I: Starting Up Your Business

Every business has to start somewhere. In Part I, you can find information that you have to think about as you get your business off the ground. Chapter 1 gives you information on choosing the business entity for your business (such as corporation, partnership, or limited liability company). Chapter 2 gives you pointers on writing an effective business plan to use as a tool to gauge your business's success and to attract capital. Chapter 3 covers essential information for setting up a corporation to protect yourself from the business's financial and legal liabilities.

Part II: Money Matters

Money makes businesses go 'round, and Part II puts you right in orbit with the big boys. Chapter 4 is an important one, providing tools for infusing capital into your business, including loans agreements, filings necessary to sell stock, and venture capital financing. In Chapter 5, you can find forms and strategies for keeping your books, including accounting methods, cash flow comparisons, and methods of figuring balances and budgets. The tax laws are another set of issues that really affect your business, and Chapter 6 provides tax basics for your business, including discussions of business deductions and IRS filings.

Part III: Employee and Consultant Issues

As your business grows, at some point, you need to hire people to help you meet your goals. Chapter 7 provides advice and tools for hiring employees, such as employment agreements, applications, and questions to ask and not to ask in interviews. Chapter 8 tells you how to retain and motivate employees after you hire them. Look in this chapter for discussions of employee incentive plans, stock options, and benefit packages. Chapter 9 concentrates on employee problems, including strategies for avoiding them and how and when to fire employees. Finally, Chapter 10 deals with hiring independent contractors and consultants, including forms for backing up the nonemployee status of these workers for the IRS.

Part IV: Bulletproofing Your Business

When you're in business, bad stuff can be lurking around every corner. Some bad stuff just eats away at your money. Other bad stuff can land you in court or in jail. Chapter 11 opens up this part with a discussion of your key contracts, including sample forms and agreements that you can modify for your own use. Chapter 12 runs down legal issues that you should be aware of as a businessperson. Chapter 13 contains tools for protecting your patents, trademarks, and other intellectual property, which can be the lifeblood of your company. And Chapter 14 gives you some tools for avoiding customer problems (such as nonpayment) and provides tools to solve the problems when they do occur. Finally, Chapter 15 gives you advice on negotiating a lease for your business.