Swiss B Corps™ Working Group

Employee Ownership

Guidance

B Lab Switzerland 2023

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Acknowledgments

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Foreword

The Employee Ownership Guidance 2023 results from months-long collaboration with a group of Swiss B Corps. B Lab Switzerland thanks 23bis, B+G, Baabuk, Centre Assal Loyco, and Sigma Legal for their generous contributions in time and with their expertise, and the B Lab Switzerland Team for their relentless engagement: Emma Prouteau for the Loyco Case Study, and Giovana Bressan for the online Conference Series.
The project's genesis takes place in a growing desire from certified B Corps in Switzerland to explore alternative ownership modes, specifically employee-ownership governance models.

In the context of companies' transmission as a result of the baby boomers generation retiring, ensuring the continuity of the business while respecting its foundational values and empowering its most valuable asset - its employees - is becoming central for thousands of SMEs every year.

This Guidance aims to provide the reader with general knowledge of employee ownership (EO), such as the pros and cons of this governance structure, and the main EO models available in Switzerland. In addition, the Guidance supports the reader at the preliminary stage of their thinking process by offering a set of more than thirty questions across nine thematics. Getting through the questions will help them to fine-tune their vision for EO at their organisation, and to understand better the implications of the model and the milestones towards implementation.

Complementing the Guidance is a Case Study on Swiss B Corp Loyco, a service SME that integrated EO into its governance structure, a table of the main EO models in Switzerland, and templates of EO-related documents and contractual clauses.

Readers should be aware that the present Guidance serves informative purposes only. It does not substitute professional advice from employee-ownership model experts and practitioners. A list of trusted advisors is available in Chapter 4.

"*Adopting employee ownership models represents a powerful demonstration of the interdependence principle at the heart of the B Movement. It's a strategy that not only aligns with the emerging needs of our dynamic market but also embodies a commitment to shared values and sustainable practices.*
" Jonathan Normand, CEO - B Lab Switzerland

" *This approach empowers employees, ensuring business continuity, and fosters a deeper sense of community and responsibility. It is a testimony to how purpose-driven businesses can lead the way in creating a more inclusive and resilient economy.*"
Sébastien Chahidi, B Corp Certification SME Lead - B Lab Switzerland

Executive Summary

The private sector is at a critical juncture, facing significant changes in business ownership and values. In Switzerland, over one in six SMEs are seeking a buyer. Establishing an employee ownership structure not only sets the stage for a potential future buyout by employees but also resonates with the increasing desire of the workforce to align their work with personal values and purpose. Additionally, it contributes to financial stability and empowers employees with a voice in the company.

Context of Company Transmission

Switzerland is witnessing a demographic shift as numerous baby-boomer business owners near retirement in the next 6-10 years. This transition poses challenges and raises questions about the future of these businesses. Owners are considering various options, including selling to private equity firms or competitors or adopting employee ownership models. The latter option is gaining traction as a sustainable and inclusive method, aligning with the values of responsible businesses.

Advantages of Employee Ownership

Our Guidance delves into the varieties of employee ownership structures, highlighting their benefits and risks. Employee ownership aligns interests, boosts engagement, and encourages sustainable business practices. It presents an appealing succession plan for business owners and strengthens the company's sense of purpose and community.

Risks and Considerations

Despite its advantages, employee ownership presents challenges. Issues like ownership dilution and complex governance require careful handling. Employers must manage financial obligations and potential conflicts of interest, while employees may encounter financial risks, limited investment diversification, and restricted liquidity.

A Path Forward for Purpose-Driven Businesses

In an era characterised by massive changes, from poly-crisis market infrastructures to significant transitions in business models and evolving workforce expectations, certified B Corps stand ready to lead by example. Adopting employee ownership models empowers purpose-driven companies to sustain business continuity while reinforcing their commitment to shared values, social responsibility, and environmental stewardship. This Guidance provides essential insights and guidance for SMEs keen on exploring or commencing this transformative journey.

1. Getting Familiar With Employee Ownership

a. Introduction

Employee ownership is a concept that has gained increasing popularity among certified B Corps in Switzerland. This progressive approach involves granting employees access to a portion of the company's shares, thereby aligning their interests with the organisation's long-term success. In this Guidance, we will explore the advantages and risks associated with employee ownership, shedding light on its potential benefits for both businesses and their employees. By opening a dialogue on this topic, companies in Switzerland can foster a more inclusive and equitable business environment.

