

# COGNIKIN PTY LTD

## CogniKin Pty Ltd -- Shareholders Agreement (Heads of Agreement)

Reference: CK-SHA-001

30 March 2026

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## CogniKin Pty Ltd -- Shareholders Agreement

### Heads of Agreement

**Document Reference:** ODIN-COGNIKIN-20260323-002

**Prepared:** 23 March 2026

**Prepared by:** ODIN (Organised Digital Intelligence Network) for Marc Withnall

**Status:** DRAFT -- Comprehensive heads of terms for solicitor to draft definitive agreement

**Classification:** Confidential

**Governing Law:** Queensland, Australia

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### IMPORTANT NOTICE

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This document sets out comprehensive heads of agreement for a Shareholders Agreement ("SHA") in respect of CogniKin Pty Ltd. It is intended to be sufficiently detailed for a corporate solicitor to draft definitive legal terms. It does not constitute a binding agreement unless and until a definitive SHA is executed by all parties.

All references to legislation are to the Corporations Act 2001 (Cth) unless otherwise stated. All dollar amounts are in Australian dollars (AUD).

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## 1. PARTIES

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### 1.1 The Company

**CogniKin Pty Ltd** (ACN: [TBD])

A proprietary company limited by shares incorporated under the Corporations Act 2001 (Cth).

## 1.2 The Shareholders

Party	Entity Vehicle	Shares	% (Undiluted)	Key Person
<b>Founder Group 1</b>	KI Investment Trust No. 1 (Trustee: KI Investment Management Pty Ltd) ("KI Trust")	600 Class A	60%	Marc Withnall and Nick Wells
<b>Founder Group 2</b>	[Anthony's Family Trust] (Trustee: [TBD]) ("Anthony's Trust")	200 Class A	20%	Anthony Brace
<b>Founder Group 3</b>	[Entity TBD -- likely ILB Pty Ltd or family trust] ("Kevin's Entity")	200 Class A	20%	Kevin Withnall

### Notes:

- Anthony to confirm exact trust name and trustee entity (same trust holding his Apex Performance stake)
- Kevin to confirm entity vehicle (email sent 22 March 2026)
- "Key Person" means the natural person whose involvement is material to the Company -- relevant for vesting, non-compete, and key-person provisions

## 1.3 Future Parties

The SHA must include an accession mechanism requiring any future shareholder (including PE investors subscribing for Class B Preference Shares) to execute a Deed of Accession binding them to the terms of the SHA (or an amended SHA negotiated at the time of investment).

## 2. SHARE CAPITAL AND CLASSES

### 2.1 Authorised Share Capital

The Company's constitution shall authorise the issue of three classes of shares:

#### 2.1.1 Class A Ordinary Shares (Founders)

Right	Terms
<b>Voting</b>	One (1) vote per share on all matters requiring shareholder vote

Right	Terms
<b>Dividends</b>	Pro rata entitlement to dividends as declared by the Board, pari passu with other ordinary shares
<b>Capital return</b>	Pro rata entitlement to surplus assets on winding up, AFTER satisfaction of any Class B liquidation preference
<b>Transfer</b>	Subject to ROFR (clause 5), pre-emptive rights (clause 4), and Board approval
<b>Conversion</b>	N/A

### 2.1.2 Class B Preference Shares (PE Investors)

Right	Terms
<b>Voting</b>	One (1) vote per share on all matters PLUS separate class vote on any matter affecting Class B rights (clause 10.3)
<b>Dividends</b>	Non-cumulative, pari passu with Class A on an as-converted basis
<b>Liquidation preference</b>	1x non-participating preference (see clause 12)
<b>Anti-dilution</b>	Broad-based weighted average (see clause 7)
<b>Conversion</b>	Voluntary conversion to Class A at any time at the election of the holder; automatic conversion on a Qualifying IPO (see clause 15.1)
<b>Transfer</b>	Subject to ROFR and tag-along rights from share one
<b>Redemption</b>	Not redeemable except on PE Put Right after 5 years (see clause 15.4)

**Note:** No Class B shares are issued at the date of this agreement. The terms of issue of Class B shares will be set out in a Subscription Agreement negotiated with the PE investor at the time of investment. PE invests directly into CogniKin Pty Ltd.

### 2.1.3 Class C Shares (ESOP)

Right	Terms
<b>Reservation</b>	

Right	Terms
	150 shares reserved but unissued, representing approximately 12.5% of fully diluted capital
<b>Voting</b>	One (1) vote per share once vested and exercised
<b>Dividends</b>	Pro rata with Class A once exercised
<b>Vesting</b>	Subject to ESOP plan approved by the Board (see clause 13)
<b>Tax</b>	Subject to ESS provisions (Subdivision 83A-C, ITAA 1997)

## 2.2 Issued Capital at Execution

Class	Number	Holders
Class A	1,000	KI Trust (600), Anthony's Trust (200), Kevin's Entity (200)
Class B	Nil	Reserved for PE
Class C	Nil	Reserved for ESOP
<b>Total issued</b>	<b>1,000</b>	
<b>Total fully diluted</b>	<b>1,150</b>	

## 3. BUSINESS OF THE COMPANY

### 3.1 Principal Business

The business of the Company is:

- (a) The ownership, development, and commercialisation of the CogniKin AI brain deployment platform and all associated intellectual property;
- (b) Customer-facing deployment and support of CogniKin AI brains;
- (c) Client contract management, billing, and revenue generation;
- (d) Engagement of developers and technical contractors for platform development;
- (e) Pursuit of R&D Tax Incentive claims;
- (f) Receipt of PE investment; and
- (g) Such other activities as the Board may approve from time to time.

