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INTRODUCTION

Purpose and currency of checklist. This checklist is designed to be used with the CLIENT IDENTIFICATION, VERIFICATION, AND SOURCE OF MONEY (A-1), CLIENT FILE OPENING AND CLOSING (A-2), and SHAREHOLDERS' AGREEMENT DRAFTING (B-7) checklists. It deals with companies governed by the British Columbia *Business Corporations Act*, S.B.C. 2002, c. 57 (the "*BCA*"). This checklist is current to September 1, 2023.

A shareholders' agreement will change the dynamics among the shareholders of a company from those that exist under the basic corporate law. Majority shareholders should understand they will likely give up rights and powers they would have as the majority controlling the right to elect a majority of the board of directors. Minority shareholders will, in most cases, gain rights and powers they would not otherwise have as minority shareholders, provided that they too may give up or waive certain statutory rights that they would otherwise have. The majority should appreciate that their power as a majority could be effectively lost if, for example, they commit to allowing the board of directors to be composed of a majority of parties who do not comprise the majority of shareholders. Since the overall philosophy of a shareholders' agreement is to create a different balance of rights and obligations from that which would exist under the corporate law without such an agreement, the lawyers involved should carefully weigh the rights gained with those given up by their clients in such an agreement. Further, the business understanding among the shareholders should be thoroughly understood so that it is properly reflected in the agreement and in the relative shareholdings among the shareholders.

New developments:

- **Enhanced scrutiny under the *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.).** On April 18, 2020, in response to COVID-19, the Minister of Innovation, Science and Industry announced a new policy under which the Government of Canada will subject certain foreign investments to additional scrutiny. The policy targets foreign investments in Canadian businesses that are related to public health or involved in the supply of critical goods and services. See the full policy statement at https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/ministerial-statements/policy-statement-foreign-investment-review-and-covid-19.

- **Electronic meetings.** On May 20, 2021, the majority of the provisions of the *Finance Statutes Amendment Act (No. 2), 2021*, S.B.C. 2021, c. 14 came into effect by royal assent. The Act amends the *BCA* as well as the *Cooperative Association Act*, S.B.C. 1999, c. 28; *Financial Institutions Act*, R.S.B.C. 1996, c. 141; and *Societies Act*, S.B.C. 2015, c. 18 to expressly permit virtual AGMs and board meetings. The legislation now provides that, unless the memorandum or articles provide otherwise, a company may hold its AGM by telephone or other communications medium if all shareholders and proxy holders attending the meeting are "able to participate in it". This replaces the previous requirement that shareholders and proxy holders be "able to communicate with each other". The rules further provide that if a company holds a meeting of shareholders that is an electronic meeting, the company must "permit and facilitate participation in the meeting". Companies should consider whether they may want to require in-person meetings (which will now require an explicit restriction on holding an AGM by telephone or other communications medium in the company's articles).

