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SHAREHOLDERS AGREEMENT

Auvergne Capital Pty Ltd

The Shareholders listed in schedule 2

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DETAILS

Date

2019

Parties

Company

Name Auvergne Capital Pty Ltd
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18 Allen Street, South Perth, WA 6151
Email david.durack@auvergne.com.au
Attention David Durack

Shareholders

Name The Shareholders listed in schedule 2

BACKGROUND

- A On and from the date of this agreement the Company will operate the Business.
- B From the date of this agreement the Shareholders will hold Securities in the Company as set out in schedule 2 and the Shareholders will hold all of the Securities in the Company.
- C This agreement sets out the rights and obligations of the Shareholders in relation to the ownership and management of the Company.

AGREED TERMS

1 DEFINITIONS AND INTERPRETATION

Definitions

- 1.1 In this agreement the following definitions apply:

Accepted Amount has the meaning given in the clause or section in which it is used.

Accepting Shareholder has the meaning given in the clause or section in which it is used.

Board means the board of directors of the Company as constituted from time to time.

Business means the business of the Company from time to time, as determined by the Board.

Confidential Information means any information of the Company in any form, whether classified or marked as being confidential or not, including the terms of this agreement, the terms of any other agreement to which the Company is party or to which a Shareholder is party in connection with the Business, and all confidential business information, documents, records, financial information, reports, client information, customer lists, intellectual property, trade secrets, product specifications, technical information, know how, business processes, forecasts, business plans and strategies of the Company or the Business other than information already in the public domain, or information which comes into the public domain

other than by reason of a breach of this agreement, and information known by a party on a non-confidential basis before that party received the information from the Company.

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

Continuing Shareholder has the meaning given in the clause or section in which it is used.

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

Deed of Accession means a deed in substantially the same form as set out in schedule 4 under which any person becomes a party to this agreement and assumes the rights and obligations of a Shareholder under this agreement.

Default Event means, in respect of a Shareholder, the occurrence of any one or more of the following events:

- (a) an Insolvency Event;
- (b) a breach by the Shareholder of an obligation under this agreement which is not capable of remedy; or
- (c) a breach by the Shareholder of an obligation under this agreement which is not remedied within 7 days of the Shareholder receiving a second written notice (the first such notice having been issued at least 14 days prior to the second notice) from any other Shareholder or the Company regarding such breach.

Director means a director of the Company.

Dispute has the meaning given in clause 20.1.

Dispute Notice has the meaning given in clause 20.2.

Drag Along Notice has the meaning given in clause 17.2.

Group means the Company and its Subsidiaries from time to time.

Insolvency Event in relation to a person means anything which reasonably indicates that there is a significant risk that such person is or will become unable to pay its debts as and when they fall due, including without limitation each of the following:

- (a) a meeting of the person's creditors being called or held;
- (b) a step being taken to make the person bankrupt;
- (c) an application being presented or an order made for the sequestration of the person's estate;
- (d) a step being taken to wind the person up;
- (e) a step being taken to have a receiver, receiver and manager, administrator, controller, liquidator or provisional liquidator appointed to the person or any of its assets or any such appointment taking place;

- (f) the person entering into any type of agreement, composition or arrangement with, or assignment for, the benefit of all or any of its creditors; or
- (g) the person ceases or threatens to cease to carry on its main business.

Minority Shareholder(s) any Shareholder who is not a Majority Shareholder.

Majority Shareholder(s) means any Shareholder or Shareholders holding in aggregate 75% or more of the Ordinary Shares.

Negotiation Period has the meaning given in clause 20.3.

Nominating Shareholder has the meaning given in clause 7.5.

Nominee Director means a director appointed in accordance with clause 7.4.

Offer has the meaning given in the clause or section in which it is used.

Offer Notice has the meaning given in the clause or section in which it is used.

Offer Period has the meaning given in the clause or section in which it is used.

Ordinary Shares means any Securities issued as 'Ordinary Shares' or otherwise entitling the holder of the Security to cast a vote in respect of such Security at a meeting of the Shareholders of the Company.

Pro Rata Allocation has the meaning given in the clause or section in which it is used.

Related Party means:

- (a) in respect of a body corporate, anyone who is an associate of that body corporate under sections 11 to 15 (inclusive) of the Corporations Act; and
- (b) in respect of an individual, an 'associate' of that individual as defined in section 318 of the *Income Tax Assessment Act 1936* (Cth).

Response Notice has the meaning given in the clause or section in which it is used.

Securities mean Shares and any options, convertible notes, warrants or any other equity or debt instruments or securities in the Company convertible into Shares or other securities.

Security Interest means any security interest, mortgage, debenture, charge, lien, pledge, deposit by way of security, bill of sale, lease, hire purchase, option, right of pre-emption, claim, covenant, interest or power in or over an interest in an asset.

Selling Shareholder has the meaning given in the clause or section in which it is used.

Shareholder means any person holding any Shares in the Company from time to time.

Shares means all issued shares of any class in the capital of the Company from time to time.

Share Sale Agreement has the meaning given in the clause or section in which it is used.

Special Majority Approval means in the case of a vote, resolution or consent of:

- (a) Directors, one passed or given by Directors holding (in aggregate) at least 75% of the total number of votes that may be cast on the matter; and
- (b) Shareholders or a group of Shareholders, one passed or given by Shareholders holding (in aggregate) at least 75% of the Shares on issue which are entitled to vote on the matter.

Subsidiary has the meaning as set out in the Corporations Act and, unless the context otherwise requires, refers to a direct or indirect subsidiary of the Company.

Tag Along Notice has the meaning given to that term in clause 18.2.

Third Party Purchaser has the meaning given in the clause or section in which it is used.

Transfer means to transfer, sell, assign, grant an option over, declare a trustee of or otherwise part with the benefit of or dispose of or otherwise alienate any legal or beneficial interest.

Transferee has the meaning given to that term in clause 15.1.

Transferor has the meaning given to that term in clause 15.1.

Interpretation

- 1.2 In the interpretation of this agreement, the following provisions apply unless the context otherwise requires:
 - 1.2.1 a reference to 'dollars' or '\$' means Australian dollars and all amounts payable under this agreement are payable in Australian dollars;
 - 1.2.2 an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
 - 1.2.3 where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
 - 1.2.4 a word which indicates the singular also indicates the plural, a word which indicates the plural also indicates the singular, and a reference to a gender also indicates the other genders;
 - 1.2.5 a reference to the word 'include' or 'including' is to be interpreted without limitation;
 - 1.2.6 a reference to the word 'owing' means actually or contingently owing, and 'owe' and 'owed' have an equivalent meaning;
 - 1.2.7 a reference to a party, clause, part, schedule, annexure or attachment is a reference to a party, clause, part, schedule, annexure or attachment of or to this agreement;
 - 1.2.8 a reference to any document or agreement is to that document or agreement as amended, novated, supplemented or replaced;

- 1.2.9 the schedules, annexures and attachments form part of this agreement;
- 1.2.10 headings are inserted for convenience only and do not affect the interpretation of this agreement;
- 1.2.11 a reference to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this agreement.

Business day; References to and calculations of time

- 1.3 In this agreement, unless the context otherwise requires:
 - 1.3.1 a reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in the place the laws of which govern the construction of this agreement;
 - 1.3.2 a reference to a time of day means that time of day in the place whose laws govern the construction of this agreement;
 - 1.3.3 where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day; and
 - 1.3.4 a term of this agreement which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

Reasonable efforts and reasonable requests

- 1.4 Any provision of this agreement which requires a party to use its reasonable efforts to procure that something is performed or occurs or does not occur, or to comply with all reasonable requests, does not impose an obligation to:
 - 1.4.1 pay any money or to provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person, except of any such payment, compensation, consideration or income expressly contemplated in the relevant provision; or
 - 1.4.2 commence any legal action or proceeding against any person, except where that provision expressly specifies otherwise.

2 THIS AGREEMENT

- 2.1 This agreement sets out the rights and obligations of the Shareholders in relation to the ownership and management of the Company, the Business and related affairs. The parties have agreed that their relationship as Shareholders in the Company, and the affairs of the Company, will be conducted in accordance with this agreement. This agreement is the only agreement between the Shareholders in relation to such matters.
- 2.2 Any person receiving an allotment or transfer of Securities in the Company after the date of this agreement will be required to execute a Deed of Accession pursuant to which such person will become a party to this agreement.

