



Cross option agreement

Planning is key

Giving you a lot **more than just law...**

Cross option agreement

Introduction...

At some point a business may be confronted by the critical illness or death of one of its founders. One way of protecting a business in the event of a shareholding director's death or critical illness is for the shareholders to enter into cross option agreements supported by life insurance policies.

A cross option agreement gives the surviving shareholders the right (but not the obligation) to require the deceased shareholder's personal representatives to sell the shares to them (known as a "Call Option"). It also gives the personal representatives the right (but not the obligation) to require the surviving shareholders to buy the deceased shareholder's shares (known as a "Put Option"). By combining a Call Option with a Put Option in a single agreement each side has the option of 'forcing' a sale of the shares.

Cross option agreements should also oblige each party to insure their lives under a life assurance policy for a value which reflects the value of their shares. The proceeds of the policy should be held on a trust for the other shareholders who will be the beneficiaries. These proceeds provide the remaining shareholders with the cash to buy the shares of the deceased shareholder.

The cross option agreement should provide a mechanism for determining the price payable for the shares on the exercise of the option. By providing the price and terms of payment in advance a significant area of dispute is minimised.

The structure of the cross option is vitally important for taxation planning purposes. Important tax reliefs for both inheritance tax and capital gains tax can be lost if the documentation is not properly structured.

This introduction is intended to be general guidance about cross option agreements. It is not intended to be a substitute for legal advice. If you would like advice specific to your circumstances, please complete and return the form in accordance with the instructions below.

Please note the important points below:

- Our standard document is only drafted for use in respect of private companies, usually run by owner-managers.
- It is necessary to consider the company's articles of association and any other agreements between all or any of the shareholders prior to entering into the cross option agreement.
- Our standard document is designed to cater for the transfer of shares upon the death of the shareholders, not a terminal or critical illness.
- All of the shareholders in the company must enter into cross options.
- The shareholders are obliged to insure their lives under a life assurance policy.
- The consideration for the option shares of each shareholder should be equal to the proceeds of the life assurance policies put in place by that shareholder.
- The life assurance policy must be put in trust and a separate trust document will be necessary.
- We strongly recommend that tax advice is sought, especially on inheritance tax and capital gains tax. Matthew Arnold & Baldwin's Wealth Management Team can provide such tax advice if needed.

Simply fill out the form that follows:

Either print out the completed form and fax or post it back to our corporate team at our Watford office (please refer to the last page of this form for the fax and address details) or save the completed form to your computer and email it back to us at info@mablaw.co.uk

Cross option agreement

1 Are you an existing client?

Yes No

2 If no, where did you hear about us?

3 Personal information about you

Title

Mr Mrs Ms Miss Dr

Forename(s) in full

Surname

Address

Postcode

Please confirm that you are both a shareholder and director of the company

Yes No

4 Telephone

Home

Work

Mobile

5 Email address

6 Date of birth

7 Occupation

8 Is this form being filled out on your behalf?
(If no, go to question 9)

Yes No

Are you blind or physically infirm?

Yes No

Who is this form being filled out by?

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9 Company information

Company name

Company number

Company registered office address

Postcode

Total number of shares in issue

Are there different classes of shares?

 Yes No

If the answer to the above question is yes, please provide details

Nominal amount of each share, e.g. £1 or 1p shares (or other value)

10 Number of shares you hold

11 Value of shares held by you

12 Shareholder information

Please provide information about the other shareholders of the company. If there is more than one such other shareholder, please use the continuation sheet provided at the end of this questionnaire.

Title

 Mr Mrs Ms Miss Dr

Forename(s) in full

Surname

Address

Postcode

Please confirm that this person is both a shareholder and director of the company

 Yes No

Number of shares held by this shareholder

Value of shares held by this shareholder

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Shareholder continuation sheet

Please print out and complete as many continuation sheets as are necessary for the number of shareholders of the company.

Title

Mr Mrs Ms Miss Dr

Forename(s) in full

Surname

Address

Postcode

Please confirm that this person is both a shareholder and director of the company

Yes No

Number of shares held by this shareholder

Value of shares held by this shareholder

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Please use this page for any additional information or enquiries.

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The Corporate team...

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About us...

Matthew Arnold & Baldwin LLP are one of the leading commercial law firms in London and the South East with a network of offices along the M1 corridor. We have built our reputation on developing strong and successful business partnerships with clients, where trust, understanding and confidence are crucial to providing and taking advice. Central to our belief is providing you with the personal touch and the benefit of specifically tailored solutions to meet your exact needs.

For more information on our services and how we can help you please visit us at: www.mablaw.com

Matthew Arnold & Baldwin LLP is a limited liability partnership registered in England & Wales (registered number: OC343595) and regulated by the Solicitors Regulation Authority. A list of members of the LLP is open to inspection at the LLP's registered office: 21 Station Road, Watford, WD17 1HT, United Kingdom.

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