

# Start Me Up

by Minden™



BUSINESS PLANNING AND SUCCESS SERVICES

MINDEN  
GROSS<sup>LLP</sup>

Starting a business can be one of life's greatest achievements. The desire to create a new venture is driven by innovation, entrepreneurship, and enthusiasm. But it also faces formidable challenges and is fraught with risk.

- Decide on a Business Structure
- Register Your Business
- Leverage Connections
- Set Yourself up for Success
- Develop a Business Plan
- Obtain Licenses and Permits
- Get the Capital you Need
- Plan for Risk & Insurance
- Find Services you Need

## What is included in Start Me Up by Minden™:

- Incorporation of your company
- Shareholder Agreement
- Loan and Security Documents
- General Security Agreement
- Minute Book
- Confidentiality and Proprietary Information Agreement
- Access to our network of service providers and investors
- Initial consultation and 5 hours of additional Legal Advice
- All for \$4,995 plus applicable taxes and disbursements

First and foremost, the success of every business is rooted in its initial steps. A business that has not been structured correctly at the outset can suffer significant consequences down the road.

New ventures must rest on a sound legal foundation to maximize the chances of profitability and protect themselves from the inevitable bumps in the road. At times, the highway to success can seem littered with regulatory and legal roadblocks that can derail even the most promising business ideas.

That's why we created **Start Me Up by Minden™**, a fixed-fee program for both experienced entrepreneurs and those starting their first business venture.

**Start Me Up by Minden™** addresses your real needs, not those imagined by outsiders.

We have developed a comprehensive suite of products and services that you need to start your business on the right path. Additionally, where possible, you will have access to our network of angel investors and investment firms so that you will be able to make the connections you need.

The best lawyers are those who are in step with their clients for the long haul. They act as partners, not merely as legal advisers. For that reason, we created a complete package of services for all your legal start-up and ongoing needs.

*Pricing concerns are addressed head on with fixed-fee arrangements.  
We have eliminated hidden add-on pricing.*

WHY JOIN START ME UP BY MINDEN™?

**Start Me Up by Minden™** has been developed for you, the entrepreneur with start-up enthusiasm and a long-term vision.

To begin our program, you will be paired with a Minden Gross LLP corporate lawyer dedicated to your issues. This professional will meet with you at the outset and remain with you as your business grows and prospers.

**Start Me Up by Minden™** is structured to ensure that you have access to the legal services and expertise you need as your company matures. Our broad spectrum of experience allows us to offer you legal assistance in all the areas critical to your operation, including corporate, intellectual property, tax, and real estate matters.

As part of your package, you will receive an initial consultation that includes a detailed discussion about your business. We will incorporate and organize your business as well as provide you with the other legal documentation needed to get your business up and running. Such documentation includes a shareholders' agreement along with shareholders' loan and security documents. Also included in **Start Me Up by Minden™** are five hours of additional legal services that you may use for further consultation and advice.

Beyond these benefits, our **Start Me Up by Minden™** network will enable you to leverage our extensive external resources and contacts, as well as receive valuable insights and guidance surrounding financing sources.

## YOUR TEAM – THE START ME UP BY MINDEN™ NETWORK

We are offering all of the above **Start Me Up by Minden™ services for \$4,995** plus applicable taxes and disbursements. If you do not require the full package suite, we will tailor a program just for you.



## WHY INCORPORATE?

When starting a new venture, using the right structure is critical. The most common form is the corporation, which has several key advantages.

Most importantly, a corporation is a legal entity separate from its shareholders, thereby protecting them from the corporation's debts and liabilities.

The shareholders' liability is limited to their equity investment in the corporation, which means that their personal assets are not at risk.

Incorporation also often offers tax benefits. As a distinct legal entity, the corporation pays taxes separately from its shareholders. Typically, the shareholders of a corporation pay taxes on corporate profits paid to them in the form of salaries, bonuses, and dividends. While the corporation pays taxes on profits, the corporate tax rate may be lower than an individual's tax rate. As well, any losses incurred by the corporation can generally be used as a deduction against the corporation's future income. Other potential advantages include income-splitting, tax-deferral opportunities, and the use of the small-business tax deduction.

