**Shareholders Deed**

in respect of

Company Name

ACN [insert]

***[Disclaimer: This document is intended to serve as a starting point only. It should be carefully considered and tailored to meet your specific commercial requirements and circumstances. This document, and any guidance note within this document, must not be relied on as legal advice and we recommend that you seek professional legal advice to ensure that this document is suitable for your specific situation.]***

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**Shareholders Deed[[1]](#footnote-1)**

**Date**

**Parties**

1. **[Company name]** ACN [ACN] of [address] (**Company**);
2. The parties set out in Part 1 of Schedule 1 (**Founders**); and[[2]](#footnote-2)
3. The parties set out in Part 2 of Schedule 1 (**Shareholders**).

**Background**

1. This deed sets out the parties’ agreement on how the affairs of the Company will be conducted as from the date of this deed.

**Operative part**

# Definitions

In this deed:

**Accepting Shareholder** has the meaning given in clause 10.2.

**Accepting Subscriber** has the meaning given in clause 7.3**.**

**Affiliate** means, in relation to a person (first-mentioned person):

### a person that Controls, is Controlled by, or is under common Control with the first-mentioned person;

### a Related Body Corporate of the first-mentioned person;

### in the case of each Founder Shareholder, includes the relevant Founder (and vice versa); and

### in the case of an Investor:

#### any other person who, directly or indirectly Controls, is Controlled by, or is under common Control with that Investor including, without limitation, any general partner or managing member of that Investor; and

#### any venture capital fund controlled by one or more general partners or any managing members of, or that shares the same management company with, that Investor or whose management company is an Affiliate of that Investor's management company.

**Allocation** has the meaning given in clause 7.4 or 10.3 (as applicable).

**Appointor** has the meaning given in clause 15.1(a).

**As-Converted Basis** means determined on the assumption that all Shares capable of conversion (directly or indirectly) into Ordinary Shares have been converted into Ordinary Shares in accordance with their terms.[[3]](#footnote-3)

**Attorneys** has the meaning given in clause 15.1(a).

**Auditor** means the auditor of the Group from time to time.

**Bad Leaver[[4]](#footnote-4)** means either:

### a Founder who ceases to be employed or engaged by a Group Company, as a result of his or her:

#### resignation within [insert] years of the date of this deed;[[5]](#footnote-5)

#### lawful dismissal by the Group Company without notice, because he or she has committed:

##### fraud;

##### an indictable criminal offence;

##### a breach of a restrictive covenant in favour of a Group Company; or

##### a material breach of his or her employment or consulting agreement (which, for the avoidance of doubt, does not include poor performance or alleged poor performance) which has not been remedied (to the reasonable satisfaction of the Board by Required Resolution) within 30 days of notice;

### a Founder who has ceased to be employed or engaged by a Group Company and who subsequently breaches a restrictive covenant (including any non-competition or non-solicitation covenants) in favour of a Group Company.

**Board** means the board of Directors of the Company.

**Business** means:

### the business of the Group from time to time, which at the date of this deed is [insert]; and

### any other activity the Board decides will be carried on by the Company or the Group as approved in accordance with clause 4.2.[[6]](#footnote-6)

**Business Day** means a day on which banks are open for general banking business in [Adelaide/Brisbane/Hobart/Melbourne/Perth/Sydney], excluding Saturdays, Sundays and public holidays.

**Confidential Information** means the terms and existence of this agreement, and all information disclosed by or on behalf of one party to another party in connection with this deed which has been designated as confidential by the party disclosing the information, or information which by its nature should reasonably be considered to be confidential, but does not include:

### any information which is in the public domain at the time of its disclosure or subsequently becomes part of the public domain other than as a result of a breach by the person receiving the Confidential Information of clause 16.1;

### any information that was known to the party receiving the Confidential Information at the time of disclosure of the confidential information except as a result of a prior confidential disclosure by the party disclosing the Confidential Information; or

### any information that is disclosed to the party receiving the Confidential Information by any third party who is not known to the party receiving the Confidential Information to be acting in breach of a confidentiality obligation owed to the party disclosing the Confidential Information.

**Constitution** means the constitution of the Company, as amended from time to time.

**Control** has the same meaning given to it in section 50AA of the Corporations Act, and **Controls** and **Controlled** shall be construed accordingly.

**Corporations Act** means the *Corporations Act 2001* (Cth) as amended.

**Deed of Accession** means a deed poll substantially in the form attached as Annexure A.

**Default Price** has the meaning given in clause 13.2.

**Default Shares** has the meaning given in clause 13.1(a).

**Director** means a director of the Company.

**Dispose** means to sell, assign, transfer, convey, exchange, create a Security Interest over or otherwise dispose of a legal or beneficial interest and **Disposal** shall be construed accordingly.

**Drag Along Notice** has the meaning given in clause 11.1(a).

**Drag Offer** has the meaning given in clause 11.1(a).

**Dragging Shareholders** has the meaning given in clause 11.1(a).

**Employee Shareholder** means a Shareholder (other than a Founder Shareholder) that holds Shares issued under or in connection with the Share Plan or otherwise in connection with the Shareholder's (or any of their Affiliates') employment in the Group.

**ESVCLP** means early stage venture capital limited partnership.

**Excluded Issue** means an issue of Securities:[[7]](#footnote-7)

### under a Share Plan (including on conversion or exercise of any Securities issued pursuant to a Share Plan) up to the Share Plan Maximum;

### in connection with a subdivision or consolidation of Shares, or a dividend, which is approved by a Required Resolution of the Board;

### pursuant to the terms of an option, warrant or other security convertible into or exercisable in exchange for Securities (provided that the option, warrant or other convertible security was on issue prior to the date of this document or was issued in accordance with this document);

### as part of an IPO which is approved by a Required Resolution of the Board; or

### which constitute all or part of the consideration for a bona-fide acquisition of assets or shares by the Group which is approved by a Required Resolution of the Board.

**Exercise Notice** has the meaning given in clause 10.8.

**Exercise Period** has the meaning given in clause 10.7(b)(iv).

**Fair Market Value** means the fair market value of a Security calculated:

### with regard to the profit, strategic positioning, future prospects and undertaking of the Business;

### disregarding the minority or majority status of the parcel of the relevant Securities;

### on the assumption that there is a willing but not anxious buyer and a willing but not anxious seller; and

### on any other basis deemed appropriate by the person making the calculation.

**Financial Year** means a period of 12 consecutive calendar months ending on 30 June or on another day decided by the Board.

**Former Affiliate** has the meaning given in clause 9.2.

**Founder Shareholder** means a Founder or an Affiliate of a Founder that holds Shares and is a party to (or accedes to) this deed as a Founder Shareholder and, as at the date of this agreement means:

### in respect of [insert Founder name], [insert Founder Shareholder vehicle which may be the Founder]; and

### in respect of [insert], [insert].

**Government Agency** means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

**Group** means the Company and its Subsidiaries, and **Group Company** means any one of them.

**GST Act** has the meaning given in clause 19.1(a).

**Independent Expert** means a reputable and qualified independent expert who is independent of the relevant parties.

**Intellectual Property Rights** means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity and wherever existing including:

### trade marks, trade names, domain names, logos, get-up, patents, inventions, registered and unregistered design rights, copyrights, circuit layout rights, and all similar rights (including know-how), whether or not capable of registration;

### where the rights referred to in paragraph (a) are obtained or enhanced by registration, any registration of such rights and applications and rights to apply for such applications; and

### all renewals, divisions and extensions of these rights.

**Investor** means each party listed as an “Investor” in Schedule 1, together with any party that subsequently enters into a Deed of Accession as an "Investor".

**IPO** means an initial public offering of Shares or shares in a holding company of the Company in conjunction with a listing or quotation of Shares or shares in a holding company of the Company on a recognised stock exchange.

**Issue Acceptance** has the meaning given in clause 7.3.

**Issue Notice** has the meaning given in clause 7.3.

**Issue Securities** has the meaning given in clause 7.2.

**Law** includes:

### any statute, regulation, rule, by-law, ordinance, proclamation, judgement, treaty, decree, convention, rule or principle of common law or equity, rule of any applicable stock exchange, or requirement or approval (including any Government Agency);

### any regulation, rule, by-law, ordinance, proclamation or judgement made under that law; and

### that law as amended, consolidated, supplemented, re-enacted or replaced.

**Major Shareholder** means any Shareholder that holds no less than [5]% of the Shares on issue (on an As-Converted Basis).[[8]](#footnote-8)

**Notice** has the meaning given in clause 20.

**Ordinary Share** means an ordinary share in the capital of the Company.

**Original Shareholder** has the meaning given in clause 9.2.

**Other Shareholders** has the meaning given in clause 11.1(a).

**Related Body Corporate** has the same meaning as in section 9 of the Corporations Act.

**Relevant Founder** has the meaning given in clause 12.2(a)(i).

**Remaining Securities** has the meaning given in clause 7.7(a).

**Representative** in respect of a person means an officer, employee, auditor, banker or professional adviser of that person.

**Required Resolution** means a resolution of the Directors:[[9]](#footnote-9)

### approved by:

#### [75]% or more of the Directors entitled to vote; and

#### the Director appointed under clause 3.2(b) (if any); or

### identified in a document where all those persons entitled to vote on the resolution sign a statement that they are in favour of the resolution set out in the document.

