

SHAREHOLDERS AGREEMENT FOR STARTUPS



The Shareholders Agreement for Startups is a type of contract which is executed between two or more co-founders (Entrepreneurs) who are to incorporate a new company and must agree of several key matters; it is also used when an already incorporated company wishing to give equity to investors in order to obtain financing to get the business off the ground or finance growth. Once the intervening parties have been identified, the contract regulates matters such as the paid-in capital, conveyance of shares (tag-along or right-along rights), market value determination, governance and management of the company, dividend policy, term and extinguishment, confidentiality, applicable law and competent jurisdiction etc. This [Shareholders Agreement for Startups](#) also includes a "Notes" section explaining some of the most important clauses and their possible bringing into line with the laws of the country where the startup is located.

SHAREHOLDERS AGREEMENT FOR STARTUPS

DATE

BETWEEN,

Mr./Mrs. *[first name and last name]*, of legal age, *[include professional qualifications]*, resident in *[insert country]* with address in *[address, city, country]* and holder of Tax Identification number..... acting herein in his/her own name and interest ("Entrepreneur 1"),

AND,

Mr./Mrs. *[first name and last name]*, of legal age, *[include professional qualifications]*, resident in *[insert country]* with address in *[address, city, country]* and holder of Tax Identification number..... acting herein in his/her own name and interest ("Entrepreneur 2"),

Both Parties, currently carry out as a result of their practical business experience intend to develop their business of:

Alternative A .When the company is no yet established.

.....
.....
[Describe briefly the type of future business and its main activities]

Alternative B. When the company is already established.

.....
.....

[Insert data of the company: name, address, Tax Identification number, etc.]

AND,

Mr./Mrs. [first name and last name], of legal age, [include professional qualifications], resident in [insert country] with registered office at [address, city, country] and holder of Tax Identification number acting herein as [include legal appointment: Administrator, Attorney-in-fact] of the company [include legal name of the person or company acting as investor], with registered office at [address, city, country] and holder of Tax Identification number [Investor].

PREAMBLE

WHEREAS:

Alternative A. When the company is not yet established

The Parties, following the execution date of this Agreement, individually acknowledge, declare and undertake to establish acompany [insert company type] organised under the laws of [country where the company will be incorporated] (“Company”) in line with their objectives hereunder:

.....

[Scope of activities of the Company].

Alternative B. When the company is already established

The Entrepreneurs’ entrepreneurial initiative is undertaken through incorporation of[insert the name of the duly established company], a [company type] company duly incorporated under the laws of [country where the company is incorporated] on [incorporation date of the company] with registered office at [registered address of the company] and registered with [name of the Trade Registry Office where the company is incorporated] under the registration number [registration number of the company before the relevant Trade Registry Office], with taxpayer ID and VAT registration and with the total issued share capital of [amount and currency], divided into [number] ordinary shares, all of which are fully paid (“Company”).

The Investor who has shown its intention to make investment on the basis of a satisfactory outcome of due diligence has invested in the Company in return for purchasing a number of shares in the Company.

- I. The Parties, hereto, determine to undertake a business initiative jointly by adding resources, endeavour and interests and collaborate with the purpose of developing together a business concept related to providing products and/or service on [name of the business/project] and to support the Company in expanding its business/project through a strengthening operation [short description of the use of the funds to be raised], (“Business”) (1)

- II. The Parties intend to govern their relationship as the Shareholders and to control, direct and

regulate the operation and management of the Company.

III. The Parties have agreed to such engagement on the terms and subject to the conditions of this Agreement as provided herein.

IT IS AGREED AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

As used in this Agreement, the following terms shall have the meanings set out below.

Admission Conditions has the meaning set out in Clause 3.1.

Admission Date means the date on which the Investor is admitted to the Company.

Affiliate means with respect to any Party, any person, including, but not limited to, a director or officer of such Party, directly or indirectly, through one or more intermediaries that controls, or is controlled by, or is under common control with, such Party. For the purpose of this definition, "Control" (including the terms "controlling", "controlled by" and "under common control with") shall mean (i) the legal or beneficial ownership, directly or indirectly, of 50% (fifty percent) or more of the share capital or other ownership interests of any person, (ii) the ability of any person, directly or indirectly, to appoint half or more of the board or other controlling body, or (iii) the ability of any person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise to direct or cause the direction of the management and policies.

