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BARRISTERS & SOLICITORS

National Law Firm

Head Office
39 Stirling Highway
Nedlands WA 6009

T: 1800 141 612

legalconsolidated.com.au

Your Reference: Shareholders Agreement
Our Reference: bkd:73203
Enquiries: Adjunct Professor, Dr Brett Davies
Direct Telephone: 1800 141 612
Email: brett@legalconsolidated.com

Wednesday, 24 March 2021

Robert Masina
5 Nestor Avenue
Winston Hills NSW 2153
Australia

PaW Nominees Pty Ltd AC
21 Anzac Street
Carina Heights QLD 4152
Australia
Trustee for the Wong Family

Alise Khumar
12 Gerald Street
Roseville NSW 2069
Australia
Trustee for the Khumar Family Trust

Dear Shareholders,

Build this legal document at
<https://www.legalconsolidated.com.au/shareholders-agreement/> – telephone us, we can help you complete the questions.

Adj Professor, Dr Brett Davies- Partner

Shareholders' Agreement

Thank you for instructing us to prepare the attached **Shareholders' Agreement**.

How to print your document

When you are satisfied that the document is according to your instructions please:

1. Download the PDF (Don't print directly from the browser.)
2. Print the PDF Printer settings: A4 paper
100% scale (turn off 'fit to page')
3. Print single sided (NOT duplex).
4. Once signed keep this covering letter with the document
(However, do not staple the covering letter to the document.)

What is a Shareholders' Agreement?

A Shareholders' Agreement is a contract negotiated by the shareholders of a company outside the *Corporations Act 2001* (Cth). This is to:

- a) govern their relationship and business arrangements;
- b) detail their rights, responsibilities, obligations and liabilities; and
- c) protect their interests.

Why is a Shareholders' Agreement important?

Even though there is no legal requirement to have a formal Shareholders' Agreement, every Company with more than one Shareholder should have one. A Shareholders' Agreement ensures that the running of the Company and the responsibilities of the shareholders are properly documented and there is clarity and certainty as to what can or cannot be done. It therefore reduces the potential for conflicts between shareholders and ensures the Company runs smoothly and profitably. A Shareholders' Agreement also protects the respective rights of each co-owner if their relationship were to turn sour.

Put a Shareholders' Agreement in place as early as possible

Putting this agreement in place is often quite far from everyone's thoughts when starting a new business, but it is better to get a Shareholders' Agreement in place at the outset. Further down the line views diverge, circumstances change and resentment builds between shareholders. This can lead to fractious disagreement for the Company.

Key benefits of having a Shareholders' Agreement:

- 1) The agreement works in conjunction with a Company's constitution and gives Shareholders even greater protection, because company constitutions can be drafted in very general terms and not include much detail regarding protective provisions for Shareholders or define the limits of their responsibilities.
- 2) A Shareholders' Agreement can contain any arrangement agreed between Shareholders and can vary what would otherwise be the default legal position.
- 3) Unless agreed to the contrary in a Shareholders' Agreement, the management of the company is determined mostly by the Board of Directors, while certain key decisions (particularly anything relating to ownership) are required to be made by the Shareholders in general meetings. A Shareholders' Agreement is therefore important to fully determine the basis for important decision making, to restrict the power of the Directors where necessary and to provide protection for the parties involved in the ownership of the company against the actions of the others (be it minority, majority or equal Shareholders).
- 4) A Shareholders' Agreement is a cost effective way to minimise potential business disputes between owners, by making it clear how certain decisions are made and by providing a framework and procedures for dispute resolution.
- 5) The existence of a Shareholders' Agreement can assist in raising finance from banks or creditors. It demonstrates the stability of the business to other potential partners.

6) The Shareholders' Agreement can prevent situations where changes in one Shareholder's personal circumstances can influence the Company or other Shareholders, safeguarding each Shareholder's financial interest in the Company and the interests of the Shareholders' families if a Shareholder dies.

7) A Shareholders' Agreement protects the rights of minority Shareholders and the investment value of their shareholding. Without an agreement, majority Shareholders may force issues that are not in the minority Shareholders' interests.

8) A Shareholders' Agreement can outline the approved procedures in events such as one Shareholder deciding to sell their share later, where the conditions for doing so have already been worked out in a signed Shareholder Agreement.

