**Shareholders Agreement**

**Person ordering**

|  |  |  |
| --- | --- | --- |
| Name: | |  |
| Firm Name: | | Member Number: |
| Phone: |  | Email: |

**Payment details**

Please provide credit card details for payment of **$1650**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| On Account\* | Visa | Mastercard | | Amex |
| Card Holder Name: | | | | |
| Credit Card Number: | | | | |
| Expiry Date:       / | | | Authorised Card Signature: | |

Note that our staff will call you to request the CVV when payment is processed.

All prices include GST, and the documentation will be sent to the nominated email address in PDF format.

\*To pay on account you must have a current On Account Agreement with Docscentre.

**Company Details**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Company Name: | | |  |  | |
| ACN: | | | | | |
| Officeholders: | | | | | |
| 1: | Dir | Sec | 2: | Dir | Sec |
| 3: | Dir | Sec | 4: | Dir | Sec |
| **State/Territory Jurisdiction of agreement:** | | | |  |  |

**Please complete all details in legible handwriting and provide full legal names.**

**Return completed form to** [**info@docscentre.com.au**](mailto:info@docscentre.com.au)



**Shareholders Agreement**

**Shareholders Information** \*if there is not enough space, please add further pages as appropriate.

|  |  |
| --- | --- |
| **1.** Full Legal Name: |  |
| ACN (if company): |  |
| Director(s) Name (if company): |  |
| ATF (if applicable): |  |
| Street Address: | |
| Suburb: | State & Post Code: |
| Number of Shares: | Share Class: |

|  |  |
| --- | --- |
| **2.** Full Legal Name: |  |
| ACN (if company): |  |
| Director(s) Name (if company): |  |
| ATF (if applicable): |  |
| Street Address: | |
| Suburb: | State & Post Code: |
| Number of Shares: | Share Class: |

|  |  |
| --- | --- |
| **3**. Full Legal Name: |  |
| ACN (if company): |  |
| Director(s) Name (if company): |  |
| ATF (if applicable): |  |
| Street Address: | |
| Suburb: | State & Post Code: |
| Number of Shares: | Share Class: |

|  |  |
| --- | --- |
| **4.** Full Legal Name: |  |
| ACN (if company): |  |
| Director(s) Name (if company): |  |
| ATF (if applicable): |  |
| Street Address: | |
| Suburb: | State & Post Code: |
| Number of Shares: | Share Class: |



**Shareholders Agreement**

**Shareholders Information continued**

|  |  |
| --- | --- |
| **5.** Full Legal Name: |  |
| ACN (if company): |  |
| Director(s) Name (if company): |  |
| ATF (if applicable): |  |
| Street Address: | |
| Suburb: | State & Post Code: |
| Number of Shares: | Share Class: |

**Terms of Agreement**

There are a range of matters that can be covered by a shareholder’s agreement. Please answer the following questions.

The Agreement will only include the matters selected.

|  |  |
| --- | --- |
| 1. Restraint of trade and non-solicitation restraint cascading clause maximum radius: 50 km  20 km  10 km | |
| 2. Restraint of trade cascading clause maximum duration (from ceasing as a shareholder): | |
| 3 years  2 years  1 year  6 months | |
| 3. Non-solicitation restraint cascading clause maximum duration (from ceasing as a shareholder): | |
| 3 years  2 years  1 year  6 months | |
| 4. Drag-along clause minimum transferring shareholding for drag-along option to arise: | |
| 75%  70%  66%  50%  Other: |  |
| 5. Tag-along clause minimum transferring shareholding for tag-along option to arise: | |
| 75%  70%  66%  50%  Other: |  |
| 6. For shareholders to approve of an issue of shares without following the pre-emptive rights procedure clause requires: | |
| Special Resolution of the shareholders  or Unanimous Resolution of the shareholders | |
| 7. For shareholders to approve of a transfer of shares without following the pre-emptive rights procedure clause requires: | |
| Special Resolution of the shareholders  or Unanimous Resolution of the shareholders | |
| 8. Schedule 4 items requiring special decision by\*: | |
| Special Resolution of the board  or Unanimous Resolution of the board | |
| \*see Schedule 4 decision making list on page 4 and if any item on that list is to be removed or modified or if any additional items are to be included as part of your shareholders agreement, please request this in the special instructions section below | |
| \*we generally do not include a requirement for special / unanimous resolution of the shareholders due to shareholders often being trusts and therefore requiring additional authorisations to sign an agreement, which can be an additional business burden on the company to operation, when often each shareholder will have a representative on the company’s board | |



**Shareholders Agreement**

**Terms of Agreement continued**

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| 9. Minimum threshold for company asset or liability transaction to require Schedule 4 special decision: |
| Above: $5,000  $10,000  $25,000  $50,000  $100,000  Other: |
| 10. Choose an arbitration body for the dispute resolution clause (default is the Resolution Institute and as default mediation will be required before arbitration): |

**Special Instructions (if any)**

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**This section must be read in conjunction with the above order form**

**Schedule 4 Decision Making List**

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| (a) Entering into any agreement for the Company to purchase or lease any real property.  (b) Making material changes to the nature or scale of the Company’s business.  (c) Encumbering any asset of the Company.  (d) Selling or disposing an asset or a number of assets of the Company (or the Company’s business) in one transaction or a series of related transactions with book value greater than [see question 10 above], other than in the ordinary course of the Company’s business.  (e) Purchasing an asset or a number of assets for the Company (or the Company’s business) in one transaction or a series of related transactions for consideration greater than [see question 10 above], other than in the ordinary course of the Company’s business.  (f) Entering into any arrangement or incurring any expense or liability in relation to the Company (or the Company’s business) for an amount greater than [see question 10 above], other than in the ordinary course of the Company’s business.  (g) Lending or agreeing to lend any of the moneys in the name of or on behalf of the Company.  (h) Releasing any debt owing to the Company except where the debtor has paid in full.  (i) Increasing or adjusting of the salary and wages of any Director and/or employee and/or consultant of the Company.  (j) Changing the Company’s dividend policy and declaring of any dividend.  (k) Providing any guarantee, indemnity or like surety under which the Company may incur liability in respect to the obligations of any other party.  (l) Incurring additional borrowings or financial accommodation. |