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• **Removing oneself as a director.** Effective May 4, 2023, a person who claims not to be a director but who is recorded as a director in a company's notice of articles may, on notice to the company, apply to the registrar for the removal of their name and address from the company's notice of articles (*BCA*, s. 127.1, as amended B.C. Reg. 114/2023). On application, the registrar must alter the company's notice of articles if the applicant provides satisfactory proof that they are not a director of the company, and the company failed to file a notice of change of directors with the registrar.					
• **Revocability of a shotgun offer.** In *Blackmore Management Inc. v. Carmanah Management Corp.*, 2022 BCCA 117, supplementary reasons 2022 BCCA 235, the court applied the principles of contractual interpretation to a shotgun clause in a shareholders' agreement. The court reversed the trial decision and held that an offer made under a shotgun clause will not be irrevocable in the absence of express language in the agreement to the contrary. Revocability is an important consideration in the drafting of shotgun clauses. These clauses are typically included in shareholders' agreements to provide the parties with a dispute resolution mechanism that will result in one shareholder selling its shares to the other shareholder at a price that is determined under a construct that promotes fairness. This is achieved by the triggering party making two offers: one offer to buy the shares of the other shareholder at a specified price, and a second offer to sell the triggering party's shares to the other shareholder at the same price per share. To achieve the intended result of a shotgun mechanism, typically the offer must be irrevocable. Consistent with this notion, the court concluded that it would be inconsistent with the purpose of shotgun clauses if parties could revoke an offer they have come to regret. As a result of this decision, in the atypical situation where the parties intend for a shotgun offer to be revocable, this intention should be expressly set out in the agreement. In all other circumstances, it is best practice to expressly state that the offer is irrevocable. Note that the Court of Appeal granted a stay of its order pending an application for leave to the Supreme Court of Canada; counsel should stay apprised of further updates.					
• ***Arbitration Act.*** The *Arbitration Act*, S.B.C. 2020, c. 2, came into force on September 1, 2020. It is strongly recommended that practitioners review the new legislation prior to drafting or revising arbitration clauses in agreements.					
• **Transparency register.** The operative provisions of the *Business Corporations Amendment Act, 2019,* S.B.C. 2019, c. 15 came into force on October 1, 2020 (B.C. Reg. 77/2020). The Act requires private companies incorporated under the *BCA* to create and maintain a "transparency register" of information about "significant individuals". Individuals will be considered "significant individuals" if: they directly or indirectly own, or indirectly control 25% or more of the issued shares of the company, or shares that carry 25% or more of the voting rights of the company; or they are able to exercise rights or influence, directly or indirectly, that would result in the election, appointment or removal of the majority of the company's directors. If two or more individuals meet the above criteria by jointly holding the prescribed interest or right, then each will be deemed a "significant individual". Similarly, two or more individuals who are acting in concert, or who meet the definition of "associate" in s. 192(1) of the *BCA*, must add their interests together. If the group meets the above criteria, the company must list every member of the group as significant individuals in its transparency register. The transparency register must contain the following information for each significant individual: full name, date of birth, and last known address; whether the individual is a Canadian citizen or permanent resident of Canada and, if not, a list of every country of which the individual is a citizen; whether the individual is a resident of Canada for tax purposes; the					

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date on which the individual became or ceased to be a significant individual; a description of how the individual meets the definition of a significant individual; and any further information that may be required by regulation. Access more information at www2.gov.bc.ca/gov/content/employment-business/business/bc-companies/transparency-register. Bill 20, known as the *Business Corporations Amendment Act*, will introduce a new corporate transparency registry and transparency requirements by 2025.					
• **Benefit companies.** The legislation governing benefit companies came into force on June 30, 2020 with changes to the *BCA*. A benefit company is a for-profit company that conducts business in a sustainable and responsible manner, while promoting one or more public benefits. For more information on benefit companies, see Part 2.3 of the *BCA*.					
• ***Canada Business Corporations Act.*** Amendments to the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 ("*CBCA*"), which took effect August 31, 2022, require distributing corporations (generally only public companies which are governed under the *CBCA*) to comply with new requirements with respect to the election of directors. Note the amendments in s. 106 of the *CBCA*, with respect to "majority voting" and "individual election" requirements. Accordingly, if a *CBCA* company is being incorporated, and particularly if it may become a reporting issuer, particular attention should be given to the company's articles with respect to electing and appointing its directors. On June 23, 2022 *CBCA* amendments received royal assent that will require private *CBCA* corporations to report beneficial ownership information to Corporations Canada on a regular basis. Bill C-42 now presents a second series of amendments to the *CBCA*, proposing further corporate transparency and accountability by making certain information public within the individuals with significant control ("ISC") register. Under the proposed amendments, the name, residential address, date of birth, and citizenship of each ISC would require inclusion in the register.					
• **MRAS.** The Multi-Jurisdictional Registry Access Service (the "MRAS") was introduced on June 29, 2020. The MRAS allows for the sharing of information under the New West Partnership Trade Agreement (the "NWPTA"). Extraprovincial registration (or cancellation thereof) under the NWPTA is no longer made through the home jurisdiction; it must now be made through each extraprovincial jurisdiction. For instance, prior to June 29, 2020, when a British Columbia company wanted to be extraprovincially registered in Alberta, the filing was made through BC Online. Now, the extraprovincial filing must be made through the Alberta Corporate Registry.					
• **Manitoba joins NWPTA.** Pursuant to the *Trade, Investment and Labour Mobility Agreement Implementation Act*, S.B.C. 2008, c. 39 (the "*TILMA Act*"), the Extraprovincial Companies and Foreign Entities from a Designated Province Regulation, B.C. Reg. 88/2009, and by operation of the NWPTA, an enterprise meeting the requirements of any of the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba are deemed to meet the requirements of the other participating provinces. This eliminates the requirement by British Columbia companies extraprovincially registered in those provinces to make separate filings there for annual returns or changes of directors (it does not eliminate the need for extraprovincial registration).For information about corporate registry procedures pursuant to the NWPTA, visit the NWPTA page on the Corporate Registry website at www.bcregistryservices.gov.bc.ca.					
• ***Competition Act.*** Amendments to the *Competition Act*, R.S.C. 1985, c. C-34, effective June 23, 2023 include provisions prohibiting agreements for mutual conduct to not hire or solicit each other's employees.					