Articles of Association mean articles of association of the Company set forth in Annex 2, being in effect starting as of the Incorporation Date, as amended from time to time thereafter.

Annex means annexes, exhibits, schedules and appendices of this Agreement as amended, restated or supplemented from time to time.

Board of Directors or Board means the board of directors of the Company, as constituted from time to time.

Board Member means the member(s) of the Board from time to time.

Business means the term under the Preamble of this Agreement.

Business Day means any day except Saturday, Sunday or any statutory holiday in [*insert a country or countries*].

Company means the term under the Preamble of this Agreement.

Confidential Information has the meaning set out in Clause 12.

Connected Persons mean with respect to any

(i) [Investor or Entrepreneurs], or

(ii) such Shareholder's (2) or

(iii) (3)

Encumbrance means any mortgage, pledge (including the share pledge, enterprise pledge, pledge of receivables), option, equities (including rights of pre-emption and rights of first refusal), security interest, usufruct right, easement, conditional sale or other title retention agreement, attachment (whether preliminary, ordinary or an execution of a judgment), lien, trusteeship, charge of any kind, including any agreement to exercise voting rights, any agreement or derivatives transaction to give effect to any of the foregoing or other similar restriction or third-party rights of any nature whatsoever, as the context may require (4).

Execution Date means the execution date of this Agreement.

Fair Market Value means the value of any Shares either agreed by the Parties or, in the absence of an agreement, the value determined in accordance within Clause 6.8.

Fiscal Year shall mean the accounting year of the relevant Company commencing on January 1st and ending on December 31st of each year.

Governmental Authority means the government of any nation, or of any political subdivision thereof, whether state, regional or local, and any agency, authority, branch, department, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government or any subdivision thereof (including any supra-national bodies), and all officials, agents and representatives of each of the foregoing.

General Assembly means the general assembly of the Company.

Incorporation Date means the date affixed to the Company's certificate of incorporation.

Indebtedness of any person means and includes (i) indebtedness for borrowed money in whatsoever form; (ii) amounts owing as deferred purchase price for property; (iii) indebtedness evidenced by any note, bond, debenture, mortgage or other debt instrument; (iv) commitments or obligations by which such person assures a creditor against loss with respect to any indebtedness, obligation or liability of any other person of a type described in clauses (i) through (iii) above or; (v) any other arrangement, document or instrument having the effect of indebtedness.

Intellectual Property Rights mean patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in goodwill, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) whether registered or unregistered and including all applications (and rights to apply for such rights as mentioned hereunder), and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist in any part of the world that can in any way be related to the Business (5).

Law means any legislation, law, constitution, decree, legislation, order, ordinance, regulation, treaty or other legislative measure in any jurisdiction and any directive, request, requirement, code of practice, decision, guidance or guideline.

Liquidation Event means
.....

[Optional] Lock-up Period means the period determined in accordance with Clause 6.1.3.

Share or Shares means any share of the Company.

Shareholder or Shareholders means the holder of the Shares from time to time.

Transfer means with respect to the Shares, as the case may be, any transfer, purchase, sale, exchange, division, grant of usufruct, creation of pledge, grant of voting rights (pursuant to a proxy, voting agreement or otherwise but excluding standard proxies for representation at a General Assembly) or grant of option rights or other disposition effecting an existing interest in the Shares and “Transferring”, “Transferred” and “to Transfer” shall be construed accordingly.

[*Optional*] Valuation Expert means any one of (i) [*insert number*] independent reputable investment banks of appropriate expertise in and with an established record of valuing companies in the same industry as that of the Company; or (ii) (6); or (iii) a respectable financial advisor determined by the Parties.

Works mean, including but not limited to, documents, work product, products, processes, materials, designs, brands and images related to the Business.

2. REPRESENTATIONS AND WARRANTIES

Each Party hereby represents and warrants to the other Party that:

1. It has the power, authority and capacity to execute, deliver and lawfully perform the terms of this Agreement.
2. This Agreement constitutes a valid and legally binding obligation of such Party, enforceable against such Party in accordance with its terms.
3. Neither the execution, delivery and performance by such Party of this Agreement, nor the consummation of the transactions contemplated hereby, will (a) to the extent applicable, result in a material breach of any provision of its articles of associations; (b) result in a material breach of, or constitute a default under, any instrument or agreement to which it is a party or by which it is bound; or (c) violate any mandatory legal provisions of applicable Law, including without limitation any injunction, judgment, order, decree, ruling, or other restriction imposed by the Governmental Authorities or court to which it is subject. There are no legal proceedings against it, actual, pending or threatened, which might affect the validity or enforceability of this Agreement.
4. It is not a party to any other agreement that would restrict such Shareholder’s ability to perform its obligations as set forth in this Agreement.
5. Each Party represents and warrants that no third party can claim any rights to any Intellectual Property, Works or other proprietary right possessed by that Party as it relates to the Business.
6. [*Optional*] All consents of the Governmental Authorities that are required or advisable for or in connection with the execution, delivery performance, legality, or enforceability of this Agreement have been obtained and are in full force and effect.