3 TERM OF AGREEMENT

3.1 This agreement will commence and become effective on execution of it by all of the parties and will continue in full force and effect until the date at which:

3.1.1 all of the parties agree, in writing, to terminate it;

3.1.2 the Company is wound up; or

3.1.3 any Shareholder holds all of the Securities in the Company.

3.2 Subject to clause 24.14, this agreement ceases to apply to any Shareholder that has, in a manner permitted by this agreement, ceased to hold any Securities in the Company.

3.3 The right to terminate for cause remains unaffected.

4 COMPANY'S OBJECTIVES

4.1 The objectives of the Company are to operate, carry on and grow the Business as a going concern and to maximise the value of the Company in line with the direction and strategy of the Company as determined by the Board from time to time.

5 CONSTITUTION

5.1 To the extent of any conflict or inconsistency between the Constitution and the provisions of this agreement, the provisions of this agreement will prevail.

5.2 The Shareholders and the Company must do everything necessary or desirable to give effect to the provisions of this agreement and the Constitution. This includes voting in favour of any resolution put forward at a general meeting of the Company to amend the Constitution to remove any conflict or inconsistency between the Constitution and this agreement.

6 OWNERSHIP OF SECURITIES

Shareholdings

6.1 On the date of this agreement, each Shareholder will hold Securities in the Company as set out in schedule 2, and there will be no Securities on issue other than as set out in that schedule.

No grant of any Security Interest

6.2 A Shareholder must not grant any Security Interest over any of its Securities without the prior written consent of the other Shareholders.

Transfers of Securities

6.3 Any issue or Transfer of Securities may only be made in accordance with the terms of this agreement and the Constitution. The Shareholders must take all steps necessary to procure the Company, and the Company must take all such steps, to register on its books and record any issue or Transfer of Securities made in accordance with the terms of this agreement and the Constitution.

7 BOARD OF DIRECTORS

Board

- 7.1 Subject to clause 9.1, the Board will be responsible for the overall management and operation of the Business and the Company and will decide all matters in relation to the direction, business and affairs of the Company.

Appointment of directors

- 7.2 The Company must have a minimum of three directors appointed to the Board at any time. Unless approved by Special Majority Approval of the Shareholders, the maximum number of directors is five.
- 7.3 The Board may by Special Majority Approval appoint or remove a Director. The Board may only appoint a maximum of two Directors at any one time who are not Nominee Directors.
- 7.4 Each Shareholder or group of Shareholders may nominate and appoint one director to the Board while it holds 20% or more of the total voting rights attaching to Ordinary Shares and may nominate and appoint two directors to the Board while it holds 40% or more of the total voting rights attaching to Ordinary Shares. If the permitted maximum number of Directors will be exceeded due to an appointment of a Nominee Director, the Board must either (i) procure that one of the existing Directors, not being a Nominee Director, resigns or (ii) seek and obtain the approval of Shareholders to increase the permitted maximum number of Directors.
- 7.5 A Shareholder who is entitled to, and who has, appointed a director to the Board (**Nominating Shareholder**) may remove and replace such person at any time by notice in writing to the Company and each other Shareholder effective immediately on receipt of the notice by the Company.
- 7.6 A Nominating Shareholder may appoint an alternate director by notice in writing to the Company and each other Shareholder. An alternate director is entitled to attend and participate in all meetings of the Board, but may only be counted in a quorum, and may only vote and have their vote counted, if the director to whom they are the alternate is not present at the Board meeting.
- 7.7 A director must automatically cease to act as a director, and will be deemed to have retired, where its Nominating Shareholder ceases to hold the total voting rights attaching to Ordinary Shares required to be held to appoint such person under clause 7.4, or where its Nominating Shareholder ceases to be a Shareholder. Where a Nominating Shareholder has appointed more than one director and ceases to hold the total voting rights attaching to Ordinary Shares required to be held to appoint such number of directors, it must nominate in writing to the Board which of the directors appointed by it will retire. Where no nomination is made prior to the Ordinary Shares ceasing to be held, the most recently appointed director must automatically cease to act as a director, and will be deemed to have retired.
- 7.8 The Shareholders must cause the Board to take all action necessary to ensure that the Board is comprised of such persons nominated by each Nominating Shareholder from time to time and in accordance with the provisions set out above.

Director is nominee of the Nominating Shareholder

- 7.9 Each party acknowledges that a person appointed as a director is the nominee of its Nominating Shareholder. Subject to the Corporations Act and any applicable law, a director may have regard to and represent the interests of its Nominating Shareholder in performing its duties or exercising any power, right or discretion as a director.
- 7.10 A director may communicate and provide copies of any information in respect of the affairs of the Company, either received by or made available to such director, to its Nominating Shareholder and to its Nominating Shareholder's officers and advisors.

Directors' fees and expenses

- 7.11 Directors' remuneration from the Company in their capacity as directors will be in accordance with a contract of employment or other written agreement with the Company.

Chairperson

- 7.12 The chairperson of the Board will be as elected, removed and replaced by the Board from time to time by simple majority. The chairperson will act as chairperson of all meetings of the Board. The chairperson will not have a casting vote in addition to any vote as a director. In the event that the chairperson is absent from a meeting of the Board, a replacement chairperson will be elected by a vote of the simple majority of the directors present for the meeting and will act as chairperson for that Board meeting only.

Company secretary

- 7.13 The company secretary is to be appointed by the Board from time to time by simple majority.

Initial officeholders

- 7.14 On the date of this agreement, the initial officeholders of the Company will be as set out in schedule 1.

Directors and officers insurance

- 7.15 In respect of each director and officer of the Company, the Company must, subject to and to the maximum extent permitted under the Corporations Act:
- 7.15.1 arrange and maintain directors and officers insurance with a reputable insurer on terms acceptable to the Board to insure each such person against any liability (including liability for legal costs and expenses incurred in defending an action) arising from their position as a director or officer of the Company; and
- 7.15.2 enter into a deed of access, indemnity and insurance with each such person in a form approved by the Board under which the Company indemnifies and insures each such person against any liability (including liability for legal costs and expenses incurred in defending an action) arising from their position as a director or officer of the Company.

8 BOARD MEETINGS AND DECISIONS

Meetings of the Board

- 8.1 Unless otherwise agreed by the Board, the Board must meet at least once every three months in person or via teleconference or other electronic means to monitor the conduct of the Business and to make regular reports to the Shareholders. The Board may agree to meet at more regular intervals.

Notice of meetings

- 8.2 At least 48 hours written notice of a meeting of the Board must be given to all directors and alternate directors. The notice must be accompanied by an agenda of the matters to be discussed at the meeting. This requirement is only waived if all directors entitled to vote at the meeting waive it in writing. The notice must be given by the chairperson of the Board, or the company secretary (if one is appointed) at the direction of the chairperson.

Voting

- 8.3 Each director has one vote at all meetings of the Board.

Quorum requirements

- 8.4 The quorum necessary for a meeting of the Board is 3 directors, including at least one Nominee Director nominated by each Shareholder entitled to nominate a Nominee Director under clause 7.4. A director may be counted among the quorum if they are present at the meeting in person or via teleconference or other electronic means.
- 8.5 If a quorum is not present within 30 minutes after the scheduled commencement time of a properly convened meeting of the Board, the meeting is adjourned for five business days and will be held at the same time and place on that date. A notice of the adjourned meeting does not need to be given to the directors. No business may be conducted at the adjourned meeting except the business which was meant to be conducted at the meeting which was adjourned.
- 8.6 If a quorum is not present within 30 minutes after the scheduled commencement time of an adjourned meeting, then the meeting will proceed with those directors that are present and will be deemed to be a quorum.

Decisions of the Board

- 8.7 Subject to clause 9, all decisions of the Board, or any matter requiring the vote, resolution, consent or approval of the Board or of the directors, must be approved by an affirmative vote of a simple majority of the votes cast by directors present at the meeting of the Board and who are entitled, at the time the decision is made, to vote on the issue.

Resolution in writing

- 8.8 A resolution in writing signed by all directors is to be treated as a determination of the Board passed at a meeting of the Board duly convened and held. A resolution in writing may consist of several documents in like form, each signed by one or more directors (or alternate directors) and, if so signed, the resolution takes effect on the last date on which one of those documents is signed by a director (or alternate director).