What is included in this Shareholders' Agreement?

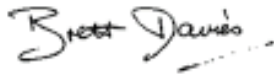
- a) share split and types of shares;
- b) rights of Shareholders in relation to the type / percentage of shares they own;
- c) division of dividends (taking salary payments into account);
- d) voting rights of Shareholders (depending on the type / percentage of shares they own);
- e) actions that require Shareholders' consent;
- f) whether Shareholders can also be Company employees;
- g) pre-emptive rights for the transfer of shares;
- h) how new shares are allocated;
- i) valuation of shares;
- j) liability of Shareholders when the Company is in debt; and
- k) confidentiality.

What is not included in the Shareholders' Agreement?

From time to time shareholders, directors and related parties may (or seek to) provide services or products to the Company. This must not be included in a Shareholders' Agreement. Instead, consider documenting this relationship in an Independent Contractors Agreement. The Independent Contractors Agreement can be changed by parties without needing to update the Shareholders' Agreement.

This now concludes the matter. Thank you for your instructions.

Yours sincerely,



Adj Professor, Dr Brett Davies, CTA, AIAMA, BJuris, LLB, LLM, MBA, SJD
National Taxation Partner
LEGAL CONSOLIDATED BARRISTERS & SOLICITORS

This is a sample of the document you are building on our law firm's website.

Depending how you answer the questions the document and our letter may be different.

We have a 100% money back guarantee. For any reason you can return the document to us for a full refund.

*Dr Brett Davies
Partner
Legal Consolidated Barristers & Solicitors*

Resolution by Shareholders

Held at _____

Onday of20.....

Robert Masina
5 Nestor Avenue, Winston Hills NSW 2153, Australia

PaW Nominees Pty Ltd ACN 219 841 136
21 Anzac Street, Carina Heights QLD 4152, Australia
Trustee for the Wong Family Trust

Alise Khumar
12 Gerald Street, Roseville NSW 2069, Australia
Trustee for the Khumar Family Trust

(Shareholders)

Quorum: It was noted that a quorum was present at the meeting.

Notice of Meeting: It was noted that all Shareholders received notice of this meeting and that all consent to the meeting being held and waive any requirement for any specified period of notice for the meeting. It was resolved unanimously that the meeting is validly constituted regardless of any failure to give notice as required under any rules, constitution or the *Corporations Act*.

Chairperson: It was resolved that the person signing these minutes is the Chairperson.

Upon tabling the fully executed Shareholders Deed (in duplicate), IT WAS RESOLVED that:

1. the Shareholders and the Company adopt the duly executed Shareholders Deed for OzEnergy Engineering Pty Ltd
2. authority is given to allow the Shareholders Deed to be provided to any relevant institutions, as required
3. the Shareholders Deed be lodged for stamp duty, if required
4. each Shareholder has received a copy of this Shareholders Deed
5. the Directors consent to the Shareholders Deed being so executed and adopted

Closure: There being no further business the Meeting was declared closed.

Signed as a true and correct record of the Meeting immediately after the Meeting concludes.

Signed

Date: _____20_____

Build the legal document at <https://www.legalconsolidated.com.au/shareholders-agreement/> – telephone us. We can help you answer the questions.

On our law firm's website, you:

1. Retain legal professional privilege
2. Receive legal advice
3. Get a signed letter on our law firm's letterhead with the legal document
4. We take responsibility for the legal document

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Adj Professor, Dr Brett Davies - Partner



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Nedlands WA 6009

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[legalconsolidated.com.au](https://www.legalconsolidated.com.au)

Shareholders' Agreement for

OzEnergy Engineering Pty Ltd

ACN 489 756 230

Incorporated in New South Wales

This Deed is between

OzEnergy Engineering Pty Ltd ACN 489 756 230
2 Hosking Drive, Balmain East NSW 2041, Australia

(Company)

and

Robert Masina
5 Nestor Avenue
Winston Hills NSW 2153
Australia

PaW Nominees Pty Ltd ACN 219 841 136
21 Anzac Street
Carina Heights QLD 4152
Australia
Trustee for the Wong Family Trust

Alise Khumar
12 Gerald Street
Roseville NSW 2069
Australia
Trustee for the Khumar Family Trust

(Shareholders)

Background

- A. The Shareholders hold an interest in the capital of the Company.
- B. There are no other issued shares in the capital of the Company.
- C. The Shareholders wish to record the terms and conditions of their involvement in the Company, including:
 - (i) matters relating to the management and control of the Company;
and
 - (ii) their rights and obligations as Shareholders.