Definition

Employee Ownership (EO) "is where all employees have a 'significant and meaningful' stake in a business. This means employees must have both: i) a financial stake in the business (e.g. by owning shares), ii) a say in how it's run, known as 'employee engagement'"[1]. This means that a company is wholly or partially owned by its employees, in addition to the traditional owners like the founders, the investors, or the executives.

For the purpose of this Guidance, the authors will focus primarily on SMEs, in that small- and medium-sized enterprises represent the vast majority of the Swiss B Corp Movement and of the Swiss economic landscape.

Typologies

The ownership structures covered by the term "Employee Ownership" range across a vast constellation, from mere grants of company's shares to highly structured ownership plans.

Profit-Sharing vs. Fixed Remuneration: Within the spectrum of employee ownership models, you must decide whether to implement profit-sharing or fixed remuneration plans. Profit-sharing distributes a portion of company profits to employees based on performance metrics, fostering a direct link between their efforts and rewards. On the one hand, fixed remuneration involves employees receiving a predetermined share of the company's ownership, regardless of its profitability. Consider which model aligns best with your objectives and employee demographics.

Objectives

Broadly speaking, the objectives of setting up an Employee Ownership structure are typically to provide employees with a right to the profits of the company, and a voice in the

[1] Bucher Tax, *Participations de collaborateurs - un défi*, 30.03.2021, last viewed October 2023 (https://fr.bucher-tax.ch/blog/mitarbeiterbeteiligungen-eine-herausforderung).

decision-making process, as well as to participate actively in and benefit from the economic success of the company.

For the company, proposing ownership to employees often translates into more engagement, increased productivity, or longer tenures. For the employees, owning part of their company represents the opportunity to get more involved in the company's life and development.

b. Approaching Employee Ownership: Risks and Opportunities

Opportunities for Employers

From a company's perspective, more specifically in its role as an employer, setting up an employee ownership (EO) structure presents the first advantage of increasing employees' engagement levels[2]. Indeed, accessing the company's capital and benefiting directly from its business success creates a strong incentive to perform better. This translates into heightened productivity, innovation mindset, overall job satisfaction, and lower turnover rates. Externally, the company can capitalise on EO to attract talent and credibly position itself as an open-minded, forward-looking business[3].

Studies have shown that EO fosters a long-term perspective for the business, from both employees and employers[4]. In particular, they report a preference for decisions benefitting the company's resilience and future financial sustainability, such as investments into its workforce, its manufacturing capacity, or research and development to foster innovation, instead of short-term decisions favoring short-term gains.

Last, in the context of Switzerland's SME's transmission trend[5], EO can be used as an effective succession planning strategy. Founders and business owners can duly plan for their succession across a set number of years, gradually shifting ownership of the company to motivated employees familiar with the business and willing to lead it into a future chapter[6].

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[2] Employee Ownership Association, *Employee Ownership Benefits*, last viewed October 2023 (https://employeeownership.co.uk/what-is-employee-ownership/employee-ownership-benefits/#:~:text=Because%20they%27re%20co%2Downers,and%20retaining%20talented%2C%20committed%20staff).
[3] Purpose Economy, *Steward Ownership*. Last viewed September 2023 (https://purpose-economy.org/en/whats-steward-ownership/).
[4] Bhalla, A., Lampel, J. and Jha, P. P. (2012). *The Employee Ownership Advantage: Benefits and Consequences*. Department for Business, Innovation and Skills. Last viewed September 2023 (https://openaccess.city.ac.uk/id/eprint/16277/1/).
[5] DEFR, *Plus d'une PME sur six cherche un repreneur en Suisse*, 22.09.2021. Last viewed September 2023 (https://www.kmu.admin.ch/kmu/fr/home/actuel/news/2021/plus-d-une-pme-sur-six-cherche-un-repreneur-en-suisse.html).
[6] Le Temps, Relais, le blog de la transmission de PME | Le blog de Caroline Menard, *Que vont devenir les 70'000 entreprises suisses qui doivent changer de main dans les cinq prochaines années?*, 01.11.2018. Last viewed September 2023 (https://blogs.letemps.ch/caroline-menard/2018/11/01/que-vont-devenir-les-70000-entreprises-suisses-qui-doivent-changer-de-main-dans-les-cinq-prochaines-annees/).