**Required Shareholders** means the holders of [75% or more] of the issued [Seed Preference] Shares (on an As-Converted Basis).[[10]](#footnote-10)

**Respective Proportion** means in respect of each Shareholder, the proportion that the aggregate number of Shares held by that Shareholder bears to the aggregate number of Shares on issue at the relevant time, except that for the purposes of clause 10.3, the Seller’s Shares are excluded from the number of issued Shares.

**Restrained Party** has the meaning given in clause 14.2.

**Sale Shares** has the meaning given in clause 10.1(a).

**Security** means a security of the Company and includes the Shares, options, any convertible notes, warrants or other securities capable of conversion into Shares issued by the Company.

**Security Interest** means:

### a 'security interest' as defined in the *Personal Property Securities Act 2009* (Cth);

### any third party rights or interests including a mortgage, lien, charge, pledge, assignment by way of security, security interest, encumbrance, title retention, preferential right or trust arrangement, claim, covenant, easement or any other security arrangement or any other arrangement having the same effect;

### a right, interest or arrangement which has the effect of giving another person priority over creditors including any right of set-off;

### a right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or

### an agreement to create any of them or allow them to exist.

**Seed Preference Share** means a seed preference share in the capital of the Company having the rights set out in the Constitution.

**Seller** has the meaning given in clause 10.1(a).

**Share** means:

### an Ordinary Share;

### a Seed Preference Share; or

### a share in any other class of shares issued by the Company from time to time,

### as applicable.

**Share Plan** has the meaning given in clause 8

**Share Plan Maximum** has the meaning given in clause 8.

**Shareholder** means a party who holds Shares and, at the date of this deed, means a party listed in the table in Schedule 1.

**Subsidiary** means a subsidiary of the Company as defined by section 9 of the Corporations Act.

**Tag Along Notice** has the meaning given in clause 10.7(a).

**Tag Along Option** has the meaning given in clause 10.7(b).

**Tag Sellers** has the meaning given in clause 10.7(a).

**Tagging Shareholder** has the meaning given in clause 10.7(b).

**Tokens** has the meaning set out in Schedule 2, Part B, paragraph 1(i).

**Transfer Notice** has the meaning set out in clause 10.1(a).

**Unvested Shares** means any Shares that are subject to vesting pursuant to clause 12 but have not vested pursuant to clause 12.

# Interpretation

In this deed, unless the context indicates a contrary intention:

### (**documents**) a reference to this deed or another documents includes any document which varies, supplements, replaces, assigns or novates this deed or that other document;

### (**headings**) clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this deed;

### (**party**) a reference to a party to a document includes that party’s personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;

### (**including**) including and includes (and any other similar expressions) are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;

### (**corresponding meanings**) a word that is derived from a defined word has a corresponding meaning;

### (**singular**) the singular includes the plural and vice-versa;

### (**gender**) words importing one gender include all other genders;

### (**rules of construction**) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;

### (**legislation**) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;

### (**time and date**) a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in [Adelaide/Brisbane/Hobart/Melbourne/Perth/Sydney], Australia, even if the obligation is to be performed elsewhere;

### (**writing**) a reference to a notice, consent, request, approval or other communication under this deed or an agreement between the parties means a written notice, request, consent, approval or agreement;

### (**Australian currency**) a reference to dollars or $ is to Australian currency; and

### (**Shares**) a reference to a number of Shares or a number or percentage of the Shares on issue means a number of Shares or a number or percentage of the Shares on issue on an As-Converted Basis.

# Board of Directors

## Number of Directors

The maximum number of Directors of the Company at any time (excluding alternate Directors) is [insert].

## Appointment of Directors[[11]](#footnote-11)[[12]](#footnote-12)

### Each Founder Shareholder has the right to appoint 1 Director for so long as it holds [10]% or more of the Shares on issue[[13]](#footnote-13) (on an As-Converted Basis) [and its relevant Founder is employed or engaged by a Group Company].[[14]](#footnote-14)

### Shareholders holding a majority of the Seed Preference Shares may appoint 1 Director for so long as they hold Shares.[[15]](#footnote-15)[[16]](#footnote-16)

### A Shareholder (or group of Shareholders) entitled to appoint a Director under this clause 3.2 may appoint, remove and replace that Director by notice in writing to the Company.

## Removal of Directors

A Shareholder (or group of Shareholders) that has appointed a Director under clause 3.2 must remove that Director from the Board by giving written notice to the Company and must ensure that the Director resigns as a director of all relevant Group Companies and committees of the Board, if at any time:

### that Shareholder (or group of Shareholders) ceases to be entitled to appoint the relevant Director under clause 3.2; or

### the Director:

#### becomes incapable of managing his or her own affairs due to a medical or mental condition (as evidenced by a certificate to that effect by a qualified medical practitioner); or

#### is precluded from taking part in the management of a corporation under the provisions of Part 2D of the Corporations Act.

## Notice of appointment or removal

### Following service of a notice in accordance with clause 3.2 the appointment of the relevant Director takes effect when his or her written consent to act as a Director is received at the registered office of the Company.

### The removal of a Director takes effect when the written notice of removal under clause 3.2(c), or the Director’s resignation letter, is received at the registered office of the Company.

# Management and decision making

## Overall direction of the Company

The Board must decide all matters concerning the overall direction and management of the Company and the Group and the formulation of the policies to be applied in the conduct of the Business.

## Decisions to be approved by Required Resolution[[17]](#footnote-17)

### The Company must not make, and must ensure that no Subsidiary makes any decision or takes any action covering a matter listed in Part A of Schedule 2 without the prior approval of the Board by Required Resolution.

### The Board may, by Required Resolution, determine that any of the financial thresholds specified in Part A of Schedule 2 be changed to such other amount as the Board may determine by Required Resolution.

## Decisions to be approved by Required Shareholders

The Company must not make, and must ensure that no Subsidiary makes any decision or takes any action covering a matter listed in Part B of Schedule 2 without the prior written approval of the Required Shareholders.

# Information Rights[[18]](#footnote-18)

## Access to Information[[19]](#footnote-19)

On the reasonable request of a [Major][[20]](#footnote-20) Shareholder and on reasonable notice, the Company must permit (and must procure that each Subsidiary permits) that Shareholder or its Representatives to be given copies of all documents, books and records and be provided with all such information as may be reasonably required by that Shareholder[, including] to enable that Shareholder to comply with its reporting obligations (including any ESVCLP reporting obligations).

## [Appointment of an Auditor[[21]](#footnote-21)

### The Shareholders must procure that the Company appoints an Auditor upon the earlier of the date that:

#### the Board determines by Required Resolution that it is appropriate that an auditor be appointed;

#### the Company becomes a public company or a large proprietary company (within the meaning of the Corporations Act); or

#### the permitted entity value of the Company (calculated in accordance with section 118-440 of the *Income Tax Assessment Act 1997* (Cth)) exceeds $12,500,000[[22]](#footnote-22),

### and, at all times thereafter, maintains such an appointment and ensures that the Directors prepare annual audited accounts within 120 days after the end of each Financial Year.

### The Auditor to be appointed must be a reputable and well known firm that has been approved by Required Resolution.

## Annual statements

### Until an Auditor is appointed, the Directors will provide each Investor that is an ESVCLP with a statutory declaration by 20 September of each year confirming the market value of the Company's assets as at 30 June of that year.

### If an Auditor has been appointed, the Company will procure that the Auditor provides each Investor that is an ESVCLP with either its audited annual accounts or a 'Total Asset Statement' in such form as is reasonably required by that Investor as at 30 June of each year by 20 September of each year.]

# General restrictions on Disposal and Issue

## General restriction on Security Interests[[23]](#footnote-23)

A Shareholder may not grant any Security Interest over Securities without first obtaining Board approval by Required Resolution.

## Deed of Accession

Despite any other provision of this deed or the Constitution, any Disposal or issue of Shares to any person who is not a Shareholder must be conditional on the person first entering into:

### a binding Deed of Accession; or

### a new shareholders agreement as agreed by the parties.

## [Founder lock-up[[24]](#footnote-24)

A Founder Shareholder must not Dispose of any of its Shares prior to the date falling [4] years after the date of this deed other than:

* + 1. as approved by the Board by Required Resolution; or
		2. where such Disposal is expressly required by the terms of this deed.]

## No more than 50 members[[25]](#footnote-25)

### Despite any other provision of this deed, unless the Board unanimously decides otherwise:

### the Company must not issue Shares to a person; and

### the Board must not register a transfer of Shares to a person,

### if the issue or transfer of such Shares would result in there being more than 50 members (calculated assuming that prior to such issue of Shares all Securities convertible into Shares had been converted into Shares by their holders) so as to cause the Company to be regulated by the provisions of Chapter 6 of the Corporations Act.

# Pre-emptive rights on issue of Securities

## Excluded issues

This clause 7 does not apply to any Excluded Issue.

## Offer[[26]](#footnote-26)

If the Board resolves to issue Securities, the Company must offer each [Major] Shareholder[[27]](#footnote-27) its Respective Proportion of the total number of Securities (**Issue Securities**) to be issued by written notice (**Issue Notice**) specifying:

### the terms of issue of the Issue Securities;

### the total number of Issue Securities available for subscription;

### the issue price per Issue Security; and

### the date on which subscription monies for the Issue Securities must be paid to the Company.

## Acceptance

A [Major] Shareholder wishing to subscribe for Issue Securities (**Accepting Subscriber**) in response to an Issue Notice must, within 10 Business Days after receipt of the Issue Notice, irrevocably notify the Board of the number of Issue Securities it is willing to subscribe for (**Issue Acceptance**).

