

What Every Nigerian Board Should Know About Shareholders' Agreements in 2026

The five clauses that determine whether your shareholders' agreement protects you or fails you when it matters most.

WRITTEN BY

Corporate Commercial Advisory Practice, Goldsmiths Solicitors



Background

A poorly drafted shareholders' agreement is a time bomb waiting to happen and we have seen it happen in boardrooms across ownership disputes, deadlocked decisions and exits gone wrong. Not because the business failed but because the legal foundation was not built to last. Over time, the patterns we see are remarkably consistent: agreements drafted on templates, never reviewed after signing, and completely inadequate for the company that now exists. This article addresses the clauses that matter and the questions every board should be able to answer about the agreement that governs their company.

1. Pre-Emption Rights: Who Gets the First Right to Buy?

Pre-emption rights give existing shareholders the first opportunity to acquire shares before they can be sold to a third party. Without them or with poorly drafted versions, a shareholder can sell to anyone, including a competitor or simply someone the remaining shareholders would never have chosen.

The critical questions your agreement must answer are: What triggers the pre-emption obligation? Is it any proposed transfer or only certain categories? What is the valuation mechanism, a price agreed between the parties, an independent valuation or a formula? How long does the pre-emption window last? What happens if the pre-emption price is disputed?

An agreement that is silent or ambiguous on these points will fail at the exact moment it is most needed especially when a shareholder wants to exit the company.

2. Drag-Along Provisions: Can the Majority Force an Exit?

A drag-along clause allows a majority shareholder or a specified percentage of shareholders acting together to compel all other shareholders to sell their shares on the same terms in a company sale. The purpose is to allow a majority to execute a clean exit without a minority holdout blocking an otherwise agreed transaction. Without a drag-along, a minority shareholder can derail an acquisition by simply refusing to sell.

A Well-crafted drag-along provisions typically specify: the threshold of shareholders needed, a minimum price floor below which the drag cannot be exercised; an independent valuation mechanism where there is a dispute about price; the notice period; and what constitutes 'same terms' for all shareholders including the treatment of preference shares and liquidation preferences.

3. Reserved Matters: What Decisions Require Unanimous Consent?

Reserved matters are decisions that require more than a simple majority of shareholders or directors to approve and the mechanism through which minority investors obtain governance rights without holding a controlling stake.

A calibrated list of reserved matters for a Nigerian company typically includes: approval of annual budgets and business plans above approved thresholds; incurring debt above a specified amount; issuing new shares or creating new share classes; entering into related-party transactions; appointing and removing the CEO and other senior management staff, making material acquisitions or disposals; and changing the business objects of the company.

What this means is that too few reserved matters leave minority shareholders exposed to decisions that materially affect the value of their investment. Getting this balance right requires understanding both the shareholders' individual interests and the company's operational requirements.



4. Dispute Resolution: What Happens When the Board Deadlocks?

Most shareholders' agreements make some provision for reserved matters but very few make adequate provision for what happens when the required majority cannot be achieved.

A board that is deadlocked on a reserved matter can bring a company to a complete halt.

Without a clear deadlock resolution mechanism, the only options are negotiation (which has already failed), litigation or dissolution (which destroys value for everyone). None of these is acceptable.

Good deadlock provisions provide for a structured escalation process: first to a senior management or Board Committee meeting, then to a shareholder-level meeting, then to a defined period of mediation. If mediation fails, the final mechanism is usually a situation where one party offers to buy the other's shares at a specified price and the other party can either accept the sale or buy the offering party's shares at the same price. This mechanism creates powerful incentives for both parties to offer a fair price.

4. When Did You Last Review Your Agreement?

A shareholders' agreement that was adequate when it was signed may be completely inadequate for the company that now exists. The most common triggers for a review that companies miss include:

- A new investor has come in but the agreement was not updated to reflect their rights, obligations, and the changed ownership structure
- A key employee has been promised equity but the promise has not been formally documented in an amended agreement
- The company has entered a new sector or jurisdiction but the reserved matters and governance provisions were not updated to reflect the new regulatory environment
- The valuation of the company has changed dramatically but the price mechanisms in the agreement are still based on the company's original scale
- A co-founder has reduced their day-to-day involvement but there is no good leaver/bad leaver provision in the agreement to address this

Conclusion

A shareholders' agreement is far more than a legal formality, it is the backbone of a company's governance, investor relationships, and long-term stability. Poorly drafted or outdated agreements create uncertainty, enable disputes, and can derail exits or business decisions at the worst possible moment. If your company has more than one shareholder and you have not reviewed your shareholders' agreement in the last 18 months, the time to act is now. The cost of getting it right is a small fraction of the cost of getting it wrong

Please note that the contents of this article are for general guidance on the Subject Matter. It is NOT legal advice.

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Colin Egemonye

Partner

T: (+234) 0201 291 7913

E: colin@goldsmithsllp.com



Shola Adekunle

Senior Associate

T: (+234) 0201 291 7913

E: shola@goldsmithsllp.com



Uzoamaka Ugoh

Senior Associate

T: (+234) 0201 291 7913

E: uzoamaka@goldsmithsllp.com