

Shareholders' Agreements in Nigeria: Why Every Company Needs One

Many Nigerian businesses are formed among friends, family members, or strategic investors with shared enthusiasm and vision. However, when disputes arise over control, profit distribution, or exit rights, the absence of clear contractual arrangements often leads to costly litigation. A shareholders' agreement is one of the most important legal safeguards for any company with more than one shareholder. This article explains what a shareholders' agreement is, why it is essential under Nigerian law, and the key provisions every company should consider.

What Is a Shareholders' Agreement?

A shareholders' agreement is a private contract between the shareholders of a company that regulates:

- Ownership structure
- Management and control
- Voting rights
- Profit distribution
- Exit mechanisms
- Dispute resolution procedures

While a company's affairs are generally governed by its Articles of Association under the Companies and Allied Matters Act 2020 (CAMA), a shareholders' agreement goes further by setting out detailed commercial understandings that may not appear in public corporate documents.

Why a Shareholders' Agreement Is Critical

1. Prevents Internal Disputes

Clear rules on decision-making, profit sharing, and responsibilities reduce ambiguity and potential conflict.

2. Protects Minority Shareholders

Minority investors are particularly vulnerable in closely held companies. A shareholders' agreement may include protections such as:

- Reserved matters requiring special approval
- Tag-along rights
- Information rights

3. Regulates Exit and Transfer of Shares

Without structured exit clauses, shareholders may transfer shares to undesirable third parties.

Common protective mechanisms include:

- Right of first refusal
- Drag-along rights
- Tag-along rights
- Buy-out provisions

4. Provides Dispute Resolution Mechanisms

The agreement can specify mediation, arbitration, or other dispute resolution mechanisms instead of prolonged court litigation.

Shareholders' Agreement vs Articles of Association

Although both documents regulate company affairs, they differ significantly:

Articles of Association	Shareholders' Agreement
Public document filed with CAC	Private contractual document
Binds the company and members	Binds only the contracting parties
Binds only the contracting parties	More flexible to negotiate
Basic governance structure	Detailed commercial arrangements

In practice, both documents should be harmonized to avoid inconsistencies.



Key Clauses Every Shareholders' Agreement Should Contain

A well-drafted shareholders' agreement typically includes:

1. Shareholding Structure

Defines percentage ownership and capital contributions.

2. Management and Board Composition

Specifies how directors are appointed and removed.

3. Reserved Matters

List decisions requiring special approval (e.g., major borrowing, sale of assets, merger).

4. Dividend Policy

Clarifies how and when profits are distributed.

5. Transfer Restrictions

Prevents uncontrolled share transfers.

6. Exit Provisions

Regulates voluntary and involuntary exits.

7. Deadlock Resolution

Provides mechanisms for resolving stalemates between equal shareholders.

8. Confidentiality and Non-Compete Clauses

Protects business interests against internal misuse.

When Should a Company Execute a Shareholders' Agreement?

Ideally:

- At incorporation (where there are multiple founders)
- Before admitting investors
- During venture capital or private equity funding
- When restructuring ownership

Waiting until a dispute arises is usually too late.

Legal Enforceability in Nigeria

Under Nigerian law, a shareholders' agreement is enforceable as a contract provided it complies with:

- The Companies and Allied Matters Act 2020
- General principles of contract law
- Public policy considerations

Courts generally uphold clear contractual arrangements unless they contradict statutory provisions or the company's Articles.

Risks of Operating Without One

Companies without shareholders' agreements often face:

- Founder disputes
- Share dilution conflicts
- Board control battles
- Deadlock in decision-making
- Costly litigation

Many corporate breakdowns are not due to business failure but governance failure.

Conclusion

A shareholders' agreement is not a luxury document; it is a governance necessity. For startups, family businesses, joint ventures, and investor-backed companies, it provides clarity, structure, and legal protection. Proactive corporate structuring today prevents costly disputes tomorrow.