## Allocation

### If the aggregate Issue Acceptances received by the Board in accordance with clause 7.3 is equal to or less than the total number of Issue Securities, each Accepting Subscriber’s allocation of Issue Securities (**Allocation**) is the amount of Issue Securities set out in its Issue Acceptance.

### If the aggregate Issue Acceptances received by the Board in accordance with clause 7.3 is greater than the total number of Issue Securities: [[28]](#footnote-28)

#### each Accepting Subscriber will be allocated the lesser of:

##### the number of Issue Securities set out in its Issue Acceptance; and

##### the relevant Accepting Subscriber’s Respective Proportion of the Issue Securities.

## Notice of Allocation

As soon as reasonably practicable and no later than 10 Business Days after the determination of each Accepting Subscriber's Allocation in accordance with clause 7.4, the Company must give each Accepting Subscriber a notice setting out its Allocation and the time and place for completion of the issue of the Issue Securities.

## Completion

### On the date that is specified in the notice that the Company provides the Accepting Subscribers under clause 7.5, or at such other date as is agreed by the Company and the Accepting Subscribers:

#### the Company must issue, and each Accepting Subscriber must subscribe for, its respective Allocation on the terms set out in the Issue Notice;

#### each Accepting Subscriber must pay the subscription price for its Allocation to the Company; and

#### the Company must:

##### register the issue of the Allocation and enter each Accepting Subscriber in the Company's register of members for the Accepting Subscriber's Allocation; and

##### issue a new share certificate in the name of each Accepting Subscriber for its Allocation.

### If an Accepting Subscriber fails to pay the subscription monies for its Allocation when due, such Issue Securities will be treated as Remaining Securities (as that term is defined in clause 7.7) and may be issued by the Company in accordance with clause 7.7.

## Issue of Remaining Securities

### After the procedures set out in this clause 7 have been complied with and exhausted, if any Issue Securities have not been allocated (**Remaining Securities**), the Company may issue those Remaining Securities to one or more other parties selected by the Board, provided that the Remaining Securities are issued at the same price and otherwise on terms no more favourable to that party than those offered to the Shareholders in the Issue Notice.

### If the Company does not issue all Remaining Securities within 90 days after the date of service of the Issue Notice, it may not issue those Securities without complying again with this clause 7.

# Share plan[[29]](#footnote-29)

### At any time, the Board may establish a formal written employee incentive plan to issue Securities to eligible service providers (whether Directors, employees or contractors) of the Group (**Share Plan**) in respect of up to [insert] Ordinary Shares (or such greater number of Ordinary Shares as may be determined by the Board with the prior written approval of the Required Shareholders) adjusted (if applicable) for any subdivision, consolidation, bonus issue or analogous event with respect to the Company's share capital (**Share Plan Maximum**).

### The Share Plan will authorise the Directors to issue Securities under the Share Plan to eligible service providers in their discretion.

### Any issue of Securities under the Share Plan up to the Share Plan Maximum will be an Excluded Issue.

# Permitted Disposals

## Disposal to Affiliates

Subject to clauses 6.2 and 9.2, but despite any other provision of this deed:

### a Shareholder may Dispose any or all of its Securities from time to time to any of its Affiliates without restriction; and

### an Affiliate of a Shareholder may Dispose any or all of its Securities from time to time to that Shareholder or another Affiliate of that Shareholder without restriction.

## Ceasing to be an Affiliate

If a person (**Former Affiliate**) to whom a Shareholder (**Original Shareholder**) has Disposed any Securities under clause 9.1 ceases to be an Affiliate of that Original Shareholder:

### that Former Affiliate must (and the Original Shareholder must procure that that the Former Affiliate does) immediately Dispose the relevant Securities back to the Original Shareholder (who must purchase the Securities); and

### all rights attaching to the Securities held by the Former Affiliate will be suspended until the Disposal back to the Original Shareholder is completed,

### in each case unless the Board determines otherwise by Required Resolution.

# Pre-emptive rights on Disposal

## Pre-emptive Offer

### A Shareholder (**Seller**) wishing to Dispose of Shares (**Sale Shares**) must first give to the Board, and the Board must give notice to each other Shareholder[[30]](#footnote-30) a written notice (**Transfer Notice**) which constitutes an offer by the Seller to Dispose of the Sale Shares at the price stated in the Transfer Notice and in the manner outlined in this clause.

### The Transfer Notice must set out:

#### the number and class of the Sale Shares it proposes to Dispose of;

#### the name of any proposed purchaser;

#### the price payable per Sale Share, which must be a cash price payable on completion of the relevant Disposal;

#### the key terms of any offer from a purchaser or agreement between the Seller and the purchaser concerning the Sale Shares; and

#### any other information reasonably required to assess the offer.

## Acceptance

A Shareholder wishing to purchase Sale Shares (**Accepting Shareholder**) in response to a Transfer Notice must, within 10 Business Days after receipt of the Transfer Notice, irrevocably notify the Board of the number of Sale Shares it is willing to purchase (**Transfer Acceptance**).

## Allocation

### If the aggregate Transfer Acceptances received by the Board in accordance with clause 10.2 is equal to or less than the total number of Sale Shares, each Accepting Shareholder’s allocation of Sale Shares (**Allocation**) is the amount of Shares set out in its Transfer Acceptance.

### If the aggregate Transfer Acceptances received by the Board in accordance with clause 10.2 is greater than the total number of Sale Shares, each Accepting Shareholder’s Allocation will be determined as follows:

#### each Accepting Shareholder will be allocated the lesser of:

##### the number of Sale Shares set out in its Transfer Acceptance; and

##### the relevant Accepting Shareholder’s Respective Proportion of the Sale Shares; and

#### if any Sale Shares remain unallocated, each Accepting Shareholder who, in their Transfer Acceptance specified a number of Sale Shares greater than the number of Sale Shares allocated to them, will be allocated additional Sale Shares in proportion to their Respective Proportion (provided that no Accepting Shareholder will be allocated more Sale Shares than the number set out in its Transfer Acceptance) and this process will be repeated until either all Sale Shares are allocated, or each Accepting Shareholder has been allocated the number of Sale Shares set out in its Transfer Acceptance.

## Notice of Allocation

As soon as reasonably practicable and no later than 5 Business Days after the determination of each Accepting Shareholder's Allocation in accordance with clause 10.3, the Company must give each Accepting Shareholder a notice setting out its Allocation, and must provide the Seller with a copy of each such notice, within 5 Business Days.

## Unallocated Sale Shares

If there are unallocated Sale Shares after all Allocations have been exhausted:

### the Company must immediately notify the Seller of the unallocated Sale Shares; and

### the Seller is free to Dispose of the unallocated Sale Shares to any other party within 90 days of the date of the Transfer Notice on terms no more favourable to the other party than those set out in the Transfer Notice.

## Completion

### On the date that is 10 Business Days after the Company notifies the Accepting Shareholders of the Allocations under clause 10.4, or at such other date as is agreed between the Seller and the Accepting Shareholders:

#### the Seller must:

##### deliver to the Company the share certificate for the Sale Shares; and

##### transfer to each Accepting Shareholder its respective Allocation on the terms set out in the Transfer Notice.

#### each Accepting Subscriber must:

##### accept its respective Allocation on the terms set out in the Transfer Notice; and

##### pay to the Seller the aggregate consideration for its Allocation; and

#### the Company must:

##### register the transfer of the Allocation and enter each Accepting Shareholder in the Company's register of members for the Accepting Shareholder's Allocation; and

##### issue a new share certificate in the name of each Accepting Subscriber for its Allocation and, if applicable, a new share certificate in the name of the Seller in respect of any balance of Shares held.

### If an Accepting Shareholder fails to complete the acquisition of its allocated Sale Shares in accordance with clause 10.6(a), those Sale Shares will be treated as unallocated Sale Shares and may be disposed of in accordance with clause 10.5.

## Tag Along Option[[31]](#footnote-31)

### If one or more Shareholders receive a bona fide offer from a proposed purchaser to purchase all or a proportion of their Shares representing in aggregate [25]% or more of the total issued Shares (on an As-Converted Basis), and those Shareholders wish to accept that offer (**Tag** **Sellers**), the Tag Sellers must, after complying with the pre-emption procedure set out in this clause 10, give each other Shareholder a notice (**Tag Along Notice**) of their intention.

### A Tag Along Notice gives each other Shareholder (each a **Tagging Shareholder**) the right (**Tag Along Option**) to require the Tag Sellers to procure the purchase by the proposed purchaser of some or all of the Shares held by each Tagging Shareholder, and must include details of:

#### the name of the purchaser;

#### the number of Shares in the proposed Disposal to the proposed purchaser;

#### the sale price and any other terms of the proposed Disposal to the purchaser; and

#### the period during which a Tag Along Option may be exercised, which must be a period of not less than [10] Business Days from the date of service of the Tag Along Notice (**Exercise Period**).

## Exercise of Tag Along Option

### A Tag Along Option may be exercised by notice (**Exercise Notice**) given to the Tag Sellers within the Exercise Period.

### If a Tagging Shareholder exercises its Tag Along Option, the Tag Sellers must not Dispose of any Shares to the purchaser unless the purchaser, at the same time, buys the Shares specified in the Exercise Notice at the same price per Share and otherwise on the same terms.