Risks for Employers

The risks the Companies face when they set up and implement an employee ownership structure revolve primarily around governance organisation, and financial risks.

First, employers should carefully draft the blueprint for opening access to the company's capital. Bringing in additional shareholders can dilute the pre-existing shareholders' control in the company, thereby reducing their influence on its strategy and opening the door to more conflicts over decision-making. On the other hand, effectively accounting for the inputs and interests of a broader circle of shareholders can support the company in its stakeholder engagement efforts. In conclusion, the more the company can anticipate the issues related to the governance and embed principles of good governance in its EO structure, the more beneficial the new structure will be[7].

The company can also face financial challenges at every stage of the employee ownership journey. Granting access to the company's capital is a complex undertaking that can prove costly for numerous reasons. From the first idea to its concretisation, the company should consult with experts to ensure compliance with all regulations, and anticipate internal and external frictions. Mandatory notary fees for amendments to the commercial registry, internal capacity for project management, as well as stakeholder engagement and education all contribute to an increase in financial costs necessary to make employee ownership a reality. The employee-owners may also have to allocate part of their working time to inform themselves of the company's situation and participate in the decision-making process.

Opportunities for Employees

In a societal and professional context where employees are increasingly demanding to be aligned with the mission and values of their company[8], benefitting from the opportunity employee ownership can successfully fulfil that desire. Indeed, EO allows employees to be an integral part of the organisation, thereby giving them a voice to express their concerns and expertise, as well as levers to steer the company towards more alignment with their values. Provided that enough employees get involved in the company's decision-making, EO can also positively influence the company culture by making it more inclusive, and fostering a culture of trust and belonging[9].

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[7] BOD, *Governance in Employee-Owned Companies in the U.S. and the UK*, July 26, 2021. Last viewed September 2023 (https://www.bdo.com/insights/tax/governance-in-employee-owned-companies-in-the-u-s-and-the-uk).

[8] Gartner, *Employees Seek Personal Value and Purpose at Work. Be Prepared to Deliver*, March 29, 2023. Last viewed September 2023 (https://www.gartner.com/en/articles/employees-seek-personal-value-and-purpose-at-work-be-prepared-to-deliver#:~:text=Employees%20increasingly%20want%20to%20bring,will%20stay%20at%20their%20positions).

[9] Morgan Stanley At Work, *How to Create an Engaging Ownership Culture*. Last viewed September 2023 (https://www.morganstanley.com/atwork/articles/created-ownership-culture).

In addition to the idealistic aspect, the material benefits stemming from EO have been well-documented [10]. For instance, "employer stock tends to come on top of, rather than substitute for, regular employee compensation, thereby adding to pay and wealth in general"[11]. Owning and continuously acquiring shares also provides employees with the opportunity to accumulate wealth over time, and to directly profit from the company's financial successes. Different employee-ownership structures provide different exposure levels to the financial risks and rewards (see: Appendix A - Mapping Employee Ownership).

Risks for Employees

The first and most significant risk for employees pertains to financial risks. On the one hand, the value of their shares will evolve alongside the company's valuation, which is influenced by the business performance. Poor performance may translate into lower value, decreasing employee wealth. As long as the shares aren't sold, any profit or loss remains virtual, but it will materialise if the employee needs the cash value.

On the other hand, the frequency and duration of the time windows to buy or sell the company's shares influence the liquidity of their assets for the employees. A sudden need for financial resources outside these windows can prove challenging for the employee, who is unable to access their funds.

Last, as will be discussed below, it is essential for a company willing to open employee ownership opportunities to ensure proper financial education. From personal tax implications to advice in building a resilient financial portfolio - e.g. via a diverse assets allocation strategy or reducing the risks exposure -, employees shall feel empowered with all the information to make the critical decision to purchase company shares.

a. Comparing Employee Ownership Models

In Switzerland, employee ownership encompasses numerous structures, each with unique features and implications. This Guidance provides an overview of the topic of employee ownership at large. It is complemented by the "Comparison Table" (Appendix A), which offers a detailed view of two main categories of employee ownership, "profit-sharing" and "fixed remuneration", based on the requests and interests of the Swiss B Corp Community. The list below presents the types of employee ownership structures covered within these two categories, and Appendix A gives their respective pros and cons, typical features, tax treatments, and key considerations to keep in mind.