Material interests and related party transactions

- 8.9 Subject to the Corporations Act, a director must notify the other directors if he, his Nominating Shareholder, or a Related Party of the director or his Nominating Shareholder, has a material personal interest or conflict of interest in respect of any matter to be considered by the Board or any decision of the Board.
- 8.10 Where at any meeting of the Board it is proposed to discuss or vote on:
- 8.10.1 any matter in which a director, his Nominating Shareholder, or a Related Party of the director or his Nominating Shareholder, has a material interest or conflict of interest; or
 - 8.10.2 any transaction between the Company (or a subsidiary of the Company) and a director, his Nominating Shareholder, or a Related Party of the director or his Nominating Shareholder, including entering into or varying any agreement or arrangement, or any decision in relation to the exercise or non-exercise of any right under an agreement or arrangement,

then unless all other directors resolve otherwise, each director to which the matter, conflict or transaction relates is entitled to attend the meeting and vote on such matters.

No authority to act

- 8.11 No director of the Company will have any authority to act for or to assume any obligation or responsibility on behalf of the Company except in accordance with a valid resolution of the Board or in accordance with such person's delegated authority as a director or employee of the Company.

Subsidiaries

- 8.12 The provisions of clauses 7 and 8 shall apply to all Subsidiaries of the Company in the same manner as they apply to the Company, unless otherwise agreed unanimously by all directors of the Company and to the extent permitted by applicable law.

9 BOARD AND SHAREHOLDER SPECIAL MAJORITY APPROVAL DECISIONS

- 9.1 Subject to the Corporations Act, the Company may only, and must procure that its Subsidiaries only, undertake the matters set out in Part 1 of Schedule 3 with a Special Majority Approval of the relevant board of directors.
- 9.2 Subject to the Corporations Act, the Company may only undertake the matters set out in Part 2 of Schedule 3 with a Special Majority Approval of the Shareholders.
- 9.3 Subject to the Corporations Act, the Company must procure that its Subsidiaries only undertake the matters set out in Part 2 of Schedule 3 with approval of the Company.

10 FINANCIAL MATTERS

Financial year

- 10.1 The financial year of the Company will commence on each 1 January and end on the following 31 December.

Business plans, budgets and dividend policy

- 10.2 The Company's business plan, budgets and dividend policy will be determined by the Board from time to time.

Accounts and other records

- 10.3 The Board will keep such accounts and other records as required by law and that sufficiently explain the transactions and financial position of the Company to enable the preparation of monthly, quarterly and annual accounts, including a profit and loss account, balance sheet and cash flow statement.

11 ACCESS TO INFORMATION AND RECORDS

- 11.1 Each Shareholder will be entitled to receive updates from the Board in relation to the performance of the Business in such form, and with such frequency as the Board determines from time to time.
- 11.2 Each Shareholder will have the right, at its own cost, to review, inspect and audit the books and records of the Company during normal business hours provided that the Shareholder does not hinder or delay the conduct of the Business or preparation of any accounts.

12 ADDITIONAL SHAREHOLDER FUNDING

- 12.1 The Board may only:
- 12.1.1 obtain third party debt funding for the Company;
 - 12.1.2 obtain additional funding from a Shareholder or a Related Party of a Shareholder by way of loan, advance or other form of debt funding;
 - 12.1.3 obtain additional funding by an issue of Shares.
- 12.2 No Shareholder will be obliged to contribute any additional debt funding or subscribe for any Securities unless they agree to do so.

13 ISSUE OF ADDITIONAL SECURITIES

Issue of Securities

- 13.1 Subject to clause 13.12, the Board may only allot, issue or grant any Securities in accordance with clauses 13.2 to 13.11 (inclusive).

Offer to Shareholders to subscribe for Securities

- 13.2 The Board may at any time make a written offer to all Shareholders (**Offer Notice**) to subscribe for additional Securities, provided that the offer must first be approved by Special Majority Approval of the Board.

Offer Notice

- 13.3 An Offer Notice must:
- 13.3.1 be in writing and signed by or on behalf of the Board;
 - 13.3.2 specify the total number of new Securities available for subscription together with the rights attaching to such Securities if they are not Ordinary Shares (**Offered Securities**);
 - 13.3.3 specify, in Australian currency, the amount payable per Offered Security;
 - 13.3.4 specify the acceptance period of the offer (**Offer Period**); and
 - 13.3.5 include any other relevant terms.

Response to Offer Notice

- 13.4 Each Shareholder may, on or before the last day of the Offer Period, by written notice to the Board (**Response Notice**):
- 13.4.1 accept the offer to subscribe for all of the Offered Securities;
 - 13.4.2 accept the offer to subscribe for the Offered Securities in respect of a specified number of the Offered Securities; or
 - 13.4.3 reject the offer to subscribe for any of the Offered Securities.
- 13.5 If a Shareholder does not give a Response Notice to the Board during the Offer Period, the Shareholder is taken to have rejected the offer to subscribe for any of the Offered Securities.
- 13.6 If a Shareholder provides a Response Notice to the Board accepting the offer to subscribe for all of the Offered Securities, or accepting the offer in respect of a specified number of the Offered Securities, the Response Notice is deemed to constitute an application by the Shareholder for the number of Offered Securities that it accepts by the Response Notice.

Allocation of Offered Securities

- 13.7 If the total number of Offered Securities accepted by all Shareholders in the Response Notices is less than or equal to the total number of Offered Securities, the Board must allocate to each Shareholder that accepts an offer to subscribe for the Offered Securities (**Accepting Shareholder**), the number of Offered Securities that the Accepting Shareholder accepts by its Response Notice.
- 13.8 If the total number of Offered Securities accepted by the Accepting Shareholders in the Response Notices exceeds the total number of Offered Securities, the Offered Securities will be allocated as follows:
- 13.8.1 subject to clause 13.8.2, in such proportion as the Shares of each Accepting Shareholder bear to the total number of Shares of all Accepting Shareholders on the date of the Offer Notice (**Pro Rata Allocation**); and
 - 13.8.2 if the Pro Rata Allocation would result in an Accepting Shareholder being allocated more than the number of Offered Securities that it accepts in its

Response Notice (**Accepted Amount**), the Accepting Shareholder will only be allocated its Accepted Amount, and any remaining Offered Securities must be reallocated between the other Accepting Shareholders in such proportion as the Shares of each such Accepting Shareholder bears to the total number of Shares of all such Accepting Shareholders on the date of the Offer Notice.

- 13.9 The allocation process in clause 13.8.2 must be repeated until all of the Offered Securities have been allocated.

Notification of allocation of Offered Securities

- 13.10 The Board must notify each Accepting Shareholder within five business days of the end of the Offer Period the number of Offered Securities it has been allocated in accordance with the allocation process in clauses 13.7, 13.8 and 13.9.

Settlement

- 13.11 Settlement of the issue and allotment of the Offered Securities allocated to the Accepting Shareholders must occur 10 business days after the end of the Offer Period or any earlier date agreed by the Accepting Shareholders.

No requirement to make pro rata offer

- 13.12 The Board does not have to comply with clauses 13.2 to 13.11 in respect of:

- 13.12.1 the issue of Securities to any person who is not a director, a Shareholder or a Related Party of a director or Shareholder, provided that the issue is approved with Special Majority Approval of the Board; or
- 13.12.2 the issue of any Shares on conversion of Securities previously issued to any person.

14 RESTRICTIONS ON TRANSFER OF SECURITIES

- 14.1 A Shareholder must not Transfer any of its Securities unless:

- 14.1.1 to a Related Party of the Shareholder, and then subject to the Shareholder and the Related Party complying with clause 15 in respect of such Transfer;
- 14.1.2 the Transfer is made in accordance with clause 16 (Pre-Emptive Rights), clause 17 (Drag Along Rights), clause 18 (Tag Along Rights), clause **Error! Reference source not found. (Error! Reference source not found.)** or clause 19 (Default);
- 14.1.3 the Transfer is made with Special Majority Approval of the Directors; or
- 14.1.4 a Transfer by Frank Grimes Pty Ltd to Thylungra Investments Pty Ltd at any time following the date of this agreement.