3. INVESTMENT

Alternative A. When the company is not yet established

Prior to the establishment of the Company, the Investor has shown its intention to make the investment on the basis of the information provided by the Entrepreneurs in accordance with the

Business. The investment will be implemented through cash investment into the Company in return for..... [insert number] of Company Shares (“Investment”) and on the incorporation date of the Company, the Investor shall hold% [insert number] of the issued share capital of the Company.

Alternative B. When the company is already established

1. Subject to the satisfactory outcome of a legal, financial and technical due diligence review to be carried out by Investor or its consultants (“Admission Conditions”) (7) admission to the Company will be implemented through capital increase, not to exceed [insert amount and currency], through capital subscription by the Investor to the Company in return for new Shares of Company (Investment) in one instalment [or in several tranches], on the terms and conditions specified in this Agreement.
2. The admission to the Company shall take place on the Admission Date once the events as follows have occurred:
 - a) [Optional] Each (8) Investor shall pay the sum of [insert amount and currency] by electronic fundtransfer to the bank account of the Company] as set out below.

Account name:
Bank:
Account number:
IBAN:
 - b) [Optional] A meeting of the Board shall be held at which the Company shall:
 - i) issue the [First Tranche Shares] [New Shares] credited as fully paid to the Investors and enter their names in the register of members in respect thereof;
 - ii) execute and deliver to the Investors certificates for the [First Tranche Shares] [New Shares];
 - iii) appoint [insert name] and [insert name] as Investor directors; [and]
 - iv) pass any such other resolutions as may be required to carry out the obligations of the Company under this Agreement.
3. As and from the Admission Date, the Investor shall be deemed to be party to this Agreement and will hold a Share/Shares in the Company equal to % [insert number] on a fully diluted basis. Annex 1 to this Agreement specifies the cap table after the Investor’s admission to the Company.

This is a sample of Shareholders Agreement for Startups.

To get more information about this contract click here:



[SHAREHOLDERS AGREEMENT FOR STARTUPS](#)

USER GUIDE

Contracts drafted by the legal experts of Global Negotiator cover all relevant aspects that are negotiated and agreed in the different types of business between companies. However, when these contracts are used you should take into account some recommendations common to all of them that are described in this User Guide.

DATE

The date when the contract comes into force is the one that appears in its header, as mentioned in the final paragraphs of the contract, before signatures (This Contract comes into force on the date written above).

In some contracts -for example in the Supply Contract- the date of coming into force is also mentioned in one of the clauses. In these cases, you have to verify that the two dates inserted in the contract (in the heading and in the corresponding clause) are the same, in order to avoid discrepancies.

PARTIES

Be sure to insert in the first page of the contract the full details of the Parties:

- When a Party is a company you must insert the following information: legal name, legal form (limited, incorporated, etc.), full address, registration data and fiscal identification number.
- When a Party is an individual that works as independent professional (for example a commercial agent) you must insert the following information: full name, profession, full address and fiscal identification number.

CLAUSES

Clauses with different alternatives: choose the most favorable

In the most important clauses of each contract (exclusivity, payment terms, applicable law and competent jurisdiction, etc.) several drafting alternatives are proposed so you can choose the most appropriate to each situation. Therefore, the user before submitting the contract to the other Party must choose the alternatives that seem best suited to their interests, and eliminate the rest.

Clauses with blank spaces to be completed

In several clauses of the contract blank spaces appear with dots (.....) that the user has to complete inserting text. Following the dots, between brackets, you will see the data and explanations to insert the text.

- When the text between brackets is in normal letters (the same as the contract) and separated by "," or the word "o", the user must insert one of the options suggested.