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Of note: • **Aboriginal law.** Special considerations apply to businesses involving Indigenous persons and lands belonging to First Nations. While significant tax and other advantages may be available under the *Indian Act*, R.S.C. 1985, c. I-5, such advantages are affected by the following: the type of business; transaction nature; business entity (sole proprietorship, partnership, joint venture, trust, or incorporated company); location of business activity (either on or off First Nations lands); and the specific First Nation and its applicable governance. Effective May 11, 2023, the *Budget Measures Implementation Act, 2023* came into force, amending the *Treaty First Nation Taxation Act*, S.B.C 2007, c. 38, and the *Nisga'a Final Agreement Act*, S.B.C. 1999, c. 2. These legislative amendments allow taxing treaty First Nations and the Nisga'a nation, respectively, to implement tax exemptions for property on their lands. Businesses engaging in activities on First Nations lands, lands subject to treaty rights, or lands over which there are claims of Aboriginal rights or title are strongly encouraged to familiarize themselves with applicable laws and policies. Consider seeking the advice of a lawyer who has experience in Aboriginal law matters. Further information on Aboriginal law issues is available on the "Aboriginal Law" page on the "Practice Areas" section of the Continuing Legal Education Society of British Columbia website (www.cle.bc.ca) and in other CLEBC publications. See also *Negotiating & Structuring Business Transactions with First Nations 2011* (CLEBC, 2011) as well as M.J. MacDonald, "First Nations Partnerships", in *Working with Partnerships 2016* (CLEBC, 2016), available through CLEBC Courses on Demand. • **Money laundering—companies, trusts, and other entities.** The prevalence of money laundering in British Columbia (particularly in the area of real estate) continues to be a concern. The provincial government established the Commission of Inquiry into Money Laundering in British Columbia, which was led by Austin Cullen J. as the commissioner. The Cullen Commission's final report was publicly released on June 15, 2022. For more information on the Cullen Commission, and the link to the full report, see LAW SOCIETY NOTABLE UPDATES LIST (A-3). In addition, consult the Law Society's resources related to anti-money laundering: www.lawsociety.bc.ca/priorities/anti-money-laundering/. As a means of laundering money, criminals use ordinary legal instruments, (such as shell and numbered companies, bare trusts, and nominees) in the attempt to disguise the true owners of real property, the beneficial owners. These efforts can be hard to detect. As such, lawyers must assess the facts and context of the proposed retainer and financial transactions. Lawyers should be aware of red flags, and if a lawyer has doubts or suspicions about whether they could be assisting in any dishonesty, crime, or fraud, they should make enough inquiries to determine whether it is appropriate to act (*BC Code* rules 3.2-7 and 3.2-8 and Law Society Rules 3-103(4), 3-109, and 3-110). See the resources on the Law Society's Client ID & Verification resources webpage such as the Source of Money FAQs, Risk Assessment Case Studies for the Legal Profession in the context of real estate, trusts, and companies, and the Red Flags Quick Reference Guide. Also see the Risk Advisories for the Legal Profession regarding real estate, shell corporations, private lending, trusts, and litigation; "Forming Companies and Other Structures—Managing the Risk" (*Benchers' Bulletin*, Spring 2021); and the Discipline Advisories including country/geographic risk					