- 14.2 If a Shareholder transferring Securities has shareholder loans outstanding, the Board may require that it be a condition of the Transfer that the transferee either (i) accept a assignment of the relevant shareholder loan or (ii) provide a new shareholder loan to the Company on terms determined by the Board, provided the terms are no less favourable to the transferee than those of the existing shareholder loan.

15 TRANSFER OF SHARES TO A RELATED PARTY

- 15.1 A Shareholder or any party controlling the estate of a deceased Shareholder (each a **Transferor**) may Transfer any of its Shares to a Related Party or in accordance with the obligations of the Transferor under an applicable will (**Transferee**) provided that:
- 15.1.1 if the Transferee will be a nominee holder and not the beneficial holder of the Shares, the Board approves such Transfer in advance;
 - 15.1.2 the Transferee first enters into a Deed of Accession under which it becomes a party to this agreement; and
 - 15.1.3 the Transferor and Transferee comply with all other requirements that the Board may reasonably impose in connection with the Transfer of the Shares.
- 15.2 A Shareholder does not have to comply with clause 16 before Transferring any of its Shares to a Related Party under clause 15.1.

16 PRE-EMPTIVE RIGHTS

Offer Notice

- 16.1 Subject to clause 14, a Shareholder holding Securities (**Selling Shareholder**) who proposes to Transfer all or any of those Securities must give to all other Shareholders (**Continuing Shareholders**) a notice of offer in the form required by clause 16.2 (**Offer Notice**).
- 16.2 An Offer Notice must:
- 16.2.1 be in writing signed by the Selling Shareholder;
 - 16.2.2 specify the type, class and total number of Securities offered for sale to the Continuing Shareholders (**Sale Securities**);
 - 16.2.3 specify the amount, in Australian currency, which the Selling Shareholder asks as the price of the Sale Securities and the terms of payment, including the amount payable per Security, such amount to be calculated in accordance with schedule 5 or such other amount as agreed between the Selling Shareholder and Accepting Shareholders;
 - 16.2.4 if required by the Selling Shareholder, be conditional on all of the Sale Securities being sold to a Continuing Shareholder or the Continuing Shareholders;
 - 16.2.5 be unconditional, save for the condition set out in clause 16.2.4 (if included) and subject to the condition that all necessary government and regulatory approvals in connection with the sale are obtained;
 - 16.2.6 if the Selling Shareholder has received any offer to purchase the Sale Securities, state the full name and address of the offer or and all other terms of the offer, and attach a copy of the offer if in writing together with all documentation relating to the offer; and
 - 16.2.7 remain open for acceptance for 30 days (**Offer Period**).

- 16.3 The giving of an Offer Notice constitutes an irrevocable offer (**Offer**) by the Selling Shareholder to sell the Sale Securities to the Continuing Shareholders at the price and on the terms and conditions set out in the Offer Notice.

Acceptance of Offer

- 16.4 Each Continuing Shareholder may, on or before the last day of the Offer Period, by written notice to the Selling Shareholder (**Response Notice**) accept the offer to purchase all of the Sale Securities, accept the offer to purchase the Sale Securities in respect of a specified number of the Sale Securities or reject the offer to purchase any of the Sale Securities. If a Continuing Shareholder does not give a Response Notice to the Selling Shareholder during the Offer Period, the Continuing Shareholder is taken to have rejected the offer to purchase any of the Sale Securities.

Allocation of Sale Securities

- 16.5 If the total number of Securities accepted by all Continuing Shareholders in Response Notices is less than or equal to the total number of Sale Securities, the Selling Shareholder must allocate to each Shareholder that accepts an offer to purchase the Sale Securities (**Accepting Shareholder**), the number of Sale Securities that each Accepting Shareholder accepts in its Response Notice.
- 16.6 If the total number of Securities accepted by Accepting Shareholders in Response Notices exceeds the total number of Sale Securities, the Sale Securities must be allocated as follows:
- 16.6.1 subject to clauses 16.6.2 and 16.6.3, in such proportion as the Securities of each Accepting Shareholder bear to the total number of Securities of all Accepting Shareholders on the date of the Offer Notice (**Pro Rata Allocation**);
 - 16.6.2 if the Pro Rata Allocation would result in an Accepting Shareholder being allocated more than the number of Sale Securities that it accepts in its Response Notice (**Accepted Amount**), the Accepting Shareholder will only be allocated its Accepted Amount, and any remaining Sale Securities must be reallocated between the other Accepting Shareholders in such proportion as the Securities of each such Accepting Shareholder bears to the total number of Securities of all such Accepting Shareholders on the date of the Offer Notice; and
 - 16.6.3 if the calculation of the Pro Rata Allocation results in a number of shares that is not a whole number the Pro Rata Allocation is rounded down to the lower whole number.
- 16.7 The allocation process in clause 16.6.2 must be repeated until all of the Sale Securities have been allocated.

Notification of allocation of Sale Securities

- 16.8 The Selling Shareholder must notify each Accepting Shareholder within five business days of the last day of the Offer Period the number of Sale Securities it has been allocated in accordance with the allocation process in clauses 16.5, 16.6 and 16.7.

Settlement

- 16.9 Settlement of the sale and purchase of the Sale Securities allocated to the Accepting Shareholders must occur 10 business days after the end of the Offer Period or any earlier date agreed by the Accepting Shareholders.

Sale to Third Party Purchaser

- 16.10 If:

- 16.10.1 the total number of Sale Securities accepted by the Continuing Shareholders in Response Notices is less than the total number of Sale Securities; or
- 16.10.2 the Offer Notice contains a condition of the type referred to in clause 16.2.4 and all of the Sale Securities are not allocated to Continuing Shareholders in accordance with clauses 16.5, 16.6 and 16.7,

the Selling Shareholder may, within a three month period commencing on the first day after the end of the Offer Period, sell the remaining Sale Securities (where clause 16.10.1 applies) or all of the Sale Securities (where clause 16.10.2 applies) to a third party (**Third Party Purchaser**) on terms not more favourable to the Third Party Purchaser than the terms set out in the Offer Notice.

- 16.11 Any Transfer of the Sale Securities by the Selling Shareholder to a Third Party Purchaser will be conditional on the Third Party Purchaser entering into a Deed of Accession under which it becomes a party to this agreement, receipt of any necessary governmental approvals, authorities and consents in connection with the Transfer of the Sale Securities, if the Third Party Purchaser will be a nominee holder and not the beneficial holder of the Shares, the Board approves such Transfer in advance and the Third Party Purchaser complying with all applicable laws in respect of the Transfer of the Sale Securities.
- 16.12 On completion of the Transfer of the Sale Securities to the Third Party Purchaser, the Third Party Purchaser will assume the liabilities and obligations of the Selling Shareholder in relation to the Sale Securities and the Selling Shareholder will be relieved of liability for the performance of its duties, responsibilities and obligations in relation to the Sale Securities which are assumed by the Third Party Purchaser.

Further assurances

- 16.13 Upon a Transfer by the Selling Shareholder of its Sale Securities becoming effective, the Selling Shareholder, Third Party Purchaser and Continuing Shareholders must execute, acknowledge and deliver all such further acts, deeds, assignments and assurances required to perfect the Transfer of the Sale Securities and the assumption of the Selling Shareholder's obligations under this agreement.

No sale to third party in three-month period

- 16.14 If the Selling Shareholder does not complete the sale of the Sale Securities to a third party within three months of the end of the Offer Period, the process set out in clauses 16.1 to 16.9 must be repeated before the Selling Shareholder can dispose of any of its Sale Securities under this clause 16.

17 DRAG ALONG RIGHTS

Exercise of Drag Along Rights

- 17.1 The Majority Shareholder(s) may at any time enter into an agreement (**Share Sale Agreement**) with a third party (**Third Party Purchaser**) for and on behalf of all Shareholders, to sell all of the Securities in the Company to the Third Party Purchaser, including the Securities held by any other Shareholders (**Minority Shareholders**), provided that:
- 17.1.1 the Share Sale Agreement is in writing;
 - 17.1.2 the Share Sale Agreement is for the sale of all of the Securities held by the Shareholders and, for each type of Security, on the same terms and at the same price per Security regardless of the rights attaching to such Securities; and
 - 17.1.3 no collateral benefit passes to any Shareholder in connection with or as a consequence of the sale of the Securities under the Share Sale Agreement, except pursuant to any bona fide contract of employment that a Shareholder or a director of a Shareholder may enter into with the Third Party Purchaser or a Related Party of the Third Party Purchaser.

