

- What happens if one shareholder becomes separated or divorced, bankrupt, or faces criminal charges?

4. Buy-out of shares

- How is share value determined?
- Should any discounts of valuation be applied due to any of the terminating circumstances?
- What is the manner of payment for shares? If payments over time are established, is there interest and at what rate?

5. Dispute resolution

- What is the protocol for resolving disputes between shareholders? (This could include mediation, arbitration and/or corporate dissolution.)

ADDITIONAL PROVISIONS & OPTIONS

A Shareholders' Agreement is customized to each company and can include other provisions and options such as:

- Is there a need for non-competition and non-solicitation clauses?
- How can confidential information and trade secrets of the company be protected?
- Can the rights of creditors and ex-spouses be limited?
- Should the powers of a company's Board of Directors be limited?
- Must shareholders present outside business opportunities to the company for consideration?

IMPLEMENTATION

To begin this important and possibly complex process contact our office. Our lawyers can facilitate the process by providing materials and checklists to guide and shape the discussions the shareholders need to have prior to preparing your Shareholders' Agreement. We will help you every step of the way to make sure the agreement protects both the corporation and the shareholders.

Shareholders' Agreements are often considered the most important business contract. This agreement lays the foundation for how your business will operate and grow, and provides steps to follow in crucial times of your business life.

Let our lawyers help you prepare an agreement that will protect your corporation and its shareholders.



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SHAREHOLDERS' AGREEMENTS

DO WE NEED ONE?



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They say “good agreements make good business”

Shareholders’ Agreements are designed to protect the interests of a company and its shareholders through the successes and hurdles of the business. Shareholders’ Agreements are about communication and common understanding – when everyone gets along. They create an agreement today that avoids messy and expensive disputes in the future.

Our lawyers can help you customize a Shareholders’ Agreement that meets the specific needs of your corporation and its shareholders. The agreement should provide details on how the shareholders want to own and run the business. Often these details are overlooked in the excitement and activity of starting up your business but fortunately, this type of agreement can be implemented at any time during the life of the corporation.

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PURPOSE & OBJECTIVE

Shareholders’ Agreements ensure sound management of your investment in the company and protect the continuity of the business, especially when the company is faced with major changes. They serve to anticipate issues that could potentially cause disputes between shareholders and also to determine in advance acceptable methods of avoiding or resolving such disputes.

Shareholders’ Agreements govern the relationship of shareholders in matters that are not addressed in certificates of incorporation or corporate by-laws, and are often required for financing purposes to reduce a lender’s risk. They reduce risks by helping to ensure a market for shares; protecting major and minor shareholders; determining shareholder involvement and decision making; establishing division of profits; preventing conflicts regarding management, operating and financing issues; and establishing exit and succession mechanisms.

Tax advice is also important to ensure that the Shareholders’ Agreement is tax efficient and does not create unintended negative tax consequences to the corporation or shareholders.



SHAREHOLDERS’ AGREEMENTS
Do we need one?

BASIC PROVISIONS

There are generally five areas a Shareholders’ Agreement addresses:

1. Management provisions

- Declaration of dividends
- Capital expenditures (over a specified amount)
- Setting up loans, guarantees and other contractual obligations
- Issuance, redemption and purchase of shares by corporation
- Amendments to articles, by-laws and other fundamental corporate changes
- Are special majority votes required for certain corporate actions?
- When will directors meet and what are the voting requirements?
- How many directors on the Board of Directors?
- New business ventures
- How will profits be divided among shareholders?

2. Restrictions on share transfers

- Can shareholders sell their shares to third parties or must shares be offered to the company and/or existing shareholders first?
- What are the consequences of unauthorized share transfers?
- How are minority shareholder interests protected?
- If differences arise between the shareholders can one shareholder trigger a buy-sell requirement?

3. Shareholder’s death, disability, retirement or employment termination

- What happens to shares on death of a shareholder? Is there a mandatory buy-out? If so, should it be funded through life insurance, payments over time or otherwise?
- Is there a buyout of shares upon long-term disability? How is long-term disability defined? How are disability policy proceeds applied?
- What is the effect of a retirement or an employment termination and are there penalties if the termination is for cause?