### If the Tag Along Option is not exercised within the period specified in the Tag Along Notice, it will be deemed to have lapsed at midnight on the last day of the Exercise Period.

### Despite anything else in this deed, the pre-emption procedure set out in clause 10 does not apply to the Disposal of Shares by a Shareholder exercising a Tag Along Option.

# Drag Along

## Drag Along Notice[[32]](#footnote-32)

### If the Company or any Shareholder receives a bona fide offer on arm's length terms from any person to purchase all of the Securities in the Company not already held by that person (**Drag Offer**) and the holders of:

#### at least [75]% of the issued Shares (on an As-Converted Basis) not held by that person; and

#### at least [50]% of the issued Seed Preference Shares (on an As-Converted Basis) not held by that person,[[33]](#footnote-33)

#### accept the Drag Offer (**Dragging Shareholders**), any Dragging Shareholder is entitled to issue to some or all of the remaining Shareholders (**Other Shareholders**) a notice (**Drag Along Notice**) requiring each Other Shareholder to sell to the proposed purchaser specified in the Drag Along Notice some or all of the Other Shareholders’ Securities upon the terms and conditions specified in the Drag Along Notice.

### Despite anything else in this deed the pre-emption procedure set out in clause 10 does not apply to the relevant Securities once a Drag Along Notice has been issued.[[34]](#footnote-34)

## Terms of Offer

### The terms on which the Dragging Shareholders require the Other Shareholders to sell their Securities must:

#### allocate the aggregate consideration receivable by the Shareholders among the Shareholders on the basis of the relative liquidation preferences to which the holders of Shares are entitled under the Constitution; and

#### subject to clause 11.2(a)(i), be no less favourable to the Other Shareholders than the terms on which the Dragging Shareholders are selling their Securities.

### The Drag Along Notice must specify:

#### the details of the proposed purchaser;

#### the consideration payable for each Security; and

#### any other key terms and conditions upon which the Other Shareholders’ Securities will be purchased pursuant to the Drag Along Notice.

### Subject to clause 11.2(d), each Other Shareholder must, within 10 Business Days of service of the Drag Along Notice sell all of their Securities to the proposed purchaser specified in the Drag Along Notice in accordance with the key terms and conditions of the Drag Along Notice.

### The Other Shareholders are not obliged to sell their Securities in accordance with clause 11.2(c) if the Dragging Shareholders do not complete the sale of all their Securities to the proposed purchaser on the same key terms and conditions set out in the Drag Along Notice.

# Founder Vesting[[35]](#footnote-35)

## Vesting of Founder Shares[[36]](#footnote-36)

### [100]%[[37]](#footnote-37) of the Shares held by [Founder Shareholder name] as at the date of this deed will be Unvested Shares, and those Unvested Shares will vest as follows:

#### [25]% will vest on the date that is [12] months after the date of this deed; and

#### at a rate of [1/36th] of the balance at the end of each month period thereafter,[[38]](#footnote-38)

#### provided, in each case, that [insert name of Founder] remains employed or engaged by a Group Company to provide services, whether as a contractor or employee at the date of vesting.[[39]](#footnote-39)

### A Founder Shareholder must not Dispose of any Unvested Shares without the prior approval of the Board by Required Resolution unless such Disposal is expressly required by the terms of this deed.

## Right to purchase Founder Shares

### In consideration of the payment of $1.00 by the Company to each Founder Shareholder, the Founder Shareholder agrees that if[[40]](#footnote-40):

#### the Founder associated with that Founder Shareholder (**Relevant Founder**) ceases to be employed or engaged by a Group Company; or

#### the Founder Shareholder attempts to transfer any of its Unvested Shares in breach of clause 12.1(b); or

#### the Founder or associated Founder Shareholder breaches the covenants set out in clause 14,

the Company may, by written notice to the Founder Shareholder, buy back, or direct the Founder Shareholder to transfer to a person nominated by the Board (acting by Required Resolution),[[41]](#footnote-41) some or all of the Unvested Shares held by such Founder Shareholder for an aggregate price equal to $1.00 and the Founder Shareholder must do everything necessary to facilitate the sale of such Unvested Shares to the Company (or to the person nominated by the Board) within 5 Business Days of the Company's notice.

### Any Unvested Shares in existence from time to time shall carry the same rights in all respects as fully vested Ordinary Shares, except as set out in this clause 12.

### Despite anything else in this deed the pre-emption procedure set out in clause 10 does not apply to a buy back or transfer of Unvested Shares under clause 12.2(a).

## Restriction

Despite clause 12.2, the Company may only buy back the Unvested Shares if that is permitted under Part 2J.1 of the Corporations Act and, for the avoidance of doubt, if the buyback will not materially prejudice the Company's ability to pay its creditors.

# Bad leaver arrangements[[42]](#footnote-42)

## Bad Leaver

### In consideration of the payment of $1.00 by the Company to each Founder Shareholder, the Founder Shareholder agrees that if the Relevant Founder becomes a Bad Leaver, the Company may by written notice, buy back some or all of the Shares held by the Founder Shareholder (**Default Shares**) or direct the Founder Shareholder to transfer some or all of the Default Shares to a person nominated by the Board (acting by Required Resolution) at the price set out in clause 13.2.

### For the avoidance of any doubt, the Default Shares do not include any Unvested Shares, which will be dealt with in accordance with clause 12.2 of this deed.[[43]](#footnote-43)

### The Relevant Founder or any person appointed as a Director by the Founder Shareholder may not vote at a Board meeting in relation to the giving of a notice under clause 13.1(a), unless the Board unanimously determines otherwise.

### If the Company notifies the Founder or Founder Entity (as applicable) that it wishes to buy back or require a compulsory transfer of the Default Shares under clause 13.1(a), the Founder or Founder Entity (as applicable) and the other Shareholders must do everything necessary to facilitate the sale of the Default Shares to the Company or the Company’s nominee within 10 Business Days of the Company's notice.

### Despite clauses 13.1(a) and 13.1(c), the Company may only buy back the Default Shares if that is permitted under Part 2J.1 of the Corporations Act and, for the avoidance of doubt, if the buyback will not materially prejudice the Company's ability to pay its creditors.

### Despite anything else in this deed the pre-emption procedure set out in clause 10 does not apply to a buy back or transfer of Default Shares under clause 13.1(a).

## Price for Default Shares

The price for the Default Shares (**Default Price**) is [50]% of Fair Market Value.

## Other remedies

The rights and remedies set out in this clause do not exclude any other rights or remedies that a party may have against a party in default of this deed.

## Suspension

### To the extent that the Law allows and unless the Board determines otherwise by Required Resolution, from the time of giving notice under clause 13.1:

#### the Relevant Founder and any other director appointed by the relevant Founder Shareholder is deemed to have provided a resignation notice to the Company at the same time as the Founder Shareholder is notified pursuant to clause 13.1 and is automatically removed from the Board at that time, and has no further right to participate in the Business or management of the Group; and

#### the rights of the Founder Shareholder as a holder of Default Shares and under this deed (including any rights to information about the Group or the business dividend and distribution rights in relation to the Default Shares, and the rights to attend and vote at general meetings of Shareholders, and any consent rights under this deed) are suspended until those Default Shares have been acquired by the Company or as directed by the Company; and

#### the obligations of the Founder Shareholder (and the Relevant Founder) under this deed will continue to bind the Founder Shareholder (and the Relevant Founder) notwithstanding the suspension.

### The suspensions referred to in clause 13.4(a) will cease if the Board (acting by Required Resolution) so determines in its absolute discretion.

## Fair Market Value

### The Board will determine by Required Resolution the Fair Market Value of the Default Shares and will notify the Founder Shareholder within 5 Business Days of such determination.

### If the Board is unable to determine the Fair Market Value by Required Resolution, the Board must appoint an Independent Expert (acceptable to both the Board and the relevant Founder Shareholder) to determine the Fair Market Value in accordance with this clause. The Company is responsible for all costs associated with the appointment of an Independent Expert under this clause 13.5(b).

### If the Board determines the Fair Market Value in accordance with clause 13.5(a) and the Founder Shareholder disputes the Fair Market Value determined by the Board, the Board must at the request of the Founder Shareholder appoint an Independent Expert (acceptable to both the Board and the relevant Founder Shareholder) to determine the Fair Market Value in accordance with this clause 13.5. The Founder Shareholder is responsible for all costs associated with the appointment of an Independent Expert under this clause 13.5(c).

### The Fair Market Value as certified by the Independent Expert will be binding except in the case of manifest error.

### An Independent Expert appointed to calculate the Fair Market Value of the Default Shares under this clause:

* + - 1. will do so as an expert, not as an arbitrator; and
			2. will calculate a separate value for each class of Default Shares.

# Restraints

## Enforceability and severance

### This clause has effect as if it were separate and independent clauses, each one being severable from the others and consisting of the covenant set out in clause 14.2 combined with each separate period referred to in clause 14.3, and each combination combined with each separate area referred to in clause 14.4.

### If any of these separate clauses are void, invalid or unenforceable for any reason, it will be deemed to be severed to the extent that it is void or to the extent of voidability, invalidity or unenforceability and will not affect the validity or enforceability of any other separate clause or other combinations of the separate provisions of clauses 14.2, 14.3 and 14.4.

