

# Evolution of Shareholders' Agreements

**Presented by:** Peter Moffatt  
November 28, 2017



# Introduction

---

- Overview
- Common elements
- Context

# Overview

---

- What is a shareholders' agreement?
- What is a unanimous shareholders' agreement?

# Common Elements

---

- Governance and control
- Dealing with shares
- Funding/Dispute resolution

# Common Elements – Governance and Control

---

- Rights to nominate directors
- Observer rights
- Protective provisions
- Compensation arrangements
- Variance to statutory requirements for directors' meetings and shareholders' meetings

# Common Elements – Dealing with Shares

---

- Restrictions on transfer (and permitted transfers)
- Pre-emptive rights (or right of first offer)
- Rights of first refusal
- Tag-along rights (or piggyback or co-sale rights)
- Drag-along rights
- Involuntary share transfers
- Put/call options
- Shotgun clauses

# Common Elements – Funding/Dispute Resolution

---

- Capital calls
- Mediation
- Arbitration
- Court

# Context

---

- Closely-held business
- Venture capital
- Subsidiary of foreign parent



## Context – Closely-held Business

---

- Succession planning
- Time commitment/duties
- More restrictive transfer provisions
- Right of first refusal
- Involuntary share transfers
- Shotgun

## Context – Venture Capital

---

- Senior share protective provisions
- Anti-dilution protections
- Board representation
- Information rights
- Redemption/liquidity provisions
- Key-person insurance
- Registration rights

# Context – Unanimous Shareholder Declaration

---

- Wholly-owned subsidiary can be subject to a shareholder agreement

# Evolution?

---

- Attracting U.S.-based investors
  - Voting Agreement
  - Right of First Refusal and Co-Sale Agreement
  - Investors' Rights Agreement
- Complex valuation methodology
- Creative buy/sell arrangements





**Questions?**



# Contact Us

---



T 416.865.6604



E [pmoffatt@grllp.com](mailto:pmoffatt@grllp.com)



W [grllp.com](http://grllp.com)



[@grllp](https://twitter.com/grllp)

