

# BUILDING BRIDGES Not Barriers: STRUCTURING YOUR

## PARTNERSHIP FOR BUSINESS SUCCESS

### It is never too late to negotiate a shareholders agreement

People are reasonable and the truth is, if given adequate forum and framework for discussions, they will make reasonable choices and decisions. Business is, to a large extent, like marriage. If something is not working, the chances are both parties feel it and are bothered by it. Therefore, don't be afraid that your partner will not be willing to start the negotiation process or that you will damage the relationship. Trust the person you chose as your partner and believe that when solutions and propositions are reasonable, they improve the lives of all parties involved. Therefore, it is never too late to start negotiating shareholder relations and formalizing a comprehensive shareholders' agreement with clear terms and equitable solutions that foster stability and mutual success. Having a shareholders agreement that outlines the rights and obligations of relevant parties is neither a luxury nor a nicety. It is simply a necessity. We are the worst witnesses to our memories and even the most self-evident understandings and arrangements can be challenged in the absence of explicit contractual regulation.

Recent decades have seen a surge of tech conglomerates and multi-billion companies, which take pride with the origin story of "being started in their father's garage." While each story is truly inspirational, businesses based on friendship are as old as time.

Industries and scales of economy may differ. However, the basics of human dynamics remain the same all over the world. Friends discuss ideas; friends are comfortable to share certain starting risks and are not comfortable negotiating commercial terms of partnership. In the majority of cases, soon the company finds a life of its own and grows, sometimes exceeding even the very optimistic expectations of its shareholders.

Our practice shows that with the first success comes the first trouble. We often see an ambiguity in roles and functions, socialist model of profit sharing (everything being divided equally), different visions for the company's path forward and the unavailability of deadlock resolution mechanisms or exit options. And, although each similar business may share a similar story, the resolution or rather, ending, varies. Some manage to transform into a corporation, while others remain hostages to their misperceptions and failures. Lawyers do not like to talk in absolute terms, and we tend to qualify everything, but it is true to say that almost all businesses that fail to adequately organize shareholder relations will eventually stop growing and fail, or, as a minimum, fail to realize their potential fully.

Having worked with a number of similar clients and companies, and after orchestrating many turnarounds, these are the main takeaways and lessons learned.

### Ensure that shareholder relations are fair and tailored to the corporate reality

When it comes to the shareholders agreement, it matters that the contract is fair, and it adequately reflects the company reality. If the contract is unfair, it will be breached. If the contract is not tailored to the corporate reality, shareholder relations will find the life of their own, independent from the respective contractual regulations and the agreement will remain a file stored on a hard-drive. Therefore, ensure that the contract accommodates the strength and weaknesses of each shareholder, and that the allocation of duties is balanced and fair.

### Functioning corporate governance framework is a necessity

A functioning corporate governance framework is essential for accountability, transparency, and sustainable growth. It ensures effective decision-making and risk management. Strong governance fosters investor confidence, making it easier to attract capital and drive long-term success. It also enhances operational efficiency by clarifying roles and responsibilities. Without proper corporate governance, sustainable growth is nearly impossible. However, an overly complex, multi-layered governance structure that is unsuitable for the company can be just as damaging as having no governance at all, leading to bureaucracy, slow decision-making, and operational inefficiencies. The key is to establish a governance framework that is clear and adequately tailored to the company's needs, ensuring both stability and agility.

### Make sure that the company adheres to sound corporate governance principles

We have yet to see an example where negotiating a sound shareholders agreement does not make it evident that other parts of the corporate governance also have to be dealt with. Of course, that does not mean that every company needs audit and remuneration committees or independent board members. The complexity of corporate governance is, of course, dependent on the size and scale of the company in question. However, we have seen that baseline reporting, accountability and organizing incentives according to the medium to long-term business strategies are usually necessary components of a successful business.

### Find advisors with complex outlook and uniform approach

We often say that some finance and legal knowledge is needed to negotiate shareholder relations but most of all it requires understanding the relevant business and the art of mediation. Disregard advisors who come with ready-made solutions for you and trust the ones who listen, spend time on interviewing the relevant parties,

and try to understand what it is that you want from this process.

### Challenge your vision, challenge others

Don't be afraid of challenging your prejudices and preconceptions. As part of the process, you may find it necessary to change your internal structure, hiring or firing practices, or the business model—or even discontinue or start a new line of the same or a different business. Sometimes you may find that this is not the company or the shareholders with which you see your future. And that is also normal. For similar scenarios, an adequate corporate governance framework shall accommodate a fair and financially sound exit.



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