## WE FREE YOU FROM THE PAPER BURDEN

Access to capital is another important advantage of incorporating. While there are no guarantees, it can make it easier for a corporation to raise money. A corporation can sell shares and raise equity capital. This can be a significant advantage because equity capital is generally non-interest bearing and not repaid.

With **Start Me Up by Minden™**, we will prepare the mountain of legal documents necessary to help you start your business. Outlined below are summaries of the core documents we will produce as part of our program.

### Minute Book

A minute book is a binder containing all your company's essential corporate documents. These include articles of incorporation, bylaws, share certificates, minutes and resolutions (including resolutions appointing directors and officers), a shareholders' register/ledger, and a directors' register/ledger.

### Shareholders' Agreement

When a company is formed, its founding shareholders typically determine how the company will be owned and managed. This is often set out in a written contract called a shareholders' agreement.

There is no legal requirement for the shareholders to enter into such an agreement; however, without it, the applicable provincial or federal corporate statutes, together with the company's articles of incorporation and bylaws, will govern the company. Since these basic corporate rules are usually insufficient to protect all your interests, it is highly desirable to enter into a shareholders' agreement to provide a more detailed set of ground rules tailored to fit the specific circumstances of the company and its shareholders.

A shareholders' agreement allows for unforeseen circumstances to be dealt with in a controlled and agreed-to manner, thus avoiding disputes among the founders. This is important as founders often cannot foresee the consequences a potential dispute will have on their business' operation and value, and/or consider it unlikely that such a dispute will ever occur. For these reasons, one of the most common mistakes entrepreneurs make is failing to enter into a shareholders' agreement

### What's In a Shareholders' Agreement?

#### General Decision Making

- Which decisions are made by shareholders and which decisions are made by directors?
- How are decisions made and disputes resolved?
- Who has the right to be on the board of directors or to nominate a director?
- Who can sign cheques and contracts on behalf of the company?

#### Financing the Company & Distributing Profits

- How is the company financed?
- Will shareholders be subject to cash calls?
- Are personal guarantees required?
- How often are profits distributed?

## Transfer of Shares

- Are transfers permitted and in what circumstances?
- When can shares be issued?
- Are there anti-dilution protections?

## Liquidity

- Are there shotgun or buy sell provisions?
- Are there rights of purchase on death or permanent disability of a shareholder?
- Are sales to third parties permitted?
- Other possible sale events
- Confidentiality, non-competition and non-solicitation restrictions
- Rights of first offer and first refusal

There is no such thing as a “one size fits all” approach to a shareholders’ agreement. Shareholders and their counsel must give careful planning and consideration to address current issues and anticipate scenarios that could arise throughout the life of the company.

With **Start Me Up by Minden™**, we take the time to understand your needs and business goals in order to ensure that your shareholders’ agreement achieves your desired results while protecting your future interests.

## Confidentiality and Proprietary Information Agreement

The objective of a Confidentiality and Proprietary Information Agreement is to ensure that a company’s proprietary information is not disclosed to the public and that there is legal certainty that the company is the exclusive owner of all intellectual property and proprietary information regardless of where and when such information was created.

## The Loan Agreement

At its earliest stages, companies typically require an infusion of capital. Not only is this money needed to run the company, early financing from the founders

sends an important signal to future investors that they are committed to their business.

As an entrepreneur, you have the choice to advance funds as equity or as a loan. Establishing a secured loan structure is a good way to protect the founders’ investment against unforeseen events that may impair the company’s ability to repay its debts. The concern that founders’ debt adds unnecessary leverage to the balance sheet is without basis. In fact, outside financial analysts typically view such debt as equity.

When you are loaning funds to the company, it is important to set out the terms and conditions in a written agreement between you, the shareholder (lender), and the company (borrower). The terms of such a loan agreement will vary depending on the circumstances. They will generally include the amount advanced, the interest rate, the terms of repayment, and the default scenario that would permit the shareholder to call the loan and enforce the security.

## Security Documents

A General Security Agreement (GSA) is an agreement between a lender and a borrower whereby the borrower pledges all of its property and assets (other than real estate) to the lender as security for repayment of the loan. These assets are broadly described in the GSA and can include vehicles, machinery, equipment, receivables, inventory (both raw materials and finished goods), cash, shares, and intellectual property. The GSA covers property currently owned by the company and property acquired in the future.