The Shareholders agree:

1 Dictionary

These words mean:

Board: The Directors of Company, from time to time

Business plan: The Company's documented strategy and direction, from time to time

Chairperson: Robert Masina

Clients: Entities who are present clients of the Company or to whom the Company has provided paid services within the previous 36 months

Confidential Information: All information disclosed by a party to the other party and nominated as confidential to that party including, but not limited to, confidential

A Shareholders Agreement is a binding contract between shareholders. It sets out their rights, obligations, and procedures. This is in case of shareholder dispute in the future.

information in machine readable form. It does not include information which is already in the public domain

Constitution: The Company Constitution, as amended from time to time, and the terms of this Deed

Deed: This deed, including any schedule and annexures

Directors: The Directors of the Company

Intellectual Property Rights: Intellectual property rights, including patents, copyright, circuit layout rights, designs, trade marks; and a power to apply for any of the rights referred to above

Party or Parties: A party or the parties to this Deed

Shares: Includes ordinary shares and shares of any class in the Company

A Shareholders Agreement is a contract between shareholders. It protects the shareholders':

- relationships with each other
- other business arrangements
- rights
- responsibilities, obligations and liabilities
- interests

2 The Company

Constitution

2.1 The Shareholders acknowledge that the Constitution of the Company is or will be in the form of the Constitution attached as a Schedule to this Deed.

Other matters

2.2 On signing this Deed, the Shareholders cause all necessary Shareholder and Director meetings to be held to implement this Deed. This includes the issue and reclassification of Shares and the appointment of Directors and other such corporate matters as agreed in this Deed.

3 Board of Directors

Number of Directors

3.1 The Board should not exceed the number of Shareholders. The appropriate class of Shareholders may appoint, remove and replace Directors.

Directors

3.2 On signing this Deed, the Shareholders appoint their respective Directors to the Board and these Directors form the Board.

Chairperson

3.3 The Board chairperson is the person described above or an Alternate Director, if the chairperson is unable to attend. Upon both being unable to attend then a chairperson nominated and agreed to by Board majority.

Appointment and removal of Directors

- 3.4 The method of appointment or removal of Directors is by written notice addressed to the Company. This needs to be signed by or on behalf of the Shareholder entitled to appoint or remove such Director pursuant to the above clause.
- 3.5 Such appointment or removal takes effect from the date upon which lodged at the registered office of the Company or on such later date specified in the notice. The Shareholder appointing or removing any must serve a copy of the notice on the other Shareholders.
- 3.6 Neither the Directors nor the Company in general meeting are entitled to appoint or remove any Director.

A Shareholders Agreement is a contract. You are only bound by a contract if you sign the contract. In contrast, a constitution automatically applies to shareholders and directors.

Alternate Directors

- 3.7 Each Director may appoint an Alternate Director as directed by the person responsible for their appointment.

Quorum for Board meetings

- 3.8 The requisite quorum for Board meetings is set from time to time.
- 3.9 If a quorum is not constituted within 30 minutes after the time appointed for a Board meeting, the meeting stands adjourned to the following business day at the same time and place and the requisite quorum at the adjourned meeting is constituted.

Voting at Board meetings

- 3.10 Each Director appointed by their respective Shareholder and, if more than one Director is appointed, those Directors together, are entitled to cast that number of votes at meetings of the Board. This is equal to the number of Shares held by the Director's respective Shareholder.
- 3.11 The chairperson is entitled to a casting vote in addition to any vote that person has as a Director.

Voting generally

- 3.12 Unless otherwise provided by this Deed:
- 3.12.1 all decisions of the Board must be made by Simple Vote; and
- 3.12.2 all decisions of the Shareholders must be made or ratified by Simple Vote of the Shareholders.

Powers of the Board

- 3.13 The Board has full power to manage the business and may exercise all powers of the Company which are not required by this Deed, by the Constitution or by law to be exercised by the Company in general meeting.