[10] Kruse, D., *Does employee ownership improve performance?*. IZA World of Labor 2022: 311 doi: 10.15185/izawol.311.v2. Last viewed September 2023 (https://wol.iza.org/articles/does-employee-ownership-improve-performance/long).
[11] *Ibid.*

Category 1: Profit-sharing

- Voting shares
- Options
- Non-voting shares (i.e. participation certificates, bons de participation)
- Profit participation certificates (bons de jouissance)
- Phantom shares (i.e. virtual shares)

Category 2: Fixed remuneration

- Debt instrument

2. Getting Started on Employee Ownership

In this chapter, we explore the general and specific considerations to assess to get started on the employee ownership journey. As more and more companies in Switzerland and abroad contemplate employee ownership as a model for their development, assessing its relevance to one's specific situation is a critical first step. It demands thoughtful consideration of the stakeholders, deep knowledge of the company and its industry, and sufficient time. In this chapter, we explore the key questions and factors to evaluate when choosing an employee ownership model.

Company Strategy & Objectives

- What drives your company's interest in EO as a structure for its future?
- What is your company aiming to achieve by opening its capital to its employees? Is it for internal (e.g. talent retention, employees engagement, succession planning) or external (e.g. talent acquisition, market positioning, social objectives) reasons?
- How does EO fit into your long-term company strategy, and how can it help the company meet its strategic goals?

Employee Ownership Model

- What are the specific Strengths, Weaknesses, Opportunities, and Risks of the different EO models for the company? What model best supports the operational realities and the strategy of the company?

Stakeholders Identification & Engagement

- Who are your internal and external stakeholders (e.g. existing owners, employees, investors), and what are their respective interests, aspirations, and concerns?
- How does employee ownership fit with your company culture and market positioning?
- On your company's workforce:
    - How interested are your workers to become owners of the company?
    - What are their demographics and current level of satisfaction vis-a-vis the company? What are the reasons for your attrition rate?

Financial Implications

- What are the financial and human resources implications of implementing an employee ownership structure? What may be the potential impacts on cash flow, profitability, and the company's overall financial health (e.g. employees' performance)?
- What is the methodology for shares allocated to employees?
- How will the EO plan be funded (e.g. shares contribution by the company, repurchasing shares from existing shareholders, lending to employees)?
    - Do your employees have the financial resources to invest in the company? If not, should your company implement a financial support mechanism?

- What is the strategy for profits or dividend distribution?

Governance Structure

- What will be the new governance structure of the company?
    - How will employees be represented on the Board of directors or other governing bodies?
    - How will the decision-making and voting process be structured?
    - Will there be different types of voting rights?
    - What conflicts are likely to arise? How does the company plan on solving the conflicts?
    - What sanctions can be inflicted in case of infringement of the rules?
- How will the company manage the transition period, for instance in terms of the pace of the ownership transfer?
- What are the requirements to acquire shares?

Shareholder Agreement

- What will be the rights and responsibilities of the shareholding employees?
- What updates are necessary to your existing Shareholders Agreement? Is it relevant to develop an Agreement applicable to all shareholding employees for uniformity and transparency?
- What are the conditions for selling or transferring shares for shareholding employees?
- What are the exit strategies (e.g. employees leaving the company, retirement)?

Workforce Education & Onboarding

- What is the level of knowledge of the workforce in terms of financial literacy (e.g. accounting, profits and loss management)?
- How will you inform the workforce on the concept of employee ownership and the purpose of the model? How will you educate the employees to empower them to make informed decisions on the risks, responsibilities, and benefits of becoming shareholders?
- What is the onboarding dispositive for new shareholding employees?

Legal, Regulatory & Administrative Compliance

- What is the Swiss legal and regulatory landscape governing the EO model the company intends to implement?
    - Specifically for the company and the shareholding employees, what are the implications in terms of: corporate law, tax liabilities, and labor law?
- What are the administrative costs and requirements associated with dozens or hundreds of employees owning company shares (e.g. information system, bookkeeping, reporting)?

