

SHAREHOLDERS' AGREEMENT CHECKLIST

	Included/ Considered	Not Applicable
1. Date		
• date of agreement	_____	_____
2. Parties		
• designate all parties as precisely as possible	_____	_____
• can be corporations	_____	_____
• if an individual, ensure that the individual is at least 18 years old	_____	_____
• it is recommended that each shareholder is acquiring the interest for its own account	_____	_____
3. Definitions		
• define all terms as needed	_____	_____
4. Recitals		
• specify the purposes of the shareholders' agreement	_____	_____
• recitals also provide background information needed to understand the terms of the shareholders' agreement	_____	_____
5. Business and Affairs of the Corporation		
• the number of directors and who will comprise the initial board	_____	_____
• meetings of directors -- when; whom; etc.; who can attend	_____	_____
• quorum -- number of directors required to constitute a valid meeting	_____	_____
• casting vote -- right to		

- | | | |
|---|-------|-------|
| cast a deciding vote | _____ | _____ |
| • officers -- who actual officers will be; what their duties are; remuneration (if any) | _____ | _____ |
| • banker and bank signing authorities | _____ | _____ |
| • auditors/accountants -- vote required to appoint or change | _____ | _____ |
| • fiscal year | _____ | _____ |
| • deadlock provision | _____ | _____ |
| • employment contracts | _____ | _____ |

6. Control Provisions

- | | | |
|--|-------|-------|
| • in addition to the matters set forth under Business and Affairs of the Corporation, consider adding special voting approval threshold (unanimous, special majority, etc.) for shareholder/director resolutions concerning: | | |
| • amendments to articles, by-laws and with respect to other fundamental corporate changes | _____ | _____ |
| • compensation of directors, officers and key employees | _____ | _____ |
| • issue, redemption and/or purchase of securities | _____ | _____ |
| • incurring of indebtedness | _____ | _____ |
| • declaration of dividends and dividend policy | _____ | _____ |
| • capital expenditures, new business ventures | _____ | _____ |

- disposition of substantially all of the assets of the corporation _____

7. **Financing of the Corporation**

- third-party financing (any requirement of shareholders to give guarantees) _____
- no obligation of shareholders to provide financing or obligation to finance with dilution provision for failure to finance _____

8. **General Matters Relating to Share Ownership and Permitted Transfers**

- representations and warranties by shareholders regarding shareholdings, etc. _____
- general prohibition on transfer _____
- permitted transfers by shareholders to controlled companies, relations _____
- covenant regarding entering into a marriage contract pertaining to spousal rights on matrimonial breakdown to shares/profits of the corporation _____
- rules respecting pledging of shares to financial institutions _____
- prohibition on registration of transfer unless transferee is bound _____
- legend on share certificates _____
- insurance (on whom, what beneficiary, what types(s),) _____

9. **Matters Relating to the Disposition**

and Acquisition of Shares

(a) Between the Shareholders

- "shot-gun", "buy/sell" provision (consider whether this is appropriate in anything other than a 50/50 shareholder corporation) _____
- "put" provision (usually to create liquidity for a minority shareholder) _____
- "call" provision (usually to give a majority shareholder the right to remove a minority shareholder in specific circumstances) _____
- consideration of a Family Law Act "call" right _____
- basis of valuation method for "puts" and "calls" (net asset value, earnings or established market price, if available) _____
- general closing mechanics _____

(b) Respecting Third Parties

- rights of first refusal (consider whether the right should be a "hard" or "soft" right) _____
- consider whether "piggyback" rights (to ensure the protection of minority shareholders) or "carry along" rights (to increase the majority shareholder's flexibility for sale) are appropriate either alone or in addition to any rights of first refusal clause _____
- addition of general closing mechanics and, if appropriate, _____

obligation of transferee to
become bound by the
shareholders' agreement

- transmission of shares on
death, i.e., to whom; at
what price; how funded

- transmission of shares on
permanent disability and/or
retirement, i.e., how defined;
to whom; at what price;
how funded

- transmission of shares on
insolvency, i.e., how defined;
to whom; at what price;
how funded

10. Non-Competition and Confidentiality

- these covenants are particularly
important in the context of
employee shareholders but will
be equally important to the extent
that the agreement provides for
sale mechanics between the
shareholders

- consider a covenant respecting
confidentiality of
disclosures made in a family
law context

- confidentiality should also
be considered in cases where
certain confidential
information is required
to be disclosed

11. General Contract Provisions

- term of agreement

- arbitration clause

- notice procedure

- additional documents

- counterparts

- time of the essence _____
- entire agreement _____
- enurement _____
- currency _____
- headings for convenience only _____
- governing law _____
- gender _____
- calculation of time _____
- legislation references _____
- extended meaning of shares _____
- severability _____
- termination of prior agreements _____
- assignability _____

12. Signatures

- who has signing authority _____
- corporate seal _____

13. Schedules

- include all required schedules _____