## Prohibited activities

Each Founder, Founder Shareholder and Employee Shareholder (**Restrained Party**)[[44]](#footnote-44) undertakes to the Group that it will not and will procure that their Affiliates do not:

### directly or indirectly (whether alone or in partnership or joint venture with anyone else) engage or otherwise be concerned with or interested in (whether as trustee, principal, agent, shareholder, unit holder, employee, consultant or in any other capacity) a business or activity that is the same or similar to, or competes with, the Business or any material part of the Business;

### employ, canvass, solicit or entice away from a Group Company or any of its Affiliates, an officer, manager, consultant, employee, supplier, customer or client of a Group Company or a person or corporation who was an officer, manager, consultant, employee, supplier, customer or client of any Group Company in the 12 months before the Restrained Party (or in the case of a Founder, the relevant Founder Shareholder) ceased to hold Securities; or

### attempt, counsel, procure or otherwise assist a person to do any of the acts referred to in this clause,

except with the prior written consent of the Board by Required Resolution.

## Duration of prohibition[[45]](#footnote-45)

The undertakings in clause 14.2 begin on the date each Restrained Party (or in the case of a Founder, the relevant Founder Shareholder) first holds Securities and end:

### 3 years after the date on which the Restrained Party (or in the case of a Founder, the relevant Founder Shareholder) ceased to hold Securities;

### 2 years after the date on which the Restrained Party (or in the case of a Founder, the relevant Founder Shareholder) ceased to hold Securities; and

### on the first anniversary of the date on which the Restrained Party (or in the case of a Founder, the relevant Founder Shareholder) ceased to hold Securities.

## Geographic application of prohibition[[46]](#footnote-46)

The undertakings in clause 14.2 apply if the activity prohibited by clause 14.2 occurs in:

### each country in which the Group conducts the Business;

### Australia;

### Australian Capital Territory;

### New South Wales;

### Northern Territory;

### Queensland;

### South Australia;

### Tasmania;

### Victoria;

### Western Australia; and

### within a radius of 10 kilometres from any location from which the Group conducts the Business at the date the Restrained Party (or, in the case of a Founder, the relevant Founder Shareholder) ceases to be a Shareholder,

during the periods set out in clause 14.3.

## Exceptions

This clause 14does not restrict a Restrained Party from:

### performing any employment agreement with or otherwise providing services to the Group;

### holding 5% or less of the shares of a listed company that engages in a business or an activity that is in competition with the Business, provided that such holding is only a passive portfolio holding for investment purposes; or

### holding Securities in the Company.

# Power of Attorney

## Appointment of Attorney

### Each Shareholder[[47]](#footnote-47) (**Appointor**) irrevocably appoints each of the Directors (**Attorneys**), severally, as its agent and attorney, with power to do everything necessary or expedient in the name of the Appointor and on its behalf to give effect to any of the transactions contemplated by this deed (including clauses 9.2, 10.6, 11.2, 12.2 and 13.1(d)) to the extent that the Appointor has failed to act in the manner required by this deed, including to:

#### settle, execute and deliver in the name of the Appointor and on its behalf all documents necessary to give effect to the transactions contemplated by this deed and all documents that are contemplated by or reasonably ancillary or incidental to any such document, including conveyances, assignments, novations and transfers;

#### do everything necessary or expedient in the name of the Appointor and on its behalf to complete the transactions contemplated by this deed; and

#### exercise any rights attaching to the Appointor's Securities, including voting rights, rights to appoint a proxy or representative, rights to attend and speak at a meeting of members of the Company and agree to such meetings being called on short notice.

### Each Attorney may:

#### appoint or remove any substitute, delegate or sub-attorney at any time; and

#### exercise its rights and powers under this clause 15:

##### in its own name or in the name of the Appointor; and

##### even if it benefits from the exercise of the rights or powers.

## Further acts

The Appointor declares that all acts and things done by each Attorney and its substitutes, delegates and sub-attorneys in exercising rights and powers under this clause 15 will be as good and valid as if they had been done by the Appointor and agrees to:

### ratify and confirm whatever the Attorney and its substitutes, delegates and sub-attorneys do, or cause to be done, in lawfully exercising their rights and powers under this clause 15;

### indemnify each Attorney and its substitutes, delegates and sub-attorneys against all claims, demands, costs, charges, expenses, outgoing, losses and liabilities arising in any way in connection with the lawful exercise of their rights and powers under this clause 15; and

### deliver to the Attorneys on demand any power of attorney, instrument of transfer or other instruments as an Attorney may require for the purposes of this clause 15.

## Irrevocable

The Appointor declares that the rights and powers granted to the Attorneys under this clause 15 are given for valuable consideration and are irrevocable.

# Confidentiality

## Confidentiality

Subject to clause 16.2, no party may (and each party must procure that its Representatives do not):

### disclose any Confidential Information to any person;

### use any Confidential Information in any manner which may cause loss to the Group or the other parties; or

### make any public announcement or issue any press release regarding this deed or a party’s involvement with the Company.

## Permitted disclosure

### A party may disclose, and may permit its Representatives to disclose, any Confidential Information (and the other restrictions in clause 16.1 do not apply in such cases):

#### with the prior written consent of each party to whom the Confidential Information relates;

#### to the extent it is required to do so by Law; or

#### to a professional adviser in order for it to provide advice in relation to matters arising under or in connection with this deed and provided that the party disclosing the Confidential Information ensures that the professional adviser complies with the terms of this clause.

### Each Investor may disclose, and may permit its Representatives to disclose, any Confidential Information to its, and its Affiliates', directors, officers, employees, advisers, investors, members, limited partners and unitholders.

# Dispute resolution

## Disputes

A party must not commence court proceedings relating to any dispute arising from this deed without first complying with this clause, except:

### where a party seeks urgent interlocutory relief; or

### where the dispute relates to compliance with this clause.

## Notice of dispute

### A party claiming that a dispute has arisen under this deed must give written notice of the details of the dispute to the other party or parties in dispute.

### Each party that has given or received notice of the dispute under this clause must promptly:

#### designate as its representative in negotiations relating to the dispute a person with authority to settle the dispute; and

#### use its best endeavours to resolve the dispute.

## Resolution[[48]](#footnote-48)

If within 20 Business Days of receipt of notice the parties to the dispute do not either, resolve the dispute, or agree as to:

### a dispute resolution technique (for example, expert determination) and procedures to be adopted;

### the timetable for all steps in those procedures; and

### the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the mediation rules of the Law Society of New South Wales and the parties must request the President of the Law Society of New South Wales or the President’s nominee to select the mediator and determine the mediator’s remuneration.

# Termination and variation

## Termination events

### This deed will be terminated:

#### by mutual agreement in writing of all Shareholders;

#### for any Shareholder, when it ceases to hold any Shares;

#### the date on which one Shareholder holds all of the Shares;

#### the date on which the Company is voluntarily wound up; and

#### the date on which shares in an IPO of the Company or Related Body Corporate are allotted or transferred.

## Accrued rights

### Termination of this deed under clause 18.1 is without prejudice to any accrued rights of the Shareholders.

### Each Shareholder agrees that after termination of this deed the obligations under clauses 14 (Restraints), 16 (Confidentiality), 18 (Termination and variation), 19 (Goods and Services Tax) and 20 (General) continue in force.

## Variation

### This deed can only be varied by a later written document executed by or on behalf of:

#### the Company;

#### the holders of no less than [ ]% of the Shares on issue (on an As-Converted Basis); and

#### the holders of no less than [ ]% of the Seed Preference Shares on issue (on an As-Converted Basis),[[49]](#footnote-49)

#### provided that if such variation would impose any new obligations on a party or increase any existing obligation, or vary a definition or provision related to a specifically named party, the consent of the affected party to such variation will be specifically required.

### The Company must give prompt written notice of any variation under this clause 18.3 to any party that did not consent in writing to such variation.

### Any variation effected in accordance with this clause 18.3 will be binding on each party and all of such party's successors and permitted assigns whether or not any such party, successor or assignee entered into or approved such variation.

# Goods and Services Tax

## Definitions

In this clause:

### **GST** means "GST" as defined *in A New Tax System (Goods and Services Tax)* *Act 1999* as amended (**GST Act**) or any replacement or other relevant legislation and regulations;

### words used in this clause which have a particular meaning in the GST law (as defined in the GST Act, and also including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning, unless the context otherwise requires;

### any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member; and

### if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.

## General exclusion of GST

Unless GST is expressly included, the consideration expressed to be payable under any other clause of this deed for any supply made under or in connection with this deed does not include GST.

## Gross-up of Taxable Supply

To the extent that any supply made under or in connection with this deed is a taxable supply, the GST exclusive consideration otherwise payable for that supply is increased by an amount equal to that consideration multiplied by the rate at which GST is imposed in respect of the supply, and is payable at the same time.

## Further acts

Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this deed.

## Reimbursement and indemnity

If a payment to a party under this deed is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to clause 19.3.

# General

## Notices

Any notice given under or in connection with this deed (**Notice**):

### must be in writing and signed by a person duly authorised by the sender;

### must be addressed and delivered to the intended recipient by hand, by prepaid post or by email at the address or email address last notified by the intended recipient to the sender;

### is taken to be given and made:

#### in the case of hand delivery, when delivered;

#### in the case of delivery by post, three Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and

#### in the case of an email, 2 hours after the time the email is sent, unless the sender receives, within that time period, an automatic notification (other than an out of office message) indicating that the email has not been delivered,

#### provided that where a Notice is delivered (or deemed delivered) after 5.00pm or on a day that is not a Business Day, the Notice will be deemed to have been delivered at 9.00am on the next Business Day.