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and private lending. Lawyers may contact a Law Society practice advisor at practiceadvice@lsbc.org for a consultation about the applicable *BC Code* rules and Law Society Rules and obtain guidance.

- **Tax alert.** As some aspects of a shareholders' agreement may have significant tax implications for the parties, it is recommended the parties seek advice from their respective tax advisors.
- **COVID-19 pandemic.** Counsel should keep apprised of developments related to COVID-19 (and response measures) that may affect transactions. Note that:
  - The Land Title Survey Authority will retire temporary COVID-19 practice changes under the *Land Title Act*, R.S.B.C. 1996, c. 250 on September 30, 2023, which include remote witnessing of affidavits for use in land title applications. Further information may be accessed here.
  - Counsel conducting due diligence searches must be mindful of the impact of the COVID-19 pandemic on the due diligence process. Response times for search requests may be delayed, and accordingly, such delays should be accounted for in the due diligence timeline. Counsel should be aware that search results may not disclose certain actions, fines, levies, or administrative penalties that have been delayed but are otherwise permitted to be filed or issued beyond the typical limitation period.
- **Additional resources.** For more information about shareholders' agreement procedures, see the *British Columbia Company Law Practice Manual*, 2nd ed. (CLEBC, 2003–); *Company Law Deskbook* (CLEBC, 2006–); and *Advising British Columbia Businesses* (CLEBC, 2006–).
- **Law Society of British Columbia.** For changes to the Law Society Rules and other Law Society updates and issues "of note", see LAW SOCIETY NOTABLE UPDATES LIST (A-3).

CONTENTS

CHECKLIST

1. INITIAL CONTACT

1.1 Arrange the initial interview.

1.2 Ask the client to bring to the initial interview all relevant information, such as incorporation documents, notice of articles and articles, financial information, and any existing agreements to which the company or the shareholders are party (particularly if the company is already in existence).