Drag Along Notice

- 17.2 If a Share Sale Agreement is entered into under clause 17.1, the Majority Shareholders entering into the agreement must give written notice to the Minority Shareholders (**Drag Along Notice**) within five business days of the execution of the Share Sale Agreement notifying them of the entry into the Share Sale Agreement and the sale of the Securities. The Drag Along Notice must attach a certified copy of the Share Sale Agreement and a certified copy of all other agreements and documentation relating to the sale of the Securities.

Delivery of Shares

- 17.3 Within five business days of receipt of the Drag Along Notice, the Minority Shareholders must deliver to the Board their Securities free of any Security Interests together with duly executed transfers of each type of Security in favour of the Third Party Purchaser under the Share Sale Agreement and their share certificates so as to enable the Majority Shareholders to complete the sale of all of the Securities on behalf of all Shareholders in accordance with the Share Sale Agreement.
- 17.4 On completion of the sale of the Securities under the Share Sale Agreement, the Board must receive on behalf of all Shareholders the aggregate price of all of the Securities and pay to each Shareholder its proportion of that amount.

Appointment of Attorney

- 17.5 Each Minority Shareholder irrevocably appoints any two directors of the Company jointly as its agent and attorney with power to complete the sale of the Securities as contemplated in this clause 17, including the power of any two directors together to execute all necessary documents required to complete the sale on behalf of that Shareholder or the Company.

Further assurances

- 17.6 Upon a Transfer by the Shareholders of all of the Securities in the Company to the Third Party Purchaser becoming effective, the Shareholders must execute, acknowledge and deliver all such further acts, deeds, assignments and assurances required to perfect the Transfer of such Securities.

Priority over pre-emptive rights

- 17.7 For the avoidance of doubt, the Majority Shareholders do not have to comply with clause 16 before entering into a Share Sale Agreement under this clause 17, and neither the Majority Shareholders nor Minority Shareholders have to comply with clause 16 before selling their Shares under this clause 17.

18 TAG ALONG RIGHTS

Exercise of Tag Along Rights

- 18.1 The Majority Shareholder(s) may at any time enter into an agreement (**Share Sale Agreement**) with a third party (**Third Party Purchaser**) for the sale of all of their Securities in the Company to the Third Party Purchaser, provided that:
- 18.1.1 the Share Sale Agreement is in writing;
- 18.1.2 if clause 17.1 does not apply, the Share Sale Agreement requires the Third Party Purchaser to give a written offer (**Offer**) to all other Shareholders (**Minority Shareholders**) to purchase all of the Securities of the Minority Shareholders on the same terms and at the same price per Security as applying to the purchase of the Securities of the Majority Shareholders, or at the same price per type or class of Security where there is more than one type or class of Security on issue at the relevant time; and
- 18.1.3 no collateral benefit passes to any Shareholder in connection with or as a consequence of the sale of the Securities under the Share Sale Agreement, except pursuant to any bona fide contract of employment that a Shareholder or a director of a Shareholder may enter into with the Third Party Purchaser or a Related Party of the Third Party Purchaser.

Tag Along Notice

- 18.2 The Offer must be set out in a notice (**Tag Along Notice**) given by the Third Party Purchaser to the Minority Shareholders within five business days of the execution of the Share Sale Agreement setting out:
- 18.2.1 that the Third Party Purchaser irrevocably offers to purchase all (and not less than all) of the Securities of each Minority Shareholder on, for each type and class of Security, the same terms and at the same price per Security as the Third Party Purchaser has purchased or agreed to purchase the Securities of the Majority Shareholders;
- 18.2.2 for each type and class of Security, the price per Security payable for the Securities and all other terms of the Offer;

- 18.2.3 the period in which the Offer remains open, which must be at least 10 business days from the date of the Tag Along Notice (**Offer Period**); and
 - 18.2.4 the address to which any acceptance of the Offer must be sent.
- 18.3 The Tag Along Notice must attach a certified copy of the Share Sale Agreement and a certified copy of all other agreements and documentation relating to the sale of the Securities.

Acceptance of Offer

- 18.4 A Minority Shareholder may accept the Offer within the Offer Period by written notice to the Third Party Purchaser at the address set out in the Tag Along Notice, with a copy to the Board.
- 18.5 Within five business days of acceptance of the Offer the Minority Shareholders who have accepted the Offer (**Selling Shareholders**) must deliver to the Board their Securities free of any Security Interests together with duly executed transfers of the Securities in favour of the Third Party Purchaser and any share certificates to enable the Majority Shareholder(s) to complete the sale of the Minority Shareholder(s)' Securities in accordance with the Share Sale Agreement.
- 18.6 On completion of the sale of the Securities under the Share Sale Agreement and the Tag Along Notice, the Board must receive on behalf of the Majority Shareholders and the Selling Shareholders the aggregate price of all Securities sold and pay to each Shareholder its proportion of that amount.

Appointment of Attorney

- 18.7 Each Selling Shareholder and the Company irrevocably appoints any two directors of the Company jointly as its agent and attorney with power to complete the sale of the Securities as contemplated in this clause 18, including the power of any two directors together to execute all necessary documents to complete the sale on behalf of the Selling Shareholder or the Company (as the case may be).

Continuing Shareholders

- 18.8 If the Offer is not accepted by any one or more of the Minority Shareholders (**Continuing Shareholders**), the Continuing Shareholders must continue to hold their Securities in the Company, and the Transfer of the Securities of the Majority Shareholders and the Selling Shareholders will proceed in accordance with the terms of the Share Sale Agreement and the Tag Along Notice subject to:
- 18.8.1 the Third Party Purchaser entering into a Deed of Accession under which it becomes a party to this agreement; and
 - 18.8.2 the receipt of any necessary governmental approvals, authorities and consents in connection with the Transfer and the Third Party Purchaser complying with all applicable laws in respect of the Transfer.
- 18.9 On completion of the Transfer of the Securities to the Third Party Purchaser under the Share Sale Agreement and the Tag Along Notice, the Third Party Purchaser will assume the liabilities and obligations of the Majority Shareholders and the Selling Shareholders in relation to the transferred Securities and the transferring Shareholders will be relieved of

liability for the performance of their duties, responsibilities, and obligations in relation to the transferred Securities which are assumed by the Third Party Purchaser.

Further assurances

- 18.10 Upon a Transfer of the Securities of the Majority Shareholders and the Selling Shareholders to the Third Party Purchaser becoming effective, the Majority Shareholders and the Selling Shareholders must execute, acknowledge and deliver all such further acts, deeds, assignments and assurances required to perfect the Transfer of such Securities.

Priority over pre-emptive rights

- 18.11 For the avoidance of doubt, the Majority Shareholders do not have to comply with clause 16 before entering into a Share Sale Agreement under this clause 18, and neither the Majority Shareholders nor Selling Shareholders have to comply with clause 16 before selling their Shares under this clause 18.

19 DEFAULT

Consequence of default

- 19.1 If a Default Event occurs in relation to a Shareholder (**Defaulting Party**), at the election of any Shareholder by giving notice to all other Shareholders and the Company:
- 19.1.1 all rights attaching to Securities held by the Defaulting Party (**Default Securities**) are suspended (including that the Defaulting Party shall not be entitled to attend (in person or by proxy) any meeting of the holders of any class of Securities) until either the default is remedied or the Default Securities are transferred; and
- 19.1.2 the Defaulting Party is taken to have given an Offer Notice under clause 16.2 on the date on which the Default Event occurred, in respect of all Default Securities at a cash price per Default Securities as determined under schedule 5 or as otherwise agreed between the parties. Clauses 16.3 to 16.9 (inclusive) apply mutatis mutandis to the transfer.

Other remedies

- 19.2 Clause 19.1 is in addition to and not to the exclusion of any other right or remedy the other parties to this agreement may have against the Defaulting Party.

Transfer rights suspended

- 19.3 A Defaulting Party may not itself serve an Offer Notice under clause 16.1.