4 Shareholder meetings

4.1 The Parties agree that:

- 4.1.1 a Shareholder meeting may be called by any Shareholder and requires at least 14 days' prior written notice (exclusive of the day of the meeting) given to all Shareholders. The notice convening a Shareholders' meeting must specify the resolutions or business proposal to be considered at the meeting; and
- 4.1.2 Shareholder meetings need to be held at the registered office of the Company unless otherwise agreed by all of the Directors. It may be conducted via telephone conference in accordance with the Constitution.

Quorum for Shareholder meetings

- 4.2 A quorum for Shareholder meetings is the attendance (in person, by proxy or representative) of all such number of Shareholders as agreed by the Shareholders.
- 4.3 If a quorum is not constituted within 30 minutes after the time for the meeting is adjourned to the following business day at the same time

New shareholders and directors are automatically bound by the Constitution. They are not bound by the Shareholders Agreement. New shareholders must sign the Shareholders Agreement to be bound.

Specific decisions

- 4.4 The decisions below are made or ratified by Shareholder Special Meeting:
 - 4.4.1 amending the Constitution
 - 4.4.2 offering shares or other securities in the capital of the Company by subscription, other than according to the Deed
 - 4.4.3 re-organisation, re-classification or reconstruction of the Company's capital
 - 4.4.4 change of Company's name
 - 4.4.5 any change to the location of the Company's registered office or principal place of business
 - 4.4.6 merging or consolidating with another business or operations of any other person
 - 4.4.7 starting a new business
 - 4.4.8 sale of major undertakings of the Company or any subsidiary or any asset with a major asset value or more
 - 4.4.9 approval or amendment of the Company's dividend policy
 - 4.4.10 entering into any contract valued at the major contract value or more per annum between the Company and any Shareholder
 - 4.4.11 entering into or giving any guarantees for the liabilities of any person
 - 4.4.12 granting any authority by Powers of Attorney to any individual to act for and on behalf of the Company
 - 4.4.13 winding up of the Company

- 4.4.14 appointing a receiver, manager or agent in possession or administrator for the Company or any of its assets
- 4.4.15 making an assignment of any of the Company's assets for the benefit of its creditors
- 4.4.16 entering into any composition, scheme of arrangement or agreement of company arrangement

5 Compulsory Sell Agreement

- 5.1 If a Shareholder or Director is found to be in breach of this Deed, the remaining Shareholders may issue a compulsory sell order.
- 5.2 A compulsory sell order may be issued for the sell order defaults.
- 5.3 The party in breach and having been issued a compulsory sell order, is issued with 21 days notice to sell their shares to the remaining Shareholders.
- 5.4 Shareholdings, subject to a compulsory sell order, are subject to a 10% Sell Discount for the breach of the Deed.
- 5.5 Default is deemed to have occurred where the Board determines that the Shareholder or Director has breached the Deed.

Build Shareholders Agreement:

<https://www.legalconsolidated.com.au/shareholders-agreement/>

6 Minimum Shareholder Criteria

- 6.1 A potential Shareholder must achieve the following:
 - 6.1.1 sign the Deed
 - 6.1.2 meet and comply with the Deed
 - 6.1.3 not be subject to any unlawful act or penalty that prevents the ownership of the shares

7 Shareholder Warranty agreement

- 7.1 Shareholders and Board members declare any potential or actual conflict of interest to the Board on an ongoing basis.

8 Intellectual Property Agreement

- 8.1 All Intellectual Property Rights in the assets of the Company and any other materials provided to the Shareholders or Board members under this Deed from time to time are owned or licensed by the Company. Nothing in this Deed constitutes any assignment of those Intellectual Property Rights to Shareholders, Directors, sub-contractors or any third party.
- 8.2 The Directors agree to inform Shareholders immediately if the Directors become aware that the Company's Intellectual Property Rights are being infringed, damaged, or may be infringed or damaged, by any third party.

- 8.3 The Company need not start legal proceedings against infringers. The Company may settle disputes by any means it considers appropriate. Where the Company starts any proceedings, the Shareholders and Directors must co-operate with the Company to the greatest extent possible.