As part of the **Start Me Up by Minden™** package, we will prepare a GSA for each of the founders and register notice of this security under the Ontario personal property registry. This will ensure that the founders’ security will take priority over other creditors. In other words, if the company defaults on its payment obligations and there are competing creditors, the founders will (in most cases) have a priority claim against the assets of the company.



One of the main challenges facing start-ups is raising sufficient capital to meet ongoing business requirements. Investors are reluctant to invest in businesses with a limited track record. Many believe that the rewards simply do not justify the risk.

## WE CAN HELP YOU RAISE CAPITAL

Companies with the right advice and the right connections are more able to secure capital. As part of **Start Me Up by Minden**™, we will provide you with insights and guidance surrounding financing sources. We will also help you navigate through the primary sources of start-up or seed capital:

**Founders' capital** - Capital infused by the founders typically comes from the individuals that believe in the company the most. Founders' capital is also important for future financings as investors see that the founders have "skin" in the game.

**Family and friends** - Family and friends may be a source or complement to founders' capital in the event that a founder does not have sufficient funds or if founders want to mitigate their risk.

**Small bank loan** - The Canada Small Business Financing Program (CSBFP) seeks to increase cash available to establish, expand, modernize, and improve small businesses. The CSBFP encourages financial institutions to make up to \$500,000 available to small businesses. We can help you obtain such a loan.

**Ever-changing government grant and incentives** - Both the federal and provincial governments make available a great deal of financial assistance to qualifying new ventures, finding it can be a challenge. Depending on the program or incentive, a company must know what to apply for to maximize the proceeds. Again, with **Start Me Up by Minden**™, our expertise will help.

If the above sources have been exhausted and financing is still required, the next step is to look for angel investors or venture capitalists. Through our network of angel investors and investment firms, we will be able to better connect you with the people that best fit your needs.

There are several differences between angel investors and venture capitalists, each with advantages and disadvantages. We will ensure you understand these differences and help you decide which one works best for you.

**Angel Investors** - Angel investors are usually high net worth individuals that have a high risk tolerance.

**Venture Capital** - Venture capital firms usually invest in new, young, and rapidly growing companies that have the potential to develop into significant players in their respective markets.

## ANGELS AND VENTURE CAPITAL

Angel investors generally fund earlier stage start-up companies but are less structured and have less of a public presence. While it can be difficult to find these individuals, angels manage a much larger overall pool than is available from venture capital firms.

Venture capital firms evaluate several hundred investment opportunities each year, but only invest in a few that have the potential for high rates of return within five to seven years.

If you have questions about **Start Me Up by Minden**™ or on starting a new venture, please contact any of our **Start Me Up by Minden**™ team. We are confident that we can answer all your concerns and help you achieve your goals.

# IS START ME UP BY MINDEN™ RIGHT FOR YOU?

We have the plan. We have the people. We can make the difference.

We look forward to working with you.

## Your Team Start Me Up by Minden™



**Brian J. Temins, LLB, MBA**  
Partner

t: 416.369.4169  
btemins@mindengross.com



**Ryan Gelbart, LLB**  
Partner

t: 416.369.4172  
rgelbart@mindengross.com



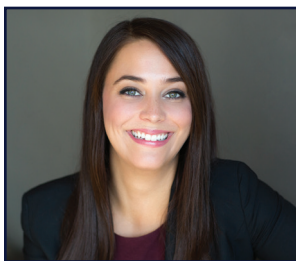
**Yosef S. Adler, LLB, MBA**  
Partner

t: 416.369.4158  
yadler@mindengross.com



**Ben Bloom, LLB, MBA**  
Partner

t: 416.369.4167  
bbloom@mindengross.com



**Jessica Thrower, LLB**  
Associate

t: 416.369.4146  
jthrower@mindengross.com



**Nusrat Ali, LLB**  
Associate

t: 416.369.4102  
nali@mindengross.com



MINDEN GROSS LLP  
BARRISTERS AND SOLICITORS  
145 KING STREET WEST, SUITE 2200  
TORONTO, ON CANADA M5H 4G2  
TEL 416.362.3711 FAX 416.864.9223  
@MindenGross [www.mindengross.com](http://www.mindengross.com)