Organisation & Project Management

- What is the project management process?
    - Who is responsible for leading the initial exploration phase and the subsequent implementation phase?
    - What is the reporting structure and the budget associated with running the project?
    - What is the project timeline? When and how will the workforce be consulted?
- What KPIs can the company identify to measure the impact of the EO model on employee engagement and satisfaction, talent retention or attraction, workforce participation, company performance or other indicators?
    - What are the monitoring and continuous improvement systems to review the plan's effectiveness and outcomes, and to ensure troubleshooting of issues?
    - What are the mechanisms for shareholding and non-shareholding employees to provide feedback?
- More specifically, how about majority decision-making and veto rights?
    - If the employees are direct owners, consider the percentage of their total ownership. Indeed, under Swiss law, certain significant decisions require a specific majority of 75% (e.g., limitation of the preferential subscription rights, introduction of shares with privileged voting rights, liquidation of the company, etc.). Suppose the employees are close to owning 25% of the company. In that case, you should carefully consider whether or not you want to grant additional shares since this could impact the ability of the founders to make some important decisions.

By addressing these questions and carefully assessing their implications, you can make an informed and strategic decision regarding the employee ownership model that best suits your company, supported by advice from an expert legal practitioner. This decision will shape your company's future and contribute to a more inclusive, equitable, and purpose-driven business environment.

3. Regulatory Landscape

a. Swiss & International Legal Frameworks

The Swiss legal framework for Employee Ownership per se (*participations proprement dites*) is:

- Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations) (Code des obligations CO, RS 220): Art. 650, 651s, 653s.
- Federal law on direct federal tax (loi fédérale sur l'impôt fédéral direct LIFD, 642.11) (federal income tax)
- Ordinance on the obligation to issue attestations for employee shareholdings (OPart, 642.115.325.1)
- Cantonal tax laws on income and wealth tax (see also Federal law on the harmonisation of direct taxes of the cantons, LHID, 642.14) (cantonal and municipal income and wealth taxes)
- Circular no. 37, version of October 30, 2020 on the taxation of employee shareholdings of the Federal Tax Administration FTA
- Circular no. 37A, version of May 4 2018, on the tax treatment of employee shareholdings with the employer
- Swiss Tax Conference, Circular 28 of August 28, 2008 (last updated version December 2022)
    - Instructions for the valuation of unlisted securities for wealth tax purposes (with commentaries published every year).

For the international legal framework, the most common legal texts related to cross-border situations are the Conventions with Germany and France. Please note that other international instruments may apply, as Switzerland has concluded numerous other double tax treaties which can be applicable depending on an employee's location of residence and work.

- Convention between the Swiss Confederation and the Federal Republic of Germany for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital (CDI Allemagne, 0.672.913.62).
- Convention between Switzerland and France for the Elimination of Double Taxation with Respect to Taxes on Income and Capital and the Prevention of Fiscal Fraud and Evasion (CDI France, 0.672.934.91)

b. Employment Law Implications

Equality of treatment

Companies implementing EO shall ensure equality of treatment between employees regardless of their participation in ownership structures. Companies are obligated to adhere to anti-discrimination regulations, guaranteeing that all employees, whether involved in ownership or not, receive fair and equal treatment in terms of compensation, benefits, and opportunities for professional development.

Social security
Social security is levied when a taxable event takes place. Social security charges amount to approximately 12.75% on average (2023), and are borne half by the employer and half by the employee. They are always withheld at source by the employer and paid directly to the competent cantonal authority.

Gratification vs. salary
The qualification of the granting of shares, whether as a gratification or a salary, has a significant impact in practice. If it qualifies as salary, it is, therefore, unconditionally. On the other hand, gratification can be made conditional or be subject to vesting, forfeiture, and claw-back provisions. In practice, the distinction between gratification and salary is difficult to assess and requires a case-by-case analysis.

c. Swiss Tax Implications

This section addresses Switzerland's main tax implications concerning employee shares. Regarding the tax implications for the other models of EO, please refer to the spreadsheet under Appendix A of this Guidance.

Tax Implications for Workers domiciled in Switzerland (Circ. 37 FTA)[12]
Principe (art. 17b LIFD):

- If the employee shares are granted free of charge or on preferential terms, the positive difference between the market value and the grant price to the employees constitutes an appreciable cash benefit and thus income from gainful employment (cf. art. 17, para. 1, LIFD). The employee shares must be taxed at the time of allocation, which coincides with the acquisition of the right by the employee.
- The same rules apply to cantonal and municipal income taxes.