Continued over page

**Shareholders Agreement**

**Schedule 4 Decision Making List continued**

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| (m) Engaging or dismissing any employee, agent, contractor, or consultant of the Company, except where the dismissal of any employee is on the basis of serious misconduct.  (n) Implementing any employee share schemes.  (o) Commencing or settling any litigation to which the Company is a party, and which is material to the Company’s business.  (p) Applying for admission to the official list of an Exchange.  (q) Applying for voluntary winding up of the Company or appointment of a controller, receiver, or administrator to the Company.  (r) Entering into an arrangement or agreement with a Shareholder or a Related Body of a Shareholder. |

**Scope of this package**

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| --- |
| A shareholder’s agreement is between the shareholders of the company concerning the operation of the company (e.g. where would shareholder approval be required for certain company actions, non-compete and non-solicitation restrictions) and dealing with their shares in the company (e.g. pre-emptive rights for issue and transfer of shares, drag-along, tag-along, automatic exit of a shareholder (involuntary transfer), confidentiality and dispute resolution by mediation / arbitration.    In our shareholders agreement, the company itself will also be a party to the shareholders agreement. |

**What is Outside the Scope?**

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| --- |
| Our shareholders agreement is not designed to be applied for public or listed companies, only for proprietary small companies and only for Australian registered companies, not for any foreign companies registered in Australia and not for Australian subsidiaries owned by a foreign company and not for any company that is a subsidiary or part of a larger corporate group with other controlling / ownership interests outside of the company itself that will be the subject of the shareholders agreement.  Our shareholder’s agreement is not designed for use if the company is acting as trustee of a trust (you may wish to consider our unitholders’ agreement documentation product for a unit trust).    Although the shareholders agreement is generally taken to have precedence over the terms of the company’s constitution to the extent of any inconsistency, we would expect to only see provisions affecting directors in the company constitution to override any replaceable rules in the Corporations Act 2001 if the parties required that (e.g. director appointment, removal and voting, appointment of chair of the board and chair of shareholders).  Director provisions in the shareholders agreement would generally be limited to which percentage shareholding a shareholder requires to be able to appoint a representative director, which you may request for a quote for this clause at an additional fee but which is not offered in our shareholders agreement as standard due to the directors of the company already having been appointed to remain for the short-mid term after the parties enter into the shareholders agreement – you may request this in the special instructions section above.  Similarly, if the parties require provisions relating to company budgets and business plans, please request this in the special instructions section above. |



**Shareholders Agreement**

**What is Outside the Scope? continued**

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| You may request for us to consider to add other clauses of your choosing to your shareholders agreement for a tailoring cost to be quoted and agreed on before we prepare your documentation. Some examples of requested tailored clauses that we have not been able to insert into the shareholders agreement include:  1. Director employment termination conditions  2. Profit distribution /sharing calculations –  3. Tailored special share rights  4. Director voting, appointment of chair of the board and chair of shareholders and changes to director replaceable rules  Please contact us should you require further clarification on the above points. |

**Check the** **number of current Shareholders**

|  |
| --- |
| The shareholders agreement includes a deed of accession, and it is expected that the parties would require any new shareholder of the company to accede to be bound by the shareholders agreement upon them acquiring their shares, otherwise the shareholders agreement would be of diminished effectiveness applying to original shareholders but not to new shareholders. We are not engaged to assist the parties to monitor that all new shareholders admitted to the company properly accede to the shareholders agreement.    The shareholders agreement can be varied by the unanimous agreement of the shareholders. However, our shareholders agreement is not designed to be implemented if the shareholders of the company already have a shareholders agreement in place. |

**Review other Company Agreements in place and Constitution**

|  |
| --- |
| If the company is to have a buy-sell agreement, the terms and share transfer mechanisms of the buy-sell agreement would generally take precedence over those of the shareholders agreement due to the sudden and involuntary nature of triggering a buy-sell agreement share transfer versus the procedural-based nature of share transfers to be approved under a shareholder’s agreement. But we are not engaged to review any buy-sell agreement for the company to confirm if it contains a clause that its provisions will take precedence over the shareholders agreement and the company’s constitution.  The shareholders agreement will contain a clause that its provisions will take precedence over the provisions of the company’s constitution to the extent of any inconsistency. We are not engaged to review the terms of the company’s constitution. If you or the parties have any reason for concern that an important term of the company’s constitution could be overridden by inconsistency with a term of the shareholders agreement, you may contact us to discuss before placing your order. |

By completing this order form and returning to Docscentre you confirm that you have read and accepted our terms and conditions which can be found here – [www.docscentre.com.au/terms-and-conditions/](http://www.docscentre.com.au/terms-and-conditions/)



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| --- |
| A picture containing icon  Description automatically generated  Legal documents you can trust. Since 2004 |
| A picture containing application  Description automatically generated    Because it’s a jungle out there. Since 1983 |
| Logo  Description automatically generated  The Voice of the Tax Agent community. Since 1992 |
| A logo with a castle in the middle  Description automatically generated    Partnering with you to get it right. Since 1995 |