### 3.2 Change of Business

Any material change to the principal business of the Company requires unanimous shareholder approval (see clause 10.1).

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## 4. PRE-EMPTIVE RIGHTS ON NEW ISSUES

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### 4.1 General Right

Subject to clause 4.2, before the Company issues any new shares (or securities convertible into shares), it must first offer those shares to existing shareholders pro rata to their existing holdings, on the same terms and at the same price as proposed for the new issue.

### 4.2 Acceptance Period

Each shareholder has twenty (20) Business Days from receipt of the offer notice to accept the offer in whole or in part. If a shareholder does not accept its full entitlement, other shareholders have a further ten (10) Business Days to take up any shortfall on a pro rata basis ("Top-Up Right").

### 4.3 Carve-Outs

Pre-emptive rights do NOT apply to the following issuances:

- (a) **Approved Equity Financing:** An equity raising approved by shareholders holding at least seventy-five percent (75%) of the issued shares. This is the mechanism by which PE investment enters without triggering pre-emptive rights -- KI Trust (60%) plus any one other founder (20%) can approve.
- (b) **ESOP Issuances:** Shares issued under a Board-approved ESOP (clause 13), up to the Class C reserve of 150 shares.
- (c) **Conversion of Convertible Instruments:** Shares issued on conversion of convertible notes, SAFEs, or Class B Preference Shares in accordance with their terms of issue.
- (d) **Strategic Issuances:** Shares issued in connection with a bona fide strategic partnership or acquisition, approved by the Board.

#### 4.4 Lapse

If the offer is not accepted within the applicable acceptance period (including top-up), the Company may issue the shares to third parties on terms no more favourable than those offered to existing shareholders, within ninety (90) days. After 90 days, the pre-emptive right process must be repeated.

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## 5. TRANSFER RESTRICTIONS AND RIGHT OF FIRST REFUSAL

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### 5.1 General Restriction

No shareholder may transfer, sell, assign, pledge, or otherwise dispose of any shares except in accordance with this clause 5 and clause 6.

### 5.2 Right of First Refusal (ROFR)

Before any shareholder ("Selling Shareholder") may transfer shares to any person other than a Permitted Transferee:

(a) The Selling Shareholder must deliver a **Transfer Notice** to the Company and all other shareholders, specifying the number of shares, the proposed price, and the identity of the proposed buyer.

(b) The **Company** has ten (10) Business Days from receipt of the Transfer Notice to elect to purchase all (but not some) of the shares by way of selective buy-back under s257D of the Corporations Act (subject to all statutory requirements including special resolution approval).

(c) If the Company does not elect to purchase, **existing shareholders** have thirty (30) Business Days from the date the Company's option lapses to elect to purchase the shares, pro rata to their existing holdings, at the price stated in the Transfer Notice.

(d) If shareholders elect to purchase only part of the offered shares, the remaining shareholders may take up any shortfall on a pro rata basis within a further ten (10) Business Days.

(e) If the shares are not fully taken up, the Selling Shareholder may transfer the shares to the proposed buyer named in the Transfer Notice, at a price no less than that stated in the Transfer Notice, within one hundred and twenty (120) days. After 120 days, the ROFR process must be repeated.

### 5.3 Permitted Transferees

The ROFR does not apply to transfers to a **Permitted Transferee**, being:

- (a) A related body corporate of the shareholder (s50 Corporations Act);
- (b) A trust controlled by the Key Person associated with that shareholder;
- (c) A superannuation fund of which the Key Person is a member and trustee (or director of the corporate trustee);
- (d) A spouse or immediate family member of the Key Person, where the transfer is for estate planning purposes.

A Permitted Transferee must execute a Deed of Accession before the transfer is registered.

### 5.4 Board Approval

All transfers (including to Permitted Transferees) require Board approval. The Board may refuse to register a transfer only on the grounds specified in this agreement and the constitution.

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## 6. TAG-ALONG AND DRAG-ALONG RIGHTS

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### 6.1 Tag-Along Right

- (a) **Trigger:** If any shareholder or group of shareholders proposes to transfer shares representing more than fifty percent (50%) of the issued shares to a third-party buyer, all other shareholders ("Tagging Shareholders") have the right to require the buyer to purchase their shares on the same terms and at the same price per share.
- (b) **PE Tag-Along:** Class B Preference shareholders have a tag-along right from the first share transferred (not subject to the 50% threshold). This ensures PE can exit alongside any significant founder transfer.
- (c) **Procedure:** The transferring shareholder must give the Tagging Shareholders at least thirty (30) Business Days notice of the proposed transfer. