

JPAbusiness Shareholders' Agreement Checklist

If you're a business owner considering taking on an investing party or shareholder, some form of written shareholders' or partners' agreement is vital to make clear all parties' investment and partnership intentions and responsibilities from the outset.

Use this checklist to ensure you've included everything you think is important.

- Define the business intent and operations and limitations of the company
- State the decision-making obligations for directors/partners and shareholders, including governance and reporting requirements
- State the procedures if a shareholder/partner wants to sell or transfer shares/equity, a director wants to retire, a shareholder's/partner's employment is terminated, or in the event of the death or permanent incapacity of a shareholder/partner
- Insurances to be held by shareholders, working partners, directors and officers
- Power to invoke enduring or specific power of attorney in certain events
- Funding options to the company/partnership by shareholders/partners
- Provisions and any restrictions on external funds raising (debt and equity)
- Restraints of trade and conflicts of interest
- Valuation methods/procedures for the shares/equity and/or new business partners or exiting shareholders/partners
- Business succession and exit conditions (for example, exiting party to offer to existing shareholders/partners and then externally or full sale)
- Confidentiality
- Deadlock, disagreement and dispute-resolution procedures
- Provisions relating to shareholders who are employees, e.g. what happens to their shareholding if they leave the company
- General matters such as jurisdiction, notices, non-merger, etc.
- Other – e.g. business relationships, ethics and cultural issues, insurances, taxation and debt obligations

This checklist contains the broad components of a private company's Shareholders' Agreement.

Once you've received some sound commercial advice and you and your partners have agreed to the key basic terms of the shareholders' agreement, make sure you get some taxation and legal advice on the risks and issues for you and the company. Ensure the final agreement has all the relevant bases covered in terms of notice period and is legally well constituted.

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