1.3 Conduct a conflict of interest check and refer to the CLIENT FILE OPENING AND CLOSING (A-2) checklist.

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1.4 Confirm compliance with Law Society Rules 3-98 to 3-110 for client identification and verification and the source of money for financial transactions, and complete the CLIENT IDENTIFICATION, VERIFICATION, AND SOURCE OF MONEY (A-1) checklist. Consider periodic monitoring requirements (Law Society Rule 3-110).					
1.5 Know your client, understand the client's financial dealings in relation to the retainer and manage any risks arising from your professional business relationship. Criminals sometimes use corporations and trusts to facilitate complex money laundering schemes. Consult the LAW SOCIETY NOTABLE UPDATES LIST (A-3) for resources to assist you in combatting money laundering, and in particular, note the risk advisory for shell corporations and case studies with respect to the creation and management of trusts and companies. Consider the *Code of Professional Conduct for British Columbia* (the "*BC Code*"), rules 3.2-7 to 3.2-8 and their commentaries and Law Society Rules 3-109 and 3-110.					
2. INITIAL INTERVIEW					
2.1 Discuss the terms of your retainer and the calculation of your fee. Refer to the CLIENT FILE OPENING AND CLOSING (A-2) checklist. Clarify your role and that of other advisors to the client. Make it clear for whom you are acting. The determination of who you will be acting for requires careful consideration. If you will be retained by more than one shareholder of the company, comply with *BC Code* rules 3.4-5 to 3.4-9, and refer to item 2.4 in the CLIENT FILE OPENING AND CLOSING (A-2) checklist. It would rarely be possible to act for all shareholders jointly in settling a shareholders' agreement and be in compliance with *BC Code* rule 3.4-5. Since all of the parties to the agreement will not have the same interests, the usual way to proceed is to act for one party (or more than one if it is reasonably determined that they have the same interests) and urge the others, in writing, to seek independent legal representation (*BC Code*, rule 7.2-9).					
2.2 Discuss the background of the parties and their relationship, including their relative ages, the relative importance of the parties to the business of the company and their respective financial positions, the business of the company, the general nature of the proposed agreement as your client understands it, and your client's objectives and expectations.					
2.3 If the company has not been incorporated:					
.1 Find out who will be drawing up the incorporation documents. If you are instructed to handle the incorporation, refer to the INCORPORATION—BUSINESS CORPORATIONS ACT PROCEDURE (B-5) checklist.					
.2 If the company is to be a party to the shareholders' agreement, consider the need for a pre-incorporation agreement whereby the parties covenant to cause the company to enter into the agreement when it is incorporated.					
2.4 Review and discuss the notice of articles and articles (or proposed notice of articles and articles), including matters such as:					
.1 The fact that, without a shareholders' agreement, the company is managed pursuant to the *BCA* and the articles. Consider how this differs from what the client proposes.					
.2 Whether it is preferable to include certain provisions in the articles or in the shareholders' agreement, bearing in mind such considerations as:					

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(a) Amendment procedures in each case. For example, the *BCA* may provide a minimum level of shareholder approval for certain matters, which could be increased to unanimous approval in a shareholders' agreement or possibly the articles.					
(b) The effect of the provision in *BCA*, s. 136, that directors are obliged to manage, subject to the articles (i.e., if it is proposed that the directors' powers be transferred pursuant to s. 137, this must be done in the articles).					
.3 Whether the articles raise any problems with respect to provisions that might be included in the shareholders' agreement. For example, a pre-existing company is subject to restrictions on the allotment and purchase or redemption of shares, unless it has amended its articles to remove the pre-existing company provisions. Also, the pre-existing company provisions specify that a special resolution requires a 3/4 majority of those entitled to vote. Such restrictions do not apply to a company incorporated under the *BCA*, so it may be desirable to add this to a shareholders' agreement. In addition, there are a number of provisions that must be in the articles to be effective (e.g., if it is proposed that the company buy back or redeem its own shares, ensure that it has authority under its articles to do so, and specify whether it must be done on a pro rata basis).					
2.5 If you are representing a minority shareholder, ensure that they are protected as much as is consistent with the interests of the parties and efficient management (and vice versa with respect to a majority shareholder).					
2.6 Discuss in detail the proposed agreement, referring to the clauses set out in the SHAREHOLDERS' AGREEMENT DRAFTING (B-7) checklist. Include points such as:					
.1 Management of the company and the role of the shareholders:					
(a) In general, who are the directors and employees, who has banking authority, who is responsible for day-to-day management, and how are major decisions made under the *BCA*?					
(b) If there is a corporate shareholder, how will it be represented, and what will be the effect of various circumstances such as the death of the representative or a change of corporate control?					
(c) Will all shareholders be and remain actively involved in management? If your client is not going to be actively involved, advise your client to keep informed of financial affairs. Consider the desirability of your client being a signing officer for banking purposes or the inclusion of certain reporting requirements and audit rights.					
(d) Will your client be an officer or director? If so, advise regarding duties and potential liability. The potential liability of directors is an evolving area of law and care should be taken to ensure your client is made aware of their duties. Consider whether the company will obtain directors' and officers' liability insurance.					
(e) Will your client be an employee of the company? If so, consider the need for a separate employment contract (possibly tied to the shareholders' agreement) or for employment clauses in the agreement.					