This clause does not limit the way in which a Notice can be deemed to be served under any Law.

## Costs and expenses

Except as agreed between the parties, each party must bear its own legal and other costs and expenses of and incidental to the preparation and execution of this deed.

## Stamp duty

All stamp duty which may be payable on or in connection with this deed is payable by the Company.

## Invalidity

### A word or provision must be read down if:

#### this deed is void, voidable, or unenforceable if it is not read down;

#### this deed will not be void, voidable or unenforceable if it is read down; and

#### the provision is capable of being read down.

### A word or provision must be severed if:

#### despite the operation of clause 20.4(a), the provision is void, voidable or unenforceable if it is not severed; and

#### this deed will be void, voidable or unenforceable if it is not severed.

### The remainder of this deed has full effect even if clause 20.4(b)(i) or 20.4(b)(ii) applies.

## Cumulative Rights

The rights and remedies in this deed are in addition to other rights and remedies given by Law independently of this deed.

## No waiver

### A failure, delay, relaxation or indulgence by a party in exercising any power or right conferred on the party by this deed does not operate as a waiver of the power or right.

### A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this deed.

### A waiver of a breach does not operate as a waiver of any other breach.

## Severability

Any term of this deed which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this deed is not affected.

## Assignment

### A party may not assign, transfer or in any other manner deal with its rights under this deed without the prior written agreement of each other party.

### Any purported assignment, transfer or dealing in contravention of clause 20.8(a) is ineffective.

## Survival and merger

No term of this deed merges on completion of any transaction contemplated by this deed.

## Entire agreement

This deed constitutes the entire agreement between the parties and supersedes any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this deed, whether orally or in writing.

## Further assurances

Except as expressly provided in this deed, each party must, at its own expense, do all things reasonably necessary (including executing documents) to give full effect to this deed and the matters contemplated by it.

## Relationship between parties

### Nothing in this deed:

#### constitutes a partnership between the parties; or

#### except as expressly provided, makes a party an agent of another party for any purpose.

### A party cannot in any way or for any purpose:

#### bind another party; or

#### contract in the name of another party.

### If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

## Deed and Constitution

### If there is an inconsistency between this deed and the Constitution, the provisions of this deed prevail. An inconsistency will be considered to exist if, regardless of the purpose of the provision, the relevant subject matter or action to be taken (including the issue or Disposal of Securities) is dealt with differently in both the Constitution and this deed.

### If necessary, the Shareholders must procure that the Constitution (and the constitution of each Subsidiary) is amended as soon as is practicable to ensure that a provision of this deed is effective in accordance with its terms.

### To the maximum extent permitted by Law, the parties agree to waive any provisions contained in the Constitution to the extent that those provisions are inconsistent with the provisions in this deed, so that they have no force or effect during the term of this deed.

## Counterparts and electronic execution

### This deed may be executed in counterparts, which taken together constitute one and the same deed, and any party (including any authorised representative of a party) may enter into this deed by executing a counterpart. This deed takes effect when the separately executed documents are exchanged between the parties.

### To the extent permitted by law, a counterpart may be executed electronically, including by using software or a platform for the electronic execution of contracts.

### A print out of the executed deed once all parties signing electronically have done so, will be an executed original counterpart of this deed, irrespective of which party prints it.

### Each party that signs this deed electronically represents and warrants that it or anyone signing on its behalf:

#### has been duly authorised to enter into and execute this deed electronically and to create obligations that are valid and binding obligations on the party;

#### has affixed their own electronic signature; and

#### holds the position or title indicated under their electronic signature.

## Governing law and jurisdiction

### This deed is governed by and must be construed in accordance with the Laws of [insert state]. To the extent permitted by law, such governing law governs all matters arising out of or relating to this deed or its performance or subject matter, including its execution and formation.

### The parties submit to the exclusive jurisdiction of the courts of [insert same state as previous clause] and the Commonwealth of Australia in respect of all matters arising out of or relating to this deed, its performance or subject matter.[[50]](#footnote-50)

Schedule 1

Part 1 - Founders

|  |  |
| --- | --- |
| Name of Founder | Contact Details |
| [insert] | **Address**[insert]**Email Address**[insert] |

Part 2 - Shareholders

|  |  |  |
| --- | --- | --- |
| Name of Shareholder | Contact Details | Founder Shareholder / Investor / Employee Shareholder |
| [insert] | **Address**[insert]**Email Address**[insert]**Contact**[insert] | [insert] |
| [insert] | **Address**[insert]**Email Address**[insert]**Contact**[insert] | [insert] |
| [insert] | **Address**[insert]**Email Address**[insert]**Contact**[insert] | [insert] |

Schedule 2 Critical Business Matters

**Part A: Matters to be determined by Required Resolution[[51]](#footnote-51)**

1. Matters to be determined by Required Resolution of the Board are:
	* 1. (**business plan**) adopt a business plan for the Group and vary that business plan;
		2. (**employees**) appoint or remove or materially change the terms of engagement of a Founder or key executives or any other employee with a total remuneration package in excess of $[insert][[52]](#footnote-52) per annum, or pay any such person a bonus;
		3. (**Share Plan**) adopt, vary the terms of or terminate any Share Plan[ or issue any Securities under a Share Plan][[53]](#footnote-53);
		4. (**accounts**) the approval of the annual statutory accounts of any Group Company;
		5. (**accounting practices**) any change to the accounting practices and policies of any Group Company;
		6. (**change of business**) make a material change in the nature of the Group’s business;
		7. (**issuing Securities**) issue of Securities, other than an Excluded Issue;
		8. (**corporate** **structure**) incorporation of a Subsidiary or establishment of a branch of the Company or any Subsidiary, appointment of a Group Company as a trustee or the appointment of any trustee over any of the assets of the Group, or any other analogous change to the corporate structure of the Group;
		9. (**dividends**) declare, make or pay a dividend;
		10. (**administration**) appoint an external administrator or, liquidator, except in circumstances where the Company is insolvent;
		11. (**partnerships and JVs**) enter into, vary the terms of or terminate any material partnership, joint venture, profit-sharing agreement or collaboration, other than in the ordinary course of business;
		12. (**material** **expenditure**) incur expenditure of more than $[insert] in a financial year, provided that where the expenditure has been specifically provided for in a business plan approved in accordance with this deed, no further approval will be required under this sub-paragraph;
		13. (**material transactions**) the acquisition or disposal of any asset (including the Securities of any company) with a market value in excess of $[insert], provided that where the acquisition or disposal has been specifically provided for in a business plan approved in accordance with this deed, no further approval will be required under this sub-paragraph;
		14. (**financial indebtedness**) incur any financial indebtedness by the Group which exceeds $[insert] (and for these purposes, “financial indebtedness” means any indebtedness, present or future, actual or contingent, in respect of money borrowed or raised or any financial accommodation other than trade credit in the ordinary course of business);
		15. (**loans**) make a loan, or give credit or other financial assistance to any person in excess of $[insert], other than trade credit in the ordinary course of business or advances of expenses to employees;
		16. (**encumbrances**) grant any Security Interest of any nature in respect of all or any material part of the Company’s undertaking, property or assets;
		17. (**guarantee**) guarantee, directly or indirectly, the liabilities of any person other than a Group Company;
		18. (**material contracts**) enter into or vary the terms of any material contract;[[54]](#footnote-54)
		19. (**litigation**) commence, defend, settle or take any material step in any legal proceedings, other than legal proceedings for the recovery of trade debts not exceeding $[insert];
		20. (**agreement to do things**) the agreement to do any of the things listed in this Part A of Schedule 2; and
		21. (**express provision**) any other matters expressly set out in this deed as requiring approval by Required Resolution.

**Part B: Matters to be approved by the Required Shareholders**

1. Matters to be approved by the Required Shareholders are:
	* 1. (**Constitution**) adopt, amend or repeal the Constitution;
		2. (**new class of Securities**) create any new class of Securities;
		3. (**Share rights**) varying the rights of any Shares, including the conversion of Shares of an existing class into another class of Shares (other than where such variation occurs on the conversion of a Seed Preference Shares into an ordinary share in accordance with its terms of issue);
		4. (**Share capital transactions**) any subdivision or consolidation of Shares, bonus issue, capital reduction, buy-back, redemption or acquisition (directly or indirectly) of the Company’s Securities excluding repurchases of Securities from former employees, officers, directors, consultants or other persons pursuant to any Share Plan or from Founder Shareholders pursuant to this deed;
		5. (**sale**) a sale of a majority of the assets of the Group;
		6. (**Intellectual Property Rights**) sell, assign or license any of the Group's Intellectual Property Rights, other than pursuant to licenses granted in the ordinary course of business;
		7. (**IPO**) effect an IPO;
		8. (**related party transactions**) other than as permitted by this deed or the Constitution, transactions between a Group Company and a Shareholder or its Affiliate which are outside of the ordinary course of business, otherwise than on arm’s length terms;
		9. (**cryptocurrency**) create, issue, sell, distribute or sponsor any cryptocurrency, tokens or blockchain-based assets (**Tokens**) including through a pre-sale, initial coin offering or token distribution event, and including through the issuance of any instrument convertible into or exchangeable for Tokens;
		10. (**agreement to do things**) the agreement to do any of the things listed in this Part B of Schedule 2; and
		11. (**express provision**) any other matters expressly set out in this deed as requiring approval by the Required Shareholders.

