

ANNEX 2

EXAMPLE OF A SHAREHOLDERS' AGREEMENT¹

The undersigned:

- Company AAAA, with paid-in capital of _____, the headquarters in _____, the trade register number _____, fiscal registration number _____, represented by its Director _____.

(further companies)

Hereinafter called

« The Shareholders or the Parties »

THE FOLLOWING WAS DISCUSSED AND AGREED:

- The Parties of the present pact have constituted a _____ (*insert legal structure*) named « _____ » of which they are the founding Shareholders.
- « _____ » aims at: *(for example)*

1.

- Organizing joint participation in trade fairs and exhibitions and launching joint promotional activities;
- Conducting market research and research on the economic environment;
- Conducting research on logistics;
- Creating, promoting and managing a website as well as its development towards e-commerce;
- Creating training programmes;
- Undertaking lobbying activities;
- Creating a review of industry-related publications;
- Creating networks;
- Studying the possibilities of joint purchase and sales;
- Studying jointly the logistics of traditional sales and joint orders as well as all related activities.

2. Direct or indirect participation of the consortium in all industrial, business or financial operations or activities in _____ (*home country*) or abroad that are linked directly or indirectly to the corporate object.

- Having taken the nature of the consortium's activities and of its founding Shareholders into consideration, the Parties have defined the rules regulating their relations.

¹ Adapted from UNIDO (2002).

HAVING STATED THIS, THE FOLLOWING HAS BEEN AGREED:

1. DEFINITIONS

The terms used in this Shareholders' Agreement which are capitalised have the following meaning:

«**Shareholders or Parties**» : refers to the undersigned as well as to the persons that subsequently adhere to the present Agreement.

«**Representative**» : refers to a person appointed by a Shareholder. At any moment, a new Representative may be designated by means of a simple notification to the Chairman of the Board by registered letter with acknowledgement of receipt.

«**Transfer**» refers to all legal operations with the aim and/or the effect of transferring property directly or indirectly such as sale, trade, donation, liquidation, succession, contribution or transmission.

«**Title**» refers to all movable property granting, directly or indirectly, right to the capital of the consortium.

2. CAPITAL STRUCTURE:

The company's capital, initially amounting to _____, is entirely registered and paid-up.

The capital is distributed equally among the ___ Shareholders. This distribution must be upheld in case of the increase or decrease of capital with the exception of failure of a Shareholder.

3. INCREASE IN CAPITAL:

In case a Shareholder does not participate in the increase of capital agreed upon by the Extraordinary Meeting, and after a formal notice of the Chairman of the Board, the General Meeting may exclude the Shareholder who has failed to meet his obligations.

4. BOARD OF DIRECTORS :

The Board of Directors is made up of a Representative of each Shareholder.

5. CHAIRMAN OF THE BOARD - EXECUTIVE DIRECTOR:

The Chairman of the Board will be chosen among the Shareholders for a period of one year. Each year, the Board of Directors will designate a new Chairman of the Board.

The Executive Director of the consortium will be chosen externally. In exceptional cases, one of the Shareholders may be designated for this position by the Board of Directors for a limited period.

A deputy Executive Director can be chosen externally. In exceptional cases, one of the Shareholders may be designated for this position by the Board of Directors for a limited period.

5.1 President:

The President will be chosen among the Shareholders. His mandate is for a period of three years with the possibility of extension. Each year, the Board of Directors will validate the extension of his mandate.

6. NON COMPETITION:

Each Shareholder commits to refrain from competing directly or indirectly with another Shareholder of the consortium while he is a Shareholder of the consortium.

7. DEVELOPMENT AND PROMOTION OF THE CONSORTIUM :

Each Shareholder commits to doing everything within his power to develop and promote the consortium on all levels.

8. TRANSFER OF SHARES – NEW SHAREHOLDERS :

The Shareholders may not sell their shares before a period of five (5) years has elapsed from the signing of this Agreement.

The sale of shares to a third non-competing Party must be authorised by Shareholders representing three-fourths of the consortium's capital.

No new participation of a direct or indirect competitor in the consortium, be it through purchase of shares or an increase in the capital, will be authorised without the unanimous Agreement of the Shareholders.

The consortium may nevertheless accept new members that are not Shareholders but may make use of certain services rendered by the consortium.

9. DURATION

The present Agreement will come into force starting on the day it is signed and will be effective throughout the life of the consortium.

10. ADHESION TO THE SHAREHOLDERS' AGREEMENT

No Shareholder may sell his Titles, including in cases where the Transfer has been authorised by the other Shareholders or is effected in accordance with the present provisions, without that the beneficiary of this Transfer has signed the present Shareholders' Agreement.

11. CONFIDENTIALITY

The Parties will agree on the content and the means of the information they wish to convey to third parties concerning the present Agreement and its implementation. The Party/the Parties taking the initiative, without the consent of the other Parties, to reveal the existence of the present document, will bear the consequences.

12. LAW AND JURISDICTION

- (a) The present contract will be subject to _____ (*country*) law.
- (b) The Shareholders agree that all disputes which may arise in relation to the interpretation and the implementation of the present contract will be submitted to an arbitrator chosen by common agreement before being submitted to court

This arbitrator will attempt to settle the dispute submitted to him by finding an amicable agreement within three (3) months of submission of the case.

In the case an amicable agreement cannot be found within the timeframe specified above, as well as in the case that an arbitrator cannot be designated, the Shareholders agree to submit the dispute to three arbitrators designated and ruled by the _____ (*country*) arbitration regulation.

Each Party will assume his own arbitration expenses.

The judgement is binding and irrevocable.

13. INVALIDITY OF AN ARRANGEMENT

The invalidity of one of the obligations resulting from the present document, for what ever reason, will not affect the validity of the other obligations resulting from the Shareholders' Agreement, what ever they may be, for as long as the Shareholders' Agreement stays in force.

14. NON-RENUNCIATION OF BENEFITS

The partial or total lack of exercising any one of the agreements resulting from this contract by one of the Parties does not imply renouncing the benefits of this right or of any other right resulting from the present Agreement in the future.

15. SUCCESSORS

The arrangements of the present Agreement will benefit and apply to the heirs, successors and entitled parties of the undersigned. The legal representatives, successors, heirs and entitled parties of the undersigned are jointly held to respect the present Agreement.

IN WITNESS THAT THE PARTIES HAVE SIGNED TEN ORIGINAL COPIES OF THE PRESENT AGREEMENT

_____ (*city, date*)

Company _____
Represented by its Director General _____

(further companies)