20 DISPUTE RESOLUTION

- 20.1 This clause applies in relation to a dispute or disagreement arising out of or in relation to this agreement, its subject matter, the rights or liabilities of the Shareholders under this agreement, or a dispute or disagreement concerning the conduct of the business or affairs of the Company (**Dispute**).
- 20.2 If a Shareholder considers that a Dispute has arisen, it must give written notice to the other Shareholders (**Dispute Notice**) and specify the nature of the Dispute, and the Shareholders

must then act in good faith and use their reasonable efforts to resolve the Dispute quickly and efficiently through negotiation.

- 20.3 If the Shareholders are unable to resolve the Dispute within 30 days of the date of the Dispute Notice, or such longer period agreed by all Shareholders, (**Negotiation Period**) the Shareholders must refer the Dispute for mediation to be conducted on the following terms:
- 20.3.1 the mediator will be as agreed by the Shareholders within 10 business days of the end of the Negotiation Period;
 - 20.3.2 if the Shareholders are unable to agree on a mediator within 10 business days of the end of the Negotiation Period, the Board must ask the President of the Institute of Arbitrators and Mediators Australia or his or her nominee to appoint a mediator;
 - 20.3.3 the Shareholders must mediate the Dispute in accordance with principles agreed between them or, if no agreement can be reached, the principles determined by the mediator in their absolute discretion; and
 - 20.3.4 unless the Shareholders agree otherwise, the mediator's fee and any other costs of the mediation will be met by the Company, but the Shareholders must pay their own costs of preparing for and participating in the mediation.
- 20.4 The Shareholders must do whatever is reasonably necessary to put into effect any negotiated or mediated agreement or other resolution, including exercising voting rights and other powers as required.
- 20.5 Subject to clause 20.6, no Shareholder may commence legal proceedings in respect of a Dispute unless it has complied with clause 20.2 and 20.3 and until such time as any mediation in respect of such Dispute has been terminated.
- 20.6 Nothing in this clause 20 restricts or limits the rights of a Shareholder to seek urgent interlocutory relief or declaratory relief in respect of a Dispute or any other matter arising under this agreement.
- 20.7 Notwithstanding the existence of a Dispute, each Shareholder must continue to perform its obligations under this agreement.

21 CONFIDENTIAL INFORMATION

- 21.1 Each Shareholder must keep all Confidential Information strictly confidential and must not disclose any Confidential Information to any person other than:
- 21.1.1 with the consent of the Board;
 - 21.1.2 to its directors, officers, employees and professional advisers;
 - 21.1.3 as may be necessary for the proper performance of this agreement;
 - 21.1.4 as may be required by any regulatory authority, by law or in order to comply with the requirements of any stock exchange; or

- 21.1.5 to a prospective transferee of its Securities who has entered into a confidentiality agreement with the Shareholder on terms that reflect the terms set out in this clause 21.
- 21.2 A Shareholder required or wishing to disclose Confidential Information in accordance with this agreement must notify the other Shareholders of the proposed disclosure as far in advance as is reasonably possible, take all ordinary precautions to ensure that the proposed recipient keeps the information confidential and take all reasonable steps to ensure that the Confidential Information disclosed is kept to a minimum.

22 MUTUAL COVENANTS

- 22.1 Where a party to this agreement is a company, it covenants and agrees with each other party as follows:
 - 22.1.1 it has the capacity to enter into and to perform and complete its obligations under this agreement;
 - 22.1.2 it has taken all necessary legal action to authorise the entry into and performance of this agreement and its obligations under this agreement;
 - 22.1.3 it will punctually discharge all its obligations under this agreement.
- 22.2 Where a party to this agreement is a trustee company, it covenants and agrees with each other party as follows:
 - 22.2.1 it enters into this agreement in its capacity as trustee of the trust as well as its personal capacity;
 - 22.2.2 it is the sole trustee of, and has power to bind, the trust;
 - 22.2.3 the trust deed under which it has been appointed trustee has been validly executed, is in full force and effect and complies with any applicable law;
 - 22.2.4 it has the power under the trust deed and any law to:
 - 22.2.4.1 execute, deliver and perform its obligations under this agreement;
 - 22.2.4.2 take any action contemplated by this agreement;
 - 22.2.5 the execution, delivery and performance by the trustee of its obligations under this agreement are for the benefit and proper purpose of the trust and a prudential exercise by the trustee of its powers as trustee of the trust;
 - 22.2.6 no action has been taken or has been proposed to remove it as trustee;
 - 22.2.7 it has full recourse against the assets of the trust by way of indemnity and lien as trustee for all liability incurred as party to this agreement, without any limitation, restriction or liability to set-off, counterclaim, cross-claim, deduction or withholding;
 - 22.2.8 it is not in default of any of its trustee obligations to the trust of which it is a trustee;

- 22.2.9 no asset of the trust has been resettled or transferred to any other trust;
- 22.2.10 no action has been taken to terminate the trust or any provision of the trust;
- 22.2.11 the date or any event for the vesting of the assets of the trust has not occurred;
- 22.2.12 the directors of the trustee company have complied in all material respects with their respective duties and obligations as trustee under law, in equity, under statute and otherwise; and
- 22.2.13 all records required by law have been prepared and maintained in respect of the trustee company's role as a trustee company.

23 NOTICES

- 23.1 Any notice or communication given to a party under this agreement is only given if it is in writing and sent in one of the following ways:
 - 23.1.1 delivered or posted to that party at its address and marked for the attention of the person set out in Schedule 1 or 2 (as applicable); or
 - 23.1.2 sent by email to that party at its email address and marked for the attention of the person set out in Schedule 1 or 2 (as applicable).
- 23.2 If a party gives the other party three business days' notice of a change of its address or email address, any notice or communication is only given by that party if it is delivered, posted or emailed to the latest address or email address.
- 23.3 Any notice or communication is to be treated as given at the following time:
 - 23.3.1 if it is delivered, when it is left at the relevant address;
 - 23.3.2 if it is sent by post, 2 (or, in the case of a notice or communication posted to another country, 5) business days after it is posted; or
 - 23.3.3 if it is sent by email, as soon as the sender sends the email without indication of a subsequent sending error or rejection response.

However, if any notice or communication is given, on a day that is not a business day or after 5.00pm on a business day, in the place of the party to whom it is sent it is to be treated as having been given at the beginning of the next business day.

24 MISCELLANEOUS

Approvals and consents

- 24.1 Unless this agreement expressly provides otherwise, a party may give or withhold an approval or consent in that party's absolute discretion and subject to any conditions determined by the party. A party is not obliged to give its reasons for giving or withholding a consent or approval or for giving a consent or approval subject to conditions.

Assignments and transfers

- 24.2 A party must not assign or transfer any of its rights or obligations under this agreement, or attempt to do so, without the prior written consent of each of the other parties.

Costs

- 24.3 Except as otherwise set out in this agreement, each party must pay its own costs and expenses for preparing, negotiating, executing and completing this agreement and any document related to this agreement.

Document to benefit assignees

- 24.4 This agreement continues for the benefit of, and binds, a successor in title of a party, including a person to whom a party's rights and obligations are assigned in accordance with this agreement.

Entire agreement

- 24.5 This agreement contains everything the parties have agreed in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party, before this agreement was executed, except as permitted by law.

Execution of separate documents

- 24.6 This agreement is properly executed if each party executes either this document or an identical document. In the latter case, this agreement takes effect when the separately executed documents are exchanged between the parties.

Exercise of rights

- 24.7 A party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or any other right, power or remedy and failure by a party to exercise, or delay by a party in exercising a right, power or remedy does not prevent its exercise. Except where expressly stated to the contrary in this agreement, the rights of a party under this agreement are cumulative and are in addition to any other rights available to that party whether those rights are provided for under this agreement or by law.

Further acts

- 24.8 Each party must at its own expense promptly execute all documents and do or use reasonable efforts to cause a third party to do all things that another party from time to time may reasonably request in order to give effect to, perfect or complete this agreement and all transactions incidental to it.

Governing law and jurisdiction

- 24.9 This agreement is governed by the law of Western Australia. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

No adverse construction

- 24.10 No term or condition of this agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this agreement or that provision.

No authority to act

- 24.11 No party has any power or authority to act for or to assume any obligation or responsibility on behalf of another party, to bind another party to any agreement, negotiate or enter into any binding relationship for or on behalf of another party or pledge the credit of another party except as provided in this agreement or by express written agreement between the parties.