Signing page

Executed as a deed.

**Company**

|  |  |  |
| --- | --- | --- |
| **Executed as a deed** by **Company Name** ACN [insert] in accordance with section 127(1) of the *Corporations Act 2001 (Cth)[[55]](#footnote-55)*: |  |  |
|  |  |  |
|  |  |  |
|   |  |   |
| Signature of director |  | Signature of director or company secretary\* |
|  |  | \*delete whichever does not apply |
|  |  |  |
|  |  |  |
|   |  |   |
| Name (please print) |  | Name (please print) |

|  |  |  |
| --- | --- | --- |
| **Executed as a deed** by **Company Name** ACN [insert] in accordance with section 127(1) of the *Corporations Act 2001 (Cth)[[56]](#footnote-56)*: |  |  |
|  |  |   |
|  |  | Signature of sole director and sole company secretary |
|  |  |  |
|  |  |  |
|  |  |   |
|  |  | Name (please print) |

**Founders**

|  |  |  |
| --- | --- | --- |
| **Signed, sealed and delivered** by **[Founder Name]** in the presence of: |  |  |
|  |  |   |
|  |  | Signature |
|   |  |  |
| Signature of witness |  |  |
|  |  |  |
|  |  |  |
|   |  |  |
| Name of witness(please print) |  |  |

|  |  |  |
| --- | --- | --- |
| **Signed, sealed and delivered** by **[Founder Name]** in the presence of: |  |  |
|  |  |   |
|  |  | Signature |
|   |  |  |
| Signature of witness |  |  |
|  |  |  |
|  |  |  |
|   |  |  |
| Name of witness(please print) |  |  |

**Shareholders**

|  |  |  |
| --- | --- | --- |
| **Signed, sealed and delivered** by **Shareholder Name** in the presence of[[57]](#footnote-57): |  |  |
|  |  |   |
|  |  | Signature |
|   |  |  |
| Signature of witness |  |  |
|  |  |  |
|  |  |  |
|   |  |  |
| Name of witness(please print) |  |  |

|  |  |  |
| --- | --- | --- |
| **Signed, sealed and delivered** by **[Shareholder Name]** as trustee for [trust name] in the presence of[[58]](#footnote-58): |  |  |
|  |  |   |
|  |  | Signature |
|   |  |  |
| Signature of witness |  |  |
|  |  |  |
|  |  |  |
|   |  |  |
| Name of witness(please print) |  |  |

|  |  |  |
| --- | --- | --- |
| **Executed as a deed** by [**Shareholder Name]** ACN [ACN] in accordance with section 127(1) of the *Corporations Act 2001 (Cth)[[59]](#footnote-59)*: |  |  |
|  |  |  |
|  |  |  |
|   |  |   |
| Signature of director |  | Signature of director or company secretary\* |
|  |  | \*delete whichever does not apply |
|  |  |  |
|  |  |  |
|   |  |   |
| Name (please print) |  | Name (please print) |

|  |  |  |
| --- | --- | --- |
| **Executed as a deed** by **[Shareholder Name]** ACN [ACN] in accordance with section 127(1) of the *Corporations Act 2001 (Cth)*: *[[60]](#footnote-60)* |  |  |
|  |  |   |
|  |  | Signature of sole director and [sole company secretary] / [the company does not have a company secretary] |
|  |  |  |
|  |  |  |
|  |  |   |
|  |  | Name (please print) |

Annexure A Deed of Accession

By [Acceding Party's name] of [Acceding Party's address] (**New Shareholder**)

**In favour of** the parties to the Shareholders Deed from time to time.

**RECITALS**

A. The New Shareholder has acquired or will acquire securities in [insert] (the **Company**).

B. This deed poll is supplemental to the shareholders deed dated [date of deed] between the Company and its shareholders in relation to the Company (as amended from time to time) (**Shareholders Deed**).

C. The New Shareholder agrees to become a party to the Shareholders Deed and to be bound by the terms and conditions of the Shareholders Deed.

**OPERATIVE PART**

1. **Definitions and Interpretation**

Unless the context otherwise requires:

* + 1. terms defined in the Shareholders Deed have the same meaning when used in this deed; and
		2. the interpretation provisions in the Shareholders Deed apply to the interpretation of this deed.
1. **New Shareholder’s Shareholding**

The New Shareholder confirms that:

* + 1. it has been given a copy of the Shareholders Deed; and
		2. it will hold Securities in the capacity of a(n) [Founder Shareholder/Investor Shareholder/Employee Shareholder].
1. **Covenant**

The New Shareholder covenants and agrees with the parties to the Shareholders Deed (whether original or by accession) that, as from the date of this deed, the New Shareholder will comply with the provisions of the Shareholders Deed as fully and in the same manner as if it were a party to the Shareholders Deed from the date of the Shareholders Deed in the capacity specified in clause 2(b).

1. **Notices**

The notice details of the New Shareholder are as follows:

* + 1. address: [insert];
		2. email: [insert]; and
		3. contact person: [insert].
1. **Costs**

The New Shareholder is responsible for all legal and other costs and expenses of and incidental to the preparation and execution of this deed and any stamp duty payable in connection with this deed.

1. **Governing law**

This deed is governed by the laws in force from time to time in the State of [insert State].

**EXECUTED** as a deed poll

[insert execution block appropriate for acceding shareholder]

1. This document is to be entered into as a deed as it contains a power of attorney. [↑](#footnote-ref-1)
2. The Founders should be a party to the Shareholders Deed so that they are personally bound by the restraint provisions in clause 14. [↑](#footnote-ref-2)
3. "As-Converted Basis" means that references to Shares in the document are to be interpreted on the basis that all Shares have been converted into Ordinary Shares in accordance with their terms. This ensures that, when calculating a particular percentage of Shares on issue or a Shareholder's Respective Proportion, any adjustment to the conversion ratio (eg as a result of the anti-dilution mechanism) is taken into account. [↑](#footnote-ref-3)
4. Note that the intention of the Bad Leaver definition and related provisions is to treat Founders as good leavers unless they fall within the definition of Bad Leaver (and as a result a narrow definition of Bad Leaver applies). In other words, Founders will always be good leavers unless they are Bad Leavers. It is not uncommon for employee shareholders to be treated the opposite way – they are bad leavers unless they are good leavers (and the distinction is often set out in ESOP documentation). [↑](#footnote-ref-4)
5. Note that including resignation within the definition of a Bad Leaver may be seen as an aggressive approach against the Founders. Where this is included, we would expect a period of 12 months to 3 years to be included. [↑](#footnote-ref-5)
6. It is important to accurately define the Business, as this definition will impact, among other things, the scope of the restraint provisions in clause 14. [↑](#footnote-ref-6)
7. Importantly, pre-emptive rights will not apply to any Excluded Issue. Therefore, it is important that all parties consider the circumstances in which the pre-emptive rights should not apply. This document assumes there will be a Share Plan (ie an ESOP or similar employee incentive scheme) and that the issue of securities under that scheme should also be an Excluded Issue. Particularly if all Shareholders will have pre-emptive rights on new issues of Securities, it may be appropriate to include a mechanism that allows an agreed (and high) majority of Shareholders to agree that any issue of Securities should be an Excluded Issue. This would allow the relevant majority to, in effect, disapply the pre-emptive rights provisions. [↑](#footnote-ref-7)
8. It may be appropriate to limit some rights to a group of Major Shareholders. 5% is a common share ownership threshold for 'Major Shareholder' status, but a different % threshold (or other criteria) could be included. Some investors may require that they be given the rights of 'Major Shareholders' regardless of their shareholding in the Company. [↑](#footnote-ref-8)
9. This definition is used where the board's approval is required for critical business matters. Consider what threshold is appropriate here. [↑](#footnote-ref-9)
10. This definition is used where shareholders' approval is required for critical business matters. Consider what threshold is appropriate here. Note that many investors will require relevant matters to be approved by the holders of an agreed percentage of preference shares rather than of all shares. [↑](#footnote-ref-10)
11. Alternative director appointment rights could be considered, including rights for specific shareholders to appoint directors, appointment rights that are not subject to a shareholding threshold and/or rights for the Board to appoint additional directors. [↑](#footnote-ref-11)
12. It may in some cases be appropriate for investors to be entitled to appoint a board observer instead of (or in addition to) a director. [↑](#footnote-ref-12)
13. A shareholding threshold for director appointment is common for Founder shareholders. Investors are unlikely to want Founders to be able to sell their shares and still retain the right to appoint a director. [↑](#footnote-ref-13)
14. Some investors consider that Founder Shareholders should cease to have the right to appoint a director if the relevant Founder ceases to be engaged in the business. [↑](#footnote-ref-14)
15. This document assumes that one Director will be appointed by the holders of a majority of the Seed Preference Shares. Certain investors may require a specific right to appoint a director (rather than it being necessary that they hold a majority of the Seed Preference Shares). [↑](#footnote-ref-15)
16. Investors will often require the Company to take out D&O insurance before appointing a director and/or may require that the Company enter into a deed of access, indemnity and insurance with their nominee director. It may be appropriate to include provision specifically requiring this. [↑](#footnote-ref-16)
17. This agreement is drafted on the basis that almost all key decisions are made by the board, rather than by shareholders. The parties will need to discuss and agree which decisions should require shareholder approval. [↑](#footnote-ref-17)
18. Investors will often require a Company to provide certain regular reports (eg annual financial statements, quarterly or monthly management accounts) and these reporting obligations should be set out here. [↑](#footnote-ref-18)
19. Some investors (particularly venture funds) may require the Company to provide certain information both in order to meet internal and external reporting obligations and/or in order to monitor their investment. [↑](#footnote-ref-19)
20. It may be appropriate to limit these rights to Major Shareholders, or to one or more specifically named investors. [↑](#footnote-ref-20)
21. An investor that is an ESVCLP (which is the case for many Australian venture capital funds) will require the inclusion of provisions such as these in order to ensure that their investment is an 'eligible venture capital investment'. [↑](#footnote-ref-21)
22. As at September 2023, the relevant legislation sets a $12,500,000 threshold after which an auditor must be appointed for an ESVCLP's investment to remain an eligible venture capital investment. Some funds prefer to set a lower threshold (eg $10,000,000) to avoid the risk of the Company inadvertently exceeding the statutory threshold. [↑](#footnote-ref-22)
23. The purpose of this clause is to avoid a situation where, without the Company's consent, a security interest is granted over shares, the grantor defaults and the financier becomes entitled to the shares. [↑](#footnote-ref-23)
24. Consider whether there should be any limitations on Founders selling their shares for a certain period of time (ie a Founder lock-up). This gives comfort to the Investors that the Founders will remain involved in the business for an agreed minimum period of time. Where a Founder lock-up is agreed, a 4 year duration is common. Founders may negotiate carve-outs from any lock-up to allow disposals in pre-agreed circumstances. [↑](#footnote-ref-24)
25. The purpose of this clause is to avoid a situation where a company exceeds the 50 shareholder limit and becomes subject to the Chapter 6 takeover provisions. [↑](#footnote-ref-25)
26. Consider whether a shareholder should be able to nominate an Affiliate to exercise its pre-emptive rights. This may be particularly important for venture capital funds that may have multiple fund entities and where it may not be possible for the existing shareholder entity to take up its rights. [↑](#footnote-ref-26)
27. It may be appropriate to limit pre-emptive rights on new issues of Securities such that only Major Shareholders benefit from these. [↑](#footnote-ref-27)
28. Investors will generally require that they have a right to take up their Respective Proportion of any new issue of securities. It is also common for investors to have 'oversubscription rights' which allow them to take up more than their Respective Proportion if other Shareholders do not take up their full entitlement To provide for oversubscription rights, include the following language as a new clause 7.4(b)(ii):