Value of employee shares not listed on the stock exchange

- Principe - Calculation Method:
    - For these shares, a market value is generally lacking. For this reason, the determining value is in principle calculated based on an appropriate formula recognised by the employer. The calculation of the determining value at the time of allocation can be carried out in accordance with the provisions of Circular 28 of the Swiss Tax Conference of August 28, 2008 (Instructions for the valuation of unlisted securities for wealth tax purposes). The calculation method agreed upon at the outset must be maintained for the corresponding share plan.
    - If a significant (10% of the capital or more) transfer of shares between independent third parties occurs, the market value of the shares will be the transfer price of these shares for tax purposes.

[12] Please note that the present Guidance focuses exclusively on workers domiciled in Switzerland. For workers domiciled abroad, please consult an expert (see below: Recommended Third-Party Partners).

- Time and Frequency:
  - If the value determined on the basis of the formula is only calculated once a year, it can only be considered as the tax-relevant value if the allocation of the employee share takes place within six months of the valuation date. If this is not the case, the value determined on the basis of the formula for the subsequent valuation day must be considered as appropriate.
  - If, in exceptional cases, a market value is available for unlisted shares, then this value will be decisive. In special cases and at the specific request of the employer, it will be possible to consider a value calculated on the basis of an appropriate formula and recognized by the employer, even if a market value is available. Such a solution will only be possible if the employer has an unlimited right of option to buy back these employee shares at a price calculated according to the same formula.
- Taxable Income (federal, cantonal and municipal levels):
  - Principle - Freely Available Shares:
    - The positive difference between the market value of the employee shares and their purchase price is subject to taxation.
  - Blocked Shares:
    - In contrast to freely available shares, blocked employee shares carry a capital loss. Article 17b, paragraph 2, LIFD, takes this particularity into account by granting a discount rate of 6% per year of blocking, but for a maximum of ten years.
    - The positive difference between the reduced market value and the acquisition price constitutes taxable income for the employee as income from an employed activity (art. 17b, para. 1, LIFD).
- Taxable Wealth (only cantonal and municipal levels):
  - Principle - Freely Available Shares:
    - Taxable basis: market value end of the year.
  - Blocked Shares:
    - Blocking periods are taken into consideration.

Dividends & Equity Gains

Dividends paid to the employees and deriving from the holding of shares constitute a taxable income for the employee (a reduced taxable basis could apply if one employee owns more than 10% of the share capital, but this is almost never the case in practice). Dividends are not subject to social security contributions.

Capital gains on the sale of shares are as a rule tax exempt but exceptions apply (please refer to the spreadsheet under Appendix A of this Guidance).

d. Shareholders Agreement

A shareholder agreement is a central part of an Employee Ownership governance model. It contains the essential rules of the relationship between the shareholder(s) and the company, and the between the shareholders[13]. In particular, it outlines the rights, responsibilities, and obligations of the shareholders, and it provides clarity and structure to the ownership arrangement. While there is no one-size-fits-all standard Agreement as the specifics of all situations have to be accounted for, below is a list of the main clauses that are to be considered[14] in a Shareholders Agreement.

- **Shareholder Rights and Responsibilities**: Clearly define the rights and responsibilities of each shareholder, including voting rights, dividend entitlements, and decision-making processes.
- **Transfer of Shares**: Detail the conditions under which shares can be transferred, sold, or repurchased by the company or other shareholders. Include provisions for pre-emptive rights and restrictions on external sales.
- **Valuation Mechanisms**: Specify the methodology for valuing company shares, especially when employees exit the company. Standard methods include fair market value, book value, or predetermined formulas.
- **Dispute Resolution:** Outline procedures for resolving shareholder disputes, such as mediation or arbitration, to prevent conflicts from disrupting the ownership structure.
- **Board Representation**: Define the allocation of seats on the Board of directors or any governance body, considering the interests of employees and existing shareholders.
- **Exit Strategy**: Consider including provisions that outline a clear exit strategy for all shareholders, addressing scenarios like mergers, acquisitions, or the company's dissolution.
- **Non-Compete and Non-Disclosure Clauses**: Incorporate clauses restricting shareholding employees from engaging in competitive activities or disclosing sensitive company information, protecting the company's interests.
- **Drag-Along and Tag-Along Rights**: Include provisions that address scenarios where majority shareholders (drag-along) can compel minority shareholders to sell their shares or where minority shareholders (tag-along) can join a sale initiated by majority shareholders.
- **Dividend Policy**: Specify dividend distribution policies, ensuring equitable treatment of all shareholders and outlining how profits will be allocated.
- **Right of First Refusal**: Establish a right of first refusal mechanism, allowing existing shareholders to purchase shares before external parties, maintaining ownership continuity.