9 Director and Shareholder restrained from competing

- 9.1 Shareholders and Directors are prohibited from delivering or providing any services or products, which are or may be provided by the Company (**Trading Constraints**). Neither competes against the Company.
- 9.2 The Trading Constraints also apply to representatives of Shareholders and Directors.
- 9.3 The Trading Constraints apply to companies, trusts, organisation and other entities either owned by Shareholders and Directors or where Shareholders and Directors have an interest or control.
- 9.4 Any such interest specified above must be resolved within 45 days of becoming a Shareholder or Director to the satisfaction of existing Shareholders.
- 9.5 These clauses may be waived in special circumstances and where approval is provided in writing by the Board. All Shareholders are notified in writing of any waivers.
- 9.6 Shareholders and Directors are prohibited from seeking employment, providing services to clients of the Company for 36 months after termination of shareholding or directorship with the Company. This clause may be waived by the Company where the Directors unanimously agree.

10 The Company restrained from competing

- 10.1 The Company is prohibited from providing services and products that are in direct competition to the Shareholders' or Directors' existing businesses. This extends to other entities owned or controlled by the Company including trusts, organisations, and subsidiaries.
- 10.2 This clause may be waived by the respective Shareholder, but only in writing.

11 Shareholder financing policy

- 11.1 Shareholders are only required to finance Company operations where the Shareholders agree unanimously.

12 Dividend distribution policy

- 12.1 The first consideration in the distribution of dividends is the viability, operational requirements and liabilities of Company.
- 12.2 Dividends are distributed to Shareholders as agreed.

13 Shareholder rights and obligations

- 13.1 All current and future Shareholders must sign this Deed.
- 13.2 This Deed is not altered or amended without the unanimous agreement of all Shareholders.

14 Remuneration of Directors

- 14.1 Remunerations of Directors are based on Company performance.
- 14.2 Remunerations of Directors are based on the level of contribution to the Company's general operations.

15 Managing Director

- 15.1 The Managing Director is appointed with the responsibilities of a director and secretary.
- 15.2 The Managing Director is provided with a schedule of authority from the Board.

16 Indemnity

- 16.1 The Company indemnifies Directors and Shareholders against all damages, costs and expenses (including legal costs and expenses on an indemnity basis) for all claims, demands, proceedings or prosecutions brought, commenced or prosecuted against Directors and Shareholders as a result of services and products provided by the Company or any negligence of Company employees, sub-contractors, contractors or agents.

17 Limitation of Liability

- 17.1 To the maximum extent allowable by law, Directors and Shareholders are not liable for any loss or damage (including consequential loss or damage) whether arising directly or indirectly.

18 Confidential Information

- 18.1 Shareholders use confidential information of the Company only for this Deed and to enable the effective operation of the Company.
- 18.2 Shareholders and Directors will not disclose to a third party (other than employees or contractors in their capacities as such) any confidential information of the other party that is not lawfully in the public domain.
- 18.3 Any lawful disclosure required of Confidential Information to any governmental or other controlling body will be limited to essential information only and, if possible, subject to a confidentiality order.

A Shareholders' Agreement provides:

- *how the company is run*
- *responsibilities of shareholders*
- *clarity and certainty*
- *reduced conflict between shareholders*
- *protection of shareholder rights if a conflict arises*

- 18.4 The confidentiality requirements above remain in effect for 36 months after termination of the Director or Shareholder.

19 Term

- 19.1 This Deed commences at the time of appointment of Directors or at the time of signing this Deed, whichever is earliest.
- 19.2 This Deed ceases when a Director or Shareholder is terminated.

20 Termination

- 20.1 This Deed terminates immediately when:
- 20.1.1 all shareholdings owned by a Shareholder is terminated by sale, or compulsory sale or other lawful means;
 - 20.1.2 a Director is no longer Director and their respective Shareholder is Shareholder
- 20.2 Termination of this Deed will not affect the accrued rights or remedies to this Deed.

Put a Shareholders Agreement in place when you first incorporate the company. Later on, circumstances may change. Resentment may build between shareholders.

21 Force Majeure

- 21.1 Neither party will be, in default, liable under this Deed by reason of delay in performance of or failure to perform any of its obligations caused by declaration of war, strikes, acts of God, public enemy, riots, interference by civil or military authorities, compliance with governmental laws, rules and regulations, delays in transit or delivery, inability to secure necessary governmental priorities or any fault beyond its control without a party's fault or negligence.