Severability

- 24.12 Each provision of this agreement is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction it is to be treated as being severed from this agreement in the relevant jurisdiction, but the rest of this agreement will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.

Time of essence

- 24.13 Time is of the essence for the performance by each party of its obligations under this agreement.

Survival

- 24.14 The rights and obligations of the parties set out in clauses 20, 21 and 23.1 (and those provisions of clause 1 which go to the interpretation of those clauses) will survive the termination or expiration of this agreement, and will continue to bind a Shareholder notwithstanding that the Shareholder no longer holds any Securities in the Company.

Variation

- 24.15 No variation of this agreement will be of any force or effect unless it is in writing and signed by each party to this agreement.

Waivers

- 24.16 A waiver of any right, power or remedy under this agreement must be in writing signed by the party granting it. A waiver only affects the particular obligation or breach for which it is given. It is not an implied waiver of any other obligation or breach or an implied waiver of that obligation or breach on any other occasion. The fact that a party fails to do, or delays in doing, something the party is entitled to do under this agreement does not amount to a waiver.

SCHEDULE 1: COMPANY INFORMATION

Name	Auvergne Capital Pty Ltd
ACN	630 175 290
Registered Office	18 Allen Street South Perth WA 6151
Place of incorporation	Western Australia
Principal place of business	18 Allen Street South Perth WA 6151
Directors	Natasha Ayers David Anthony Durack Andrew McKenzie Mostyn Isaac James Christian Rankin
Secretary	Keith Sidney Smith
Public Officer	Keith Sidney Smith
Contact	Address: 18 Allen Street South Perth WA 6151 Email: david.durack@auvergne.com.au Attention: David Durack

SCHEDULE 2: INITIAL SHAREHOLDERS

Shareholder	Number of Securities	Class	% of Class
Thylungra Investments Pty Ltd ACN: 134 050 963 Address: Unit 3, 21 Altona Street, West Perth, WA, 6005 Email: david.durack@auvergne.com.au Attention: David Durack	22	Ordinary Shares	22%
Hard Fought Rewards Pty Ltd ACN: 607 788 625 Address: 18 Allen Street, South Perth WA 6151 Email: ksmith@joycecorp.com.au Attention: Keith Smith	20	Ordinary Shares	20%
Frank Grimes Pty Ltd ACN: 629 916 785 Address: Unit 7, 16 Kearns Crescent, Ardross WA 6153 Email: jock.campbell@dlapiper.com Attention: Jock Campbell	8	Ordinary Shares	8%
Booth Rankin Pty Ltd ACN: 160 464 120 Address: 114 Coode Street, South Perth WA 6151 Email: ir44wa@gmail.com Attention: Isaac Rankin	20	Ordinary Shares	20%
Supernine Pty Ltd ACN: 629 911 815 Address: 274 Parker Street, Cootamundra NSW 2590 Email: amostyn@craigmostyn.com.au Attention: Andrew Mostyn	25	Ordinary Shares	25%
Infuse Pty Ltd ACN: 629 129 924 Address: 65 Osmaston Road, Carine WA 6020 Email: tash@agristart.com.au Attention: Tash Ayers	5	Ordinary Shares	5%

Shareholder	Number of Securities	Class	% of Class
Thylungra Investments Pty Ltd ACN: 134 050 963 Address: Unit 3, 21 Altona Street, West Perth, WA, 6005 Email: david.durack@auvergne.com.au Attention: David Durack	100	A Class Shares	100%
Hard Fought Rewards Pty Ltd ACN: 607 788 625 Address: 18 Allen Street, South Perth WA 6151 Email: ksmith@joycecorp.com.au Attention: Keith Smith	100	B Class Shares	100%

SCHEDULE 3: DECISION MAKING

Part 1: Decisions requiring Special Majority Approval of the Board

- 1.1 Adopt, approve, amend a budget and business plan of the Company.
- 1.2 Allot, issue or grant any Securities to any person (other than the issue of Securities on conversion of Securities previously issued), except as expressly permitted by this agreement.
- 1.3 Grant security over the assets of the Company other than in the ordinary course of business and as granted to CBA in respect of the acquisition of the assets of Harvestaire Pty Ltd.
- 1.4 Entry into a material contract, except in the ordinary course of its business.
- 1.5 Entry into, variation, renewal, extension, cancellation or termination of any agreement or arrangement with a Shareholder, director or Related Party of a Shareholder or director, other than an agreement on arms' length commercial terms.
- 1.6 Grant an indemnity or give a guarantee, except in the ordinary course of business.
- 1.7 Grant a power of attorney.
- 1.8 The application or retention of profits, the declaration or payment of any dividend and the making of any other payment or distribution to a Shareholder, other than pursuant to any loans provided by Shareholders from time to time or as payment of any salary or bonus to a Shareholder or its Related Parties.
- 1.9 Redemption, buy back, cancellation, capital reduction of any Securities or the return or distribution of capital in the Company to the holders of any Securities.
- 1.10 Sell, transfer, assign, lease material proportion of the Business or any assets of the Company or enter into any agreement to sell, transfer, lease or assign any proportion of the Business or any assets of the Company except in accordance with an approved business plan or budget.
- 1.11 Approve a material alteration to the nature of the business and operations of the Company (including any acquisition) or the Company engaging in any new business activity not contemplated by this agreement or ceasing to carry on (permanently or indefinitely) all or any material part of the Business or Company.
- 1.12 Any proposal to wind up the Company or make any arrangement with creditors (including convening a meeting of creditors), apply for voluntary liquidation, the appointment or removal of a receiver, liquidator or administrator to the Company or any determination or variation of the terms of the appointment of any receiver, liquidator or administrator.
- 1.13 Establishment of a bonus structure for senior executives and staff.
- 1.14 Repayment of Fixed Price Debt and any paydown of Senior Debt outside of the applicable repayment schedule.

Part 2: Decisions requiring Special Majority Approval of Shareholders

- 1.15 Alter the rights attaching to any Securities.
- 1.16 Change the maximum number of directors of the Company.

- 1.17 Any variation of this agreement or the Constitution.
- 1.18 Anything which requires shareholder approval under the Corporations Act or any other applicable law.
- 1.19 Selling the shares or the majority of assets of a Subsidiary of the Company.
- 1.20 Acquiring the shares of another company.

SCHEDULE 4: DEED OF ACCESSION

PARTIES

[Name] of [address] (New Shareholder)

BACKGROUND

- A On or around [date], the Company and each Shareholder of the Company at that date, entered into the Shareholders Agreement (**Shareholders Agreement**) setting out the rights and obligations of the Shareholders in relation to the ownership and management of the Company, its business and affairs.
- B Under the Shareholders Agreement, any person receiving an allotment or transfer of Securities in the Company after the date of the Shareholders Agreement is required to execute a Deed of Accession pursuant to which such person will become a party to the Shareholders Agreement.
- C By executing this deed, on and from [date] (**Effective Date**), the New Shareholder agrees to become a party to the Shareholders Agreement.

AS AGREED

1 DEFINITIONS AND INTERPRETATION

Definitions

- 1.1 Unless otherwise defined in this deed, all capitalised terms have the same meaning as set out in the Shareholders Agreement.

Interpretation

- 1.2 In the interpretation of this deed, the provisions set out in clauses 1 and 24 of the Shareholders Agreement will apply to the same extent as if set out in this deed.

2 ACCESSION

- 2.1 By executing this deed, on and from the Effective Date, the New Shareholder becomes a party to the Shareholders Agreement and covenants to all parties to the Shareholders Agreement to observe, comply with and be bound by, in all respects, the terms of the Shareholders Agreement and all obligations, covenants and undertakings of a Shareholder under the Shareholders Agreement, to the same extent as if the New Shareholder was named as an original party to the Shareholders Agreement.
- 2.2 The covenants set out in clause 2.1 are given to and for the benefit of the Company and all Shareholders from time to time, whether or not they are Shareholders as at the date of this deed or at the Effective Date.

3 ACKNOWLEDGEMENT

- 3.1 The New Shareholder confirms that it has received a copy of the Shareholders Agreement.

4 NOTICES

4.1 The New Shareholder's address for any notices given under the Shareholders Agreement is as follows:

Name: [insert]
ACN: [insert]
Address: [insert]
Email: [insert]
Attention: [insert]

5 GOVERNING LAW

5.1 This deed is governed by the law of the State of Western Australia.

EXECUTION AND DATE

Executed as a deed poll.