"*if any Issue Securities remain unallocated, each Accepting Subscriber who in their Issue Acceptance specified a number of Issue Securities greater than the number of Issue Securities allocated to them, will be allocated additional Issue Securities in proportion to their Respective Proportion (provided that no Accepting Subscriber will be allocated more Issue Securities than the number set out in its Issue Acceptance) and this process will be repeated until either all Issue Securities are allocated, or every Accepting Subscriber has been allocated the number of Issue Securities set out in its Issue Acceptance.*" [↑](#footnote-ref-28)
29. The purpose of this clause is for the shareholders to agree that an employee incentive plan will be established and to put limits on the number of securities that may be issued under that plan. [↑](#footnote-ref-29)
30. It may be appropriate to limited pre-emptive rights on Share transfers to Major Shareholders only (as with pre-emptive rights on new issues). However, while it is common to limit pre-emptive rights on new issues of Securities to Major Shareholders, this is relatively unusual for pre-emptive rights on Share transfers. [↑](#footnote-ref-30)
31. A tag along right gives Shareholders' right to 'tag along' in a sale of Shares by a larger Shareholder or group of Shareholders. The Tagging Shareholders are able to sell on the same terms and conditions as the sellers (known as 'Tag Sellers') whose proposed disposal triggers the tag along provisions. This clause helps protect smaller shareholders where there are major changes in share ownership of the Company. [↑](#footnote-ref-31)
32. A drag along right gives the right to majority shareholders to 'drag along' (ie force) a minority shareholder in a sale of all of the shares in the company. [↑](#footnote-ref-32)
33. Consider what the appropriate threshold to approve a dragged sale should be. [↑](#footnote-ref-33)
34. Note that the pre-emptive rights process will not apply in the event that the drag along provisions are triggered. [↑](#footnote-ref-34)
35. It is not uncommon to include 'Defaulting Shareholder' clauses. These clauses typically require a Defaulting Shareholder' to offer to sell their Shares to other Shareholders, in some cases at a discount to their fair market value. By way of example, a Defaulting Shareholder may be (1) a Shareholder who is no longer permitted to hold Shares under the law, (2) a Shareholder who sells their shares in breach of this agreement, (3) a Shareholder who has a change of control which has not been approved by the board or (4) a Shareholder who is bankrupt or insolvent. These clauses are all designed to ensure the identity of the Shareholders remains the same and that no new party becomes entitled to hold the Shares. A Defaulting Shareholder may also be a Shareholder that breaches key sections of this agreement (eg confidentiality and restraint provisions). In that case, a discount to fair market value is more likely to be appropriate. [↑](#footnote-ref-35)
36. Founder vesting provisions allow the Company to buyback unvested shares from a Founder that ceases to be involved in the Business for any reason for a nominal price. This effectively allows a Founder to 'earn' their shares over time. [↑](#footnote-ref-36)
37. The parties may agree that a proportion of the Founders' shares should be treated as already having vested. This may be particularly appropriate where a Founder has been working on the Business for many years. [↑](#footnote-ref-37)
38. A four year vesting period, with a one year 'cliff' is a standard vesting schedule for Founders. However, the parties may agree to different vesting arrangements. [↑](#footnote-ref-38)
39. This clause may be repeated for each additional Founder. [↑](#footnote-ref-39)
40. The payment of consideration for the grant of the option by the Founder Shareholder is intended to minimise the risk that a material capital gain arises under CGT event D2. [↑](#footnote-ref-40)
41. There are complex tax issues that can arise for the Founder Shareholder and the Company if the shares are bought back. Appropriate tax advice should be obtained as to whether it is preferable to buy-back the shares or transfer them to a nominated entity. [↑](#footnote-ref-41)
42. This agreement only contemplates a right to buy back vested Shares from a Founder if they are a Bad Leaver. Investors sometimes require that the Company be given a broader right to buyback vested Shares from a departed Founder at Fair Market Value. This is intended to allow the Company to cut ties with a Founder that has ceased to be engaged in the Business (and also allows the Company to 'recirculate' the equity to new hires). The justification is that a Founder holds his or her shares because they are actively engaged in the business. This is different to an Investor, who holds their shares because they have made a financial investment into the business. [↑](#footnote-ref-42)
43. The price for Unvested Shares in the context of a Bad Leaver situation (or any termination of employment or engagement) will be $1 (as set out in clause 12.2), whereas the buyback price for vested shares (called "Default Shares") in a Bad Leaver situation will generally be an agreed percentage of the Fair Market Value of those shares. [↑](#footnote-ref-43)
44. Note that the restraint provisions in this clause only apply to the Founders, the Founder Shareholders and any Employee Shareholders. Restraint provisions sometimes apply to all shareholders (often with the exclusion of named major shareholders). [↑](#footnote-ref-44)
45. These time periods can be tailored as appropriate. [↑](#footnote-ref-45)
46. These geographical areas can be tailored as appropriate. [↑](#footnote-ref-46)
47. Venture capital funds and other institutional investors will often request that they be carved-out from any power of attorney. [↑](#footnote-ref-47)
48. Consider whether mediation is appropriate or whether another dispute resolution mechanism may be preferable, in which case this clause will need to be amended as appropriate. [↑](#footnote-ref-48)
49. The appropriate threshold for consent will vary depending on the nature of the Company's cap table. It is generally best not to require all shareholders to approve variations but it will generally be appropriate for a relatively high threshold to be set. [↑](#footnote-ref-49)
50. If key parties are overseas entities, arbitration of disputes may be appropriate rather than court proceedings in Australia. [↑](#footnote-ref-50)
51. These matters should be tailored as appropriate for the business. Each of these matters needs to be approved by a Required Resolution, so the parties need to consider whether this will be overly burdensome for the company and prevent it from operating in the ordinary course. [↑](#footnote-ref-51)
52. The Company and Investors should negotiate an appropriate threshold. [↑](#footnote-ref-52)
53. In some cases, Investors may want to have a say on issuances under the Share Plan. [↑](#footnote-ref-53)
54. This consent limb is deliberately broad. The company and Investors might wish to negotiate some parameters around it, for example a financial threshold (so that contracts over a certain value require consent). [↑](#footnote-ref-54)
55. Use this execution block where the Company has two or more directors. [↑](#footnote-ref-55)
56. Use this execution block where the Company has a sole director and sole secretary. [↑](#footnote-ref-56)
57. Use this execution block where a shareholder is an individual. [↑](#footnote-ref-57)
58. Use this execution block where a shareholder is an individual and holds the shares as trustee of a trust. [↑](#footnote-ref-58)
59. Use this execution block where a shareholder is a company and has two or more directors, or one director and a company secretary. [↑](#footnote-ref-59)
60. Use this execution block where the Shareholder has only 1 director and either than director is the sole company secretary or the Company has no company secretary. Please choose the appropriate wording underneath the signing line. [↑](#footnote-ref-60)