22 Dispute Resolution

- 22.1 For disputes between parties (Dispute), the parties issue a dispute notice and use best endeavours to settle the Dispute amicably by negotiation.
- 22.2 If the Dispute is not settled within 21 days of issuing the dispute notice, the parties attempt to settle the Dispute by mediation in their jurisdiction. Mediation is conducted by an independent mediator as agreed by the parties, or if none can be agreed upon, then a mediator as appointed by the President of the Institute of Arbitrators and Mediators Australia, from time to time.
- 22.3 If the Dispute is not settled as above, then any party involved in the Dispute may, within 28 days of the dispute notice, give notice to the other party requiring that the Dispute be dealt with by arbitration.
- 22.4 If the Dispute is not resolved through the procedures above, it is referred to a single arbitrator if the parties agree, otherwise two arbitrators to be appointed by the parties in accordance with the provisions of the Commercial Arbitration Act in the relevant jurisdiction or any statute replacing, extending or modifying the same.

22.5 An award of the arbitrator will be binding on the parties and may be enforced in any Court having competent jurisdiction.

23 Company Conduct

Reporting and other obligations

Unless the Constitution states otherwise, the parties agree:

- 23.1 The Company prepares within 5 months of the end of each financial year
- 23.1.1 a profit and loss statement and cash flow statement for the preceding year
- 23.1.2 the balance sheet as at the end of the financial year
- and delivers such statements to Shareholders within 6 months of the financial year.
- 23.2 Only if decided by a majority vote by the Board, the Company has its books of account, financial records, assets and liabilities audited. Any such auditor is as agreed by the Shareholders.
- 23.3 Within 45 days after the end of the quarter, the Company provides reports containing:
- 23.3.1 profit and loss statements supported by comprehensive notes for the relevant month
- 23.3.2 cumulative profit and loss statements for the year, until the end of the month
- 23.3.3 detailed comparisons of profit and loss statements with projections contained in the budget
- 23.3.4 cash position as compared to the budget
- 23.3.5 analysis of capital expenditure compared to budgeted capital expenditure
- 23.3.6 sales analysis (including on a product by product basis)
- 23.3.7 forecast of sales and profits for the ensuing 3 months
- 23.3.8 status reports on:
- (a) staff
 - (b) accounts receivable
 - (c) accounts payable

Agree on rules and procedures for governance in advance. Building a Shareholders Agreement helps avoid future disputes and ambiguities.

However, the Shareholders may, by a majority vote, require such reports more frequently. The Shareholders by a majority vote may shorten the 45 days to a lesser amount but not less than 14 days. Further, at the request of any Shareholder, the Company provides direct access (read-only) to the 'live' accounting file stored in the cloud or otherwise.

- 23.4 The Company provides each Shareholder, by no later than 31 May, a budget setting out estimated sales and expenditure of the Company for the period of 12 months commencing on 1 July.
- 23.5 Only if the Shareholders, by a majority vote require, the Company will maintain key person insurance for the relevant persons, in the name of the Company, with an insurance company acceptable to a majority of the Shareholders. The sum insured can be increased by majority of Shareholders before 30 September each year. All premiums are paid by the Company and the benefit of the insurance is paid to the Company for its benefit.

24 Share Transfers

Buy Sell agreement

- 24.1 Subject to any formal Business Succession Plan, existing Shareholders have an option of first right to buy the Shares, if a Shareholder wishes to sell (outgoing Shareholder).
- 24.2 When Shares are made available to buy, the percentage ratio of shareholding is maintained amongst the Shareholders. This is unless a Shareholder chooses not to buy. In that case the ratio between the remaining Shareholders is maintained.
- 24.3 If no existing Shareholders wish to purchase the Shares on offer, then the outgoing Shareholder may seek a buyer who is not an existing Shareholder. This is provided that they meet the minimum shareholder criteria.