Example of blank space (.....) with options to select between brackets:

Orders handled before completion of the present Contract which produce sales transactions within [1, 2, 3, 6] months shall entitle the Agent to receive the corresponding commission. In this case the user must choose between options 1, 2, 3 or 6 months and insert one in the blank space (.....).

- When the text between brackets is in italics the user has to insert the data and information requested and eliminate the bracketed text.

Example of blank space - (.....) to insert text:

Both parties, by mutual consent, resolve to refer any dispute to the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. The place of arbitration shall be [*city and country*]. In this case the user must insert in the blank space (.....) the city and country chosen to conduct the arbitration and afterwards eliminate the bracketed text [*city and country*].

Notices Clause

Sometimes it may happen that the official address of the Parties which appear at the beginning of the contract is different from which is to be used for communications between the Parties during the terms of the contract. In this case the user should include at the end of the contract a Notices Clause.

Example of Notices Clause:

Notices. - In order to comply with their contractual obligations, the Parties establish the following address for the provision of notices related to this contract:

- Party 1 [*insert full address*].
- Party 2 [*insert full address*].

ANNEXES

The contracts incorporate some Annexes, each of them, referenced to the corresponding Clause. Annexes are drafted in commonly used formats, although the user must adapt these formats and the text inserted in them to each particular situation.

SIGNATURES

People who sign

Persons signing the contract on behalf of the company must have the authority to do so and preferably, be entitled on the basis of a power of attorney. Below the signature, in addition to the full name of the person that signs his/her position must be inserted. When one of the Parties who signs is a natural person (for example a commercial agent in an Agency Contract) obviously he or she is the person that has to sign the contract.

The laws of some countries require that contracts, to be valid, shall be signed in front of witnesses or a public notary. Therefore, before signing a contract you should be informed about the requirements that may exist in each country.

Place and date of signature

Usually, contracts are signed by both Parties on the same date and place. Nevertheless, in international contracts, due to physical distance, it is common that each of the Parties sign in different dates and places. This contract provides for both alternatives, so it comes to choosing the most appropriate to each situation.

Number of copies

Usually, the Parties sign two copies of the contract, each Party retaining one of them, but can also arise the need to sign more copies. In this case all you have to do is mention explicitly the number of copies to be signed in the paragraph that is included at the end of the contract (Both Parties declare their conformity to the present contract, which is signed in copies, each of which shall be considered an original).

GENERAL RECOMMENDATIONS

The Parties must sign all pages of the contract, including Annexes, so they are also valid. It is better to use ball point or pen (not pencil) in a color other than black (e.g.: blue); this makes it easier to distinguish an original document from a photocopy.

It is preferable (although no mandatory) to express sums of money and percentages in words and figures. Of course, the words and figures for a given amount must match exactly. You also must insert the currency in which the amounts are expressed. It is advisable to use the rules established by ISO that name each currency by three capital letters (EUR for euro, USD for dollar, GBP for sterling pound, JPY for Japanese yen, etc. - you can get the acronyms of every currency in the website www.oanda.com).

Once you have chosen the best alternatives of each clause and have completed the blank spaces you should revise the whole contract to remove remaining paragraphs and correct any errors.

LEGAL WARNING

Depending upon your particular situation this contract might not meet your needs and requirements. In case of doubt, you should consult a legal advisor.

Global Marketing Strategies, S.L. as publisher and copyright holder of this contract disclaims all warranties, whether express or implied, respecting the legal content of this contract. For any claims arising out or in connection with the use of this contract, Global Marketing Strategies shall be limited to a refund of the purchase price.

BUSINESS CONTRACTS

- Strategic Alliance Agreement
- Joint Venture Agreement
- Manufacturing Contract
- Supply Contract
- Service Provider Contract
- Consulting Services Contract

COMMERCIAL CONTRACTS

- Exclusive Distribution Contract
- Commercial Agency Contract
- Sales Representative Agreement
- Sales Commission Contract
- Real State Agent Agreement

LICENSE & FRANCHISE CONTRACTS

- Trademark License Agreement
- Technology Transfer Agreement
- Software License Agreement
- Franchise Contract
- Master Franchise Contract

CONFIDENTIALITY CONTRACTS

- Confidentiality Contract between Companies
- Confidentiality Contract for Product or Business Idea
- Confidentiality Contract for Employees
- Confidentiality Contract for Consultants and Contractors

Online Purchase

www.globalnegotiator.com

info@globalnegotiator.com



GLOBALNEGOTIATOR
International Documents