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(f) Consider s. 137 of the *BCA*, which permits the articles to transfer the directors' powers to manage to one or more persons. Consider incorporating provisions in the articles transferring power to manage to shareholders, then deal with management in the shareholders' agreement.					
(g) Consider how to balance the need for protecting minority rights against the discretion of the directors to manage. Consider how to avoid deadlocks, and whether to increase the minimum level of shareholder approval, if any, required under the *BCA* for decisions on certain matters.					
.2 Financing:					
(a) In general, consider how much money is needed for the proposed venture; for what purposes is it to be spent (on what, how much, when); how the company is going to be financed; what the composition of the share capital will be; if shareholders put money or other assets or contributions into the company by share subscription or by way of loan, and on what terms (including any security), will shareholders be required to make contributions in certain circumstances (e.g., majority decision of directors, or a major decision of shareholders requiring a specified majority); how shareholders will have their investment returned.					
(b) If the client has not already done so, advise the client to discuss financing issues with a financial advisor (e.g., the prospective accountant/auditor).					
(c) Consider advising your client to meet with the other parties and draw up a *pro forma* budget. This might be attached to the shareholders' agreement as a statement of intention.					
(d) Discuss methods by which shareholders can get a return from the company (e.g., salary, interest payments on loans, repayment of loans, dividends).					
.3 Restrictions on transfer of shares and pre-emptive rights:					
(a) In general, whether there are to be any restrictions on transfers of shares and, if so, in what circumstances and why such restrictions are needed, particularly to qualify for the private issuer exemption under the *Securities Act*, R.S.B.C. 1996, c. 418.					
(b) Advise regarding prohibitions on transfer of shares, and that restrictive clauses are likely to be narrowly construed.					
(c) Advise regarding rights of first refusal, whether such rights are triggered by having received an offer or not; and drag-along and piggy-back rights (should the company or the other shareholders have the first right of purchase?).					
.4 Consequences of certain types of events:					
(a) In general, discuss various types of events that might occur, and the desired consequences. Determine whether the consequences will be optional or mandatory.					

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(b) Events to consider include: death, termination of employment, shareholder intentions to sell shareholdings, retirement, incapacity, bankruptcy, default under the shareholders' agreement or an employment contract, change in control of a corporate shareholder, application under the *Family Law Act*, S.B.C. 2011, c. 25, against a shareholder for a division of their shares in the capital of the company, etc.					
(c) Cover all circumstances in which a shareholder can force the company or the other shareholders to buy such shareholder out, and in which the company or other shareholders can force a shareholder to sell to it or them.					
(d) If the company has non-Canadian resident shareholders, consider the effect that any rights to acquire shares in favour of the non-resident shareholder(s) will have on the company's Canadian-controlled private corporation status, if applicable.					
.5 Where a sale to the company or the other shareholders is contemplated:					
(a) Is the sale to the company, the shareholders, or both, and, if it is to both, how will this be handled (e.g., priority, procedures, timing)?					
(b) How will the purchase be funded and paid?					
(c) What standard representations, warranties, covenants, etc. should be included in any purchase and sale transaction (e.g., title, no encumbrances)? Should there be standard terms relating to guarantees, closing arrangements, indebtedness, resignations, third-party approvals, non-competition clauses, restrictive covenants?					
.6 Valuation (calculation of purchase price, etc. in various circumstances, e.g., minority discount, control premium):					
(a) Values or methods for calculating values should be set out in the shareholders' agreement and should be practical, reasonable, and certain.					
(b) Advise the client to consult a chartered business valuator or an accountant for the most appropriate methods.					
.7 Mechanisms for dispute resolution (e.g., a "shotgun" or compulsory purchase clause, dissolution of the company, obligation to negotiate or mediate first, then arbitrate). Consider the appropriateness of the various mechanisms in light of financial resources of the parties and disparity in respective shareholdings.					
2.7 Advise regarding the tax consequences of the proposed provisions, or advise the client to get specialized tax advice (particularly with respect to provisions dealing with purchase of the interest of a deceased shareholder).					
2.8 Ensure that the proposed provisions are workable and reasonable in the circumstances.					
2.9 Where the client has not already done so, advise the client to discuss the various issues with the other parties and reach a satisfactory solution that will ensure continuing fairness to all parties, and to inform you of the results. Consider whether a term sheet setting out the high-level business terms is appropriate in the circumstances. A term sheet will assist the parties with ensuring that they have alignment on the key business terms in advance of drafting the definitive shareholders' agreement.					

