

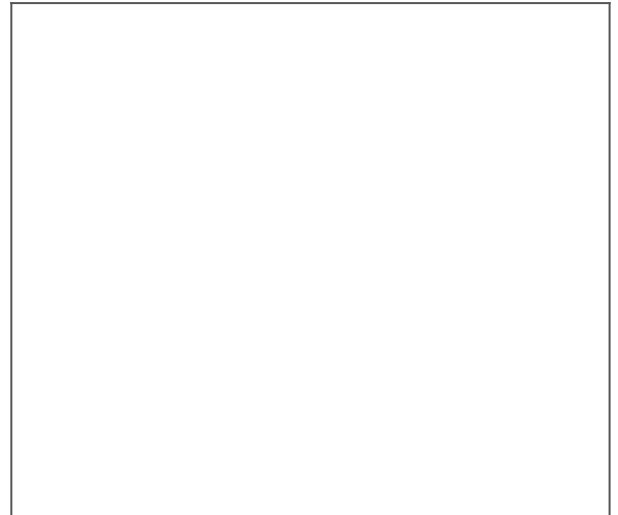
# The Unanimous Shareholder Agreement

**Authors: Drew Mitchell**

*published 02/24/2012*

A Unanimous Shareholder Agreement (a “USA”) is an agreement among all of the shareholders of a corporation which restricts, in whole or in part, the powers of the directors of a corporation to manage, or supervise the management of, the business and affairs of the corporation. The Supreme Court of Canada has described the effect of a USA as follows:

“Rather than removing the directors from their positions, a USA simply relieves them of their powers, rights, duties, and associated responsibilities. This may be accomplished without specific formality; all that is required appears to be some unanimous written expression of shareholder will. The result, however, amounts to a fundamental change in the management of the company...”



Typical provisions in a USA would include, but would not be limited to, the following:

1. imposing restrictions on the transfer of shares;
2. imposing restrictions on the issuance of shares;
3. setting out the types of decisions that require “special” or unanimous approval of shareholders;
4. setting out any insurance requirements for key individuals;
5. setting out a mechanism to deal with problems between shareholders (such as a shotgun provision);  
and
6. providing certain rights to minority shareholders (such as a tag-along provision).

Although there is time and cost involved in negotiating and preparing a USA, those shareholders who have avoided costly litigation or arbitration on account of a USA will attest to their usefulness. In fact, even the exercise of negotiating a USA will often provide individuals with insight into their fellow shareholders.

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