Date:

[Insert appropriate execution clause]

SCHEDULE 5: DETERMINATION OF VALUE

1. For the purposes of clause 16.2.3, if the Offer Notice is given within two years of the date of this agreement, the value of the Securities will be their deemed issue price.
2. For the purposes of clause 16.2.3, the value of the Securities must be calculated as follows if the Offer Notice is given following the second anniversary of the date of this agreement:

$$\text{Price per Security} = \frac{(4 \times \text{Average EBITDA}) - \text{Net Debt}}{\text{Total Securities}}$$

3. For the purposes of clause 19.1.2, the value of the Securities must be calculated as follows:

$$\text{Price per Security} = \frac{(3 \times \text{Average EBITDA}) - \text{Net Debt}}{\text{Total Securities}}$$

4. In paragraphs 2 and 3 of this schedule:

Average EBITDA means the average annual EBITDA of the Group for the two complete financial years prior to the Offer Notice being delivered (or deemed delivered) in accordance with clause 16.2 or clause 19.1 (as applicable) calculated by reference to the Group's annual financial statements for the relevant period;

Net Debt means the total long term indebtedness of the Group as shown in the last financial statements of the Group prior to the Offer Notice being delivered (or deemed delivered) in accordance with clause 16.2 or clause 19.1 (as applicable) plus the 12 month average of current liabilities for the period covered by the same financial statements of the Group; and

Total Securities means the total issued ordinary Shares as at the date of the Offer Notice.

5. If a party believes, acting reasonably, that the value of the Securities calculated under paragraphs 2 and 3 of this schedule does not reflect the true value of the Group, a party may, within 30 days of the Offer Notice by written notice to the Company, require that the Board appoint an independent valuer to determine the value of the Securities.
6. The value of the Securities must be determined by the independent valuer on the basis of:
 - 6.1 a willing but not anxious seller and a willing but not anxious buyer; and
 - 6.2 that all of the Securities in the Company are for sale.

7. The Company and any other party must provide the valuer with all information the valuer requires to make a determination.
8. The Board must request that the valuer provide the determination within 30 days of its appointment.
9. The valuer must certify in writing the amount the valuer considers to be the value of the Securities, and will give written notice to the Company of such amount.
10. In certifying the value, the valuer will act as an expert and not as an arbitrator. The provisions of arbitration statutes do not apply to the valuer's determination.
11. Where the valuation is required following the occurrence of a Default Event, the costs of the valuer are to be borne by the Defaulting Party. Where the valuation is required following the issuance of an Offer Notice under clause 16.2, the costs of the valuer are to be borne equally by the Company and the Selling Shareholder.
12. The Board must give to each Shareholder a copy of the independent valuation as soon as practicable after the Board receives it.

EXECUTION

Executed as an Agreement.

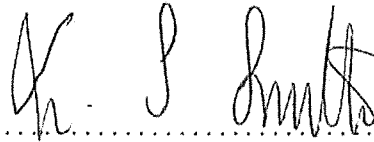
Executed by **Auvergne Capital Pty Ltd ACN 630 175 290** acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with s127 of the Corporations Act 2001:



.....
Signature of director

DAVID DURACK
.....

Name of director (print)



.....
Signature of ~~director~~/company secretary

K. S. SMITH
.....

Name of director/company secretary (print)

Executed by **Thylungra Investments Pty Ltd ACN 134 050 963** acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with s127 of the Corporations Act 2001:



.....
Signature of director

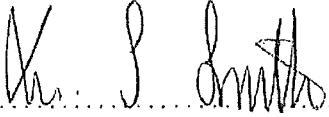
DAVID DURACK
.....

Name of director (print)

.....
Signature of director/company secretary

.....
Name of director/company secretary (print)

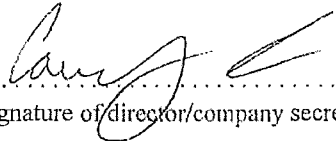
Executed by **Hard Fought Rewards Pty Ltd**
ACN 607 788 625 acting by the following
persons or, if the seal is affixed, witnessed by
the following persons in accordance with s127
of the Corporations Act 2001:



Signature of director

..K. S. SMITH.....

Name of director (print)



Signature of director/company secretary

..CAROLYN SMITH.....

Name of director/company secretary (print)

Executed by **Frank Grimes Pty Ltd ACN 629**
916 785 acting by the following persons or, if
the seal is affixed, witnessed by the following
persons in accordance with s127 of the
Corporations Act 2001:

.....
Signature of director

.....
Name of director (print)

.....
Signature of director/company secretary

.....
Name of director/company secretary (print)

Executed by **Booth Rankin Pty Ltd ACN 160**
464 120 acting by the following persons or, if
the seal is affixed, witnessed by the following
persons in accordance with s127 of the
Corporations Act 2001:

.....
Signature of director

.....
Name of director (print)

.....
Signature of director/company secretary

.....
Name of director/company secretary (print)

Executed by **Hard Fought Rewards Pty Ltd**
ACN 607 788 625 acting by the following
persons or, if the seal is affixed, witnessed by the
following persons in accordance with s127 of the
Corporations Act 2001:

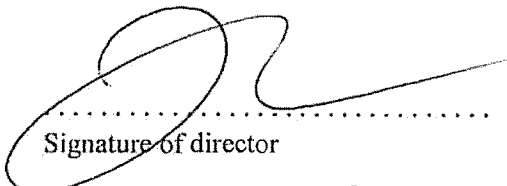
.....
Signature of director

.....
Signature of director/company secretary

.....
Name of director (print)

.....
Name of director/company secretary (print)

Executed by **Frank Grimes Pty Ltd ACN 629**
916 785 acting by the following persons or, if
the seal is affixed, witnessed by the following
persons in accordance with s127 of the
Corporations Act 2001:


.....
Signature of director

.....
Signature of director/company secretary

JACK INNES-CAMPBELL
.....
Name of director (print)

.....
Name of director/company secretary (print)

Executed by **Booth Rankin Pty Ltd ACN 160**
464 120 acting by the following persons or, if
the seal is affixed, witnessed by the following
persons in accordance with s127 of the
Corporations Act 2001:

.....
Signature of director

.....
Signature of director/company secretary

.....
Name of director (print)

.....
Name of director/company secretary (print)

Executed by **Hard Fought Rewards Pty Ltd**
ACN 607 788 625 acting by the following
persons or, if the seal is affixed, witnessed by
the following persons in accordance with s127
of the Corporations Act 2001:

.....
Signature of director

.....
Signature of director/company secretary

.....
Name of director (print)

.....
Name of director/company secretary (print)

Executed by **Frank Grimes Pty Ltd ACN 629**
916 785 acting by the following persons or, if
the seal is affixed, witnessed by the following
persons in accordance with s127 of the
Corporations Act 2001:


.....
Signature of director

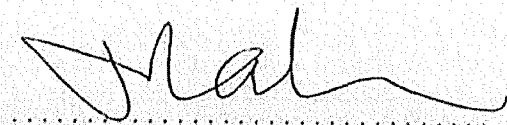
.....
Signature of director/company secretary

.....
Name of director (print)

.....
Name of director/company secretary (print)

Executed by **Booth Rankin Pty Ltd ACN 160**
464 120 acting by the following persons or, if
the seal is affixed, witnessed by the following
persons in accordance with s127 of the
Corporations Act 2001:


.....
Signature of director


.....
Signature of director/company secretary

.....
DIANNE RANKIN
.....
Name of director (print)

.....
ISAAC RANKIN
.....
Name of director/company secretary (print)

Executed by **Supernine Pty Ltd ACN 629 911 815** acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with s127 of the Corporations Act 2001:

A. Mostyn
.....
Signature of director

ANDREW MCKENZIE MOSTYN
.....
Name of director (print)

G. Mostyn
.....
Signature of director/company secretary

Gabrielle Mostyn
.....
Name of director/company secretary (print)

Executed by **Infuse Pty Ltd ACN 629 129 924** acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with s127 of the Corporations Act 2001:

N. Ayers
.....
Signature of director

Natasha Ayers
.....
Name of director (print)

J. Ayers
.....
Signature of director/company secretary

James Ayers
.....
Name of director/company secretary (print)