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2.10 Get instructions to proceed with drafting the shareholders' agreement and, if appropriate, an employment contract.					
2.11 If you are not in a position to act, advise the client. Make a record of the advice given, and file your notes. Send a non-engagement letter (for samples, see the Law Society resource available at www.lawsociety.bc.ca/Website/media/Shared/docs/practice/resources/Ltrs-Non Engagement.pdf (PDF).					
3. AFTER THE INITIAL INTERVIEW					
3.1 Confirm your retainer. Refer to the CLIENT FILE OPENING AND CLOSING (A-2) checklist.					
3.2 Confirm compliance with Law Society Rules 3-98 to 3-110 on client identification and verification (see item 1.4 in this checklist).					
3.3 If the client is a company, verify who has the authority to give instructions (*BC Code*, rule 3.2-3, Commentary [1]). Consider getting a directors' resolution confirming your retainer and giving one director or officer the authority to instruct you. Communicate with counsel representing the other parties that you are acting for your client. If other parties are unrepresented, urge them in writing to obtain independent legal representation. Make it clear to the other parties that you are not protecting their interests and that you are acting exclusively in the interests of your client: see *BC Code* rule 7.2-9.					
3.4 Conduct any relevant searches, including a company search for each corporate party and a detailed search (refer to item 3.5 of the ASSET PURCHASE PROCEDURE (B-1) checklist) where the company which is the subject of the agreement is already in business.					
3.5 Consider legislation in other relevant jurisdictions (e.g., where the company or any corporate party carries on or intends to carry on business).					
3.6 Open a document file and retain successive drafts of the agreement. Open a separate sub-file for each major document required in the matter.					
4. DRAFTING THE AGREEMENT					
4.1 Prepare an outline of the agreement, indicating the clauses from your precedent file which will be included (see the SHAREHOLDERS' AGREEMENT DRAFTING (B-7) checklist). Also prepare an outline of any other documents required, such as an employment contract.					
4.2 Prepare the first draft.					
4.3 Review the first draft, checking each segment to ensure that it achieves the client's objectives, and checking the document as a whole to ensure that it is internally consistent. Make necessary corrections and prepare the second draft.					
4.4 Go over the next draft(s) with the client or send to the client with a request that the client review it and note any changes or questions. Discuss changes or questions.					
4.5 Make any changes required to the second draft and send copies to the other parties or their solicitors for comment. Review any alterations with the client.					
4.6 After all drafts are reviewed and finalized, prepare the final agreement (and employment contract) and arrange for signing.					

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4.7 Prepare and execute resolutions of the directors of the company (and, if your client is a corporate shareholder, your client) approving the agreement and authorizing a director or officer to execute and deliver the agreement on behalf of the company (or your client, as the case may be).					
4.8 Ensure that each party receives an executed copy of the agreement. Arrange for the company's copy to be filed in its minute book in a section not accessible to the public.					
4.9 Place any required legends on share certificates.					
5. CLOSING THE FILE					
5.1 Prepare a reporting letter and account as soon as practicable after closing. Advise that changes in circumstances, legislation (e.g., tax law), insurance requirements, valuations (if applicable), etc. make it essential that the agreement be reviewed from time to time. Ascertain whether the client wishes to meet with you for this purpose from time to time and, if so, make entries in your diary and "BF" systems.					
5.2 Place a copy of the agreement in the company's minute book.					
5.3 If the agreement requires that the share certificates have a legend referring to the agreement, ensure that the legend is placed on the certificates.					
5.4 Close the file. See the CLIENT FILE OPENING AND CLOSING (A-2) checklist.					