[13] Swiss Confederation, EAER, SME Portal for small and medium-sized entreprises, *The agreement binding on all shareholders*, 23.02.2023, last seen October 2023 (https://www.kmu.admin.ch/kmu/en/home/concrete-know-how/setting-up-sme/starting-business/choosing-legal-structure/limited-company/shareholders-agreement.html).
[14] Trex - l'expert fiduciaire - Der Treuhandexperte, *Les conventions d'actionnaires*, 01.06.2023, last seen October 2023 (https://www.trex.ch/fr/les-conventions-dactionnaires/) ; NewCo, La convention d'actionnaires, September 28 2021, https://newco.ch/fr/blog/la-convention-d-actionnaires--51, last consulted 07.10.2022.

- **Trigger Events**: Identify events that can trigger changes in share ownership, such as retirement, death, or disability, and outline the process for addressing these events.
- **Rights of Employee Shareholders**: Address unique rights or benefits granted to employee shareholders, such as participation in profit-sharing, governance, or employee committees.
- **Termination and Amendment**: Include provisions detailing the circumstances under which the agreement can be terminated or amended, ensuring flexibility as the business evolves.
- **Indemnification**: Clarify the extent of shareholder liability protection, outlining circumstances under which the company will indemnify shareholders.
- **Insurance and Funding**: If applicable, discuss the company's responsibilities regarding funding buyback obligations or insurance policies that protect against share valuation discrepancies.

A well-structured Employee Ownership Shareholders Agreement not only safeguards the interests of all stakeholders but also facilitates a smooth transition in ownership and minimises potential conflicts. It's essential to draft this document with legal expertise, tailoring it to the specific needs and objectives of the company's Employee Ownership structure in Switzerland.

4. Recommended Third-Party Partners

Swiss B Corp Entities

- sigma legal
  - sigma legal SA is a specialized law firm offering legal services in the field of commercial law, in particular in relation to issues related to new technologies.

- id est avocats
  - id est avocats is an independent law firm helping innovative businesses, purpose-driven companies, ambitious entrepreneurs, top investors, industry leaders, and global brands succeed in today's fast-changing world.

- OA Legal
  - OA Legal is a Geneva-based law firm driven by an entrepreneurial spirit, providing tailored legal services. We are committed to providing the highest level of legal services while making a positive social impact.

Swiss Non-B Corp Entities

- Purpose Lawyers
  - Law and governance serving purpose making, values and impact. Purpose Lawyers supports philanthropists and their families, companies, their shareholders and leaders, foundations, associations and project leaders at each stage of their reflections, and is involved alongside them for the success and sustainability of their projects.

- Schellenberg Wittmer
  - Schellenberg Wittmer SA is a leading Swiss law firm offering legal services in all areas of law, including commercial, employment and tax law.

- NewCo
  - Swiss entrepreneurs use NewCo to create their company, legalize their signature, and change their registration with the Commercial Registry.

Appendices

a. Mapping Employee Ownership

Appendix A - Mapping Employee Ownership.pdf

b. Case Study "Employee Ownership in Practice - Loyco"

Loyco, a Swiss administrative services company, became a pioneer in the impact-driven business community by adopting human-centric values and obtaining B Corp certification in 2015. It was awarded a "Best For the World'' award in 2016 and 2017 by the non-profit B Lab for its outstanding performance in the "Workers" category. Loyco also scored 17.3 points in the Governance section of the B Impact Assessment in 2019, significantly surpassing the Swiss average of 7.3 points in this section. The company established its own "Loycocracy", an organizational model inspired by Holacracy, emphasizing horizontal work relationships and employee participation in decision-making. A crucial aspect of the "Loycocracy" is the culture of employee ownership, fostering strong engagement and a sense of belonging among all stakeholders, whether they are shareholders or not.

To access the entire Case Study, please click here:

- Case Study Loyco - Employee Ownership.pdf .

c. Additional Resources & Templates

Additional Resources and templates, such as the recordings and presentations of the Fall 2023 online Conference Series or templates of contractual clauses, can be found here:

- Swiss B Corps WG EO - Additional Resources & Templates .