Share Transfers

Unless the Constitution states otherwise, the right to transfer Shares is subject to:

- 24.4 Any Shareholder (**Transferor**) wishing to dispose of Shares (which may be some or all of the Shares that the Transferor owns) gives written notice (**Transfer Notice**) to the Company.
- 24.5 The Transfer Notice states the price per Share that the Transferor will accept (**Prescribed Price**). The Company acts as the Transferor's agent for the sale of the Shares at the Prescribed Price.
- 24.6 Once a Transfer Notice is given, it is not revocable except:
- 24.6.1 as mentioned below; or
 - 24.6.2 with the consent of the Board.
- 24.7 A Transfer Notice may not be given by the Transferor within 6 months of a previous Transfer Notice except:
- 24.7.1 with the prior written consent of the Board;
 - 24.7.2 where the new Prescribed Price is less than the Prescribed Price in the last Transfer Notice.

- 24.8 As soon as possible after receiving a Transfer Notice, the Company offers the Shares for sale to the remaining Shareholders at the Prescribed Price pro rata to their respective shareholdings.
- 24.9 Each acceptance of the Transfer Notice is in writing and states the number of Shares that the Shareholders wish to purchase, if any. The acceptance lapses if not accepted by the Transferor within 21 days. All Shareholders (other than the Transferor) are provided with every acceptance.
- 24.10 Shares declined by Shareholder are then offered in proportions and at the Prescribed Price to such Shareholders that have accepted the Shares originally offered to them, and so on. This is until either all Shares for sale are purchased or none of the Shareholders are willing to purchase any further Shares.
- 24.11 The time within which such further offers are accepted is 7 days.
- 24.12 The Company then gives immediate written notice to the Transferor.
- 24.13 If all the Shares for sale are not sold then the Company may rescind the Transfer Notice. In this case no Shares shall be offered for sale.
- 24.14 If all the Shares offered are purchased or if less than the whole of such Shares have been agreed to be purchased and the Transferor has failed to give a notice revoking the Transfer Notice, the members who have accepted the offer are bound to purchase the Shares accepted by them. The Transferor is bound upon payment of the Prescribed Price per Share to transfer those Shares to such Shareholders respectively.
- 24.15 Every notice given by the Company pursuant to the above clause must state which of the members are purchasers of the Shares mentioned in the Transfer Notice and the number of Shares agreed to be purchased by each of them.
- 24.16 Sales and purchases of Shares must be completed at places and times appointed by the Company not being more than 28 days after the date on which the Transfer Notice is given.
- 24.17 If the Transferor defaults in transferring the Shares, the Company is entitled to execute a transfer of the Shares on behalf of the Transferor and receive the purchase money. Upon execution of the Transfer, the Company must enter the Shareholder's name in the register as the holder of the Shares and hold the purchase money in trust for the Transferor.
- 24.18 If the offer of Shares made does not result in one or some of the Shareholders agreeing to purchase all the Shares mentioned in the Transfer Notice, the Transferor may at any time within 4 months, transfer those Shares which the Shareholders have not agreed to purchase to any person on a bona fide cash sale of such Shares at a price not less than the Prescribed Price.
- 24.19 Before approving any transfer pursuant to the above clause, the Board may require a statutory declaration by both Transferor and transferee and such further evidence as the Board considers necessary, that the Shares included in the transfer are being transferred in pursuance of a bona fide cash sale for the

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consideration stated in the transfer without any reduction, rebate or allowance whatsoever to the transferee.

24.20 Prior to any transfer being effected pursuant to this Clause, the Transferee and the Shareholders (other than the Transferor in the case of the Transferor selling all the Transferor's shares) must enter into an agreement in place of this agreement.

24.21 A transfer or purported transfer of Shares which contravenes this Clause is void.

24.22 The Board may decline to register transfer of Shares on which a lien exists. The Board is bound to register transfer of all other Shares in accordance with the provisions of this Clause.

24.23 The provisions of the above clauses do not apply for transfer of Shares to a spouse or child of a member (being a natural person), nor to a trustee to a beneficiary who is the spouse or child of the person in control of the trustee, provided such transfer has the prior written consent of the Board, which will not be unreasonably withheld.

24.24 Any change in the effective control of any Shareholder is deemed to be a Transfer Notice by that member to the Company on the date on which the change comes to the attention of the Board. The Prescribed Value of such Shares is the value of the Shares as determined by the Board, the value of which is conclusive.

Eight benefits of a Legal Consolidated Shareholders Agreement:

- 1. Tailored shareholder protection*
- 2. Outlines the basis for important decision making and restricts the power of directors where necessary*
- 3. Protects the owners, directors and the company against actions of others*

25 Shareholder's Loans

Except where otherwise agreed in writing by the Company, any loan made by any Shareholder is made on the following terms:

25.1 the loan will bear interest at a commercial rate as agreed between Shareholders and the Company. Failing agreement, the rate is calculated as a percentage per annum published from time to time by the Company's bankers at its overdraft rate of \$100,000;

25.2 the loan is unsecured;

25.3 the loan will be repayable as and when determined by the Company, provided that:

25.3.1 the Company will not repay any Shareholder's Loan without making proportionate repayment of other Shareholder Loans;

25.3.2 the loan will become repayable upon demand should a default event occur in respect of the Company.

26 General

Severance

26.1 If any part of this Deed is deemed unenforceable, then:

26.1.1 the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed;

26.1.2 in any other case if the provision is severed,

the rest of this Deed continues to be legal and enforceable

Waiver

26.2 The failure of a party at any time to insist performance of a contract by another party under this Deed is not a waiver of its right:

26.2.1 to insist on performance of, or claim damages for breach of, a contract unless the party acknowledges in writing that the failure to insist is a waiver;

26.2.2 at any other time to insist performance of that or any other contract by another party under this Deed.

Decision making in more than one place and Notices

26.3 This Deed may be executed in different locations by signing in different places. All counterparts together constitute the Deed.

26.4 Meetings and decision-making can be conducted in more than one place, by telephone, Internet or other means.

26.5 Notices may be provided via post or email.

Interpreting the Deed

26.6 In this Deed, unless the context indicates a contrary intention:

26.6.1 headings are for convenience only and do not affect interpretation

26.6.2 reference to a 'person' includes a reference to: individual; body corporate (wherever incorporated), body politic, association of persons (whether incorporated or unincorporated) partnership, trust, person in the capacity as a trustee, person in the capacity as the personal representative of a deceased estate and superannuation fund;

26.6.3 the plural includes the singular and vice versa and a reference to any gender includes every other gender;

26.6.4 reference to the Deed includes a reference to any amendment, novation, variation, supplemental deed or replacement from time to time;

26.6.5 reference to any party to this Deed includes successors or permitted assigns;

26.6.6 reference to laws in this Deed refers to those laws as amended or replaced as consistent with the overall purpose of the Deed and does not lead to an anomaly; and

26.6.7 reference to any statute, or any subordinate legislation or instrument includes all statutes, subordinate legislation or instruments amending, modifying, consolidating, re-writing, re-enacting or replacing them.

4. Minimises business disputes between owners – makes it clear how decisions are made and provides dispute resolution
5. Assists in getting bank finance – shows stability to potential partners
6. Prevents changes in one shareholder's personal circumstances from affecting the company or other shareholders

Entire Deed

26.7 This Deed is the entire Deed between the parties in relation to the subject matter of this Deed.

Legal costs and Stamp Duty

26.8 The parties will share equally all legal costs in the preparation of this Deed and stamp duty, if any, payable on the Deed.

Executed as a Deed on 20

EXECUTED for and on behalf of
OzEnergy Engineering Pty Ltd ACN 489 756 230
Member, by authority of its Directors in
accordance with section 127
Corporations Act 2001 (Cth)

7. Protects the rights of minority shareholders and the investment value of their shareholding
8. Sets out procedures if a shareholder decides to sell their shares

Signature of Director or Secretary

Signature of Director (if a 2nd)

SIGNED, SEALED AND DELIVERED by
Robert Masina

Robert Masina

(Signature of witness)

(Name of witness)

EXECUTED for and on behalf of
PaW Nominees Pty Ltd
ACN 219 841 136
Trustee for the Wong Family Trust
Member, by authority of its Directors in
accordance with section 127
Corporations Act 2001 (Cth)

Signature of Director or Secretary

Signature of Director (if a 2nd)

SIGNED, SEALED AND DELIVERED by
Alise Khumar
Trustee for the Khumar Family Trust

Alise Khumar

(Signature of witness)

(Name of witness)

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shareholders-agreement/](https://www.legalconsolidated.com.au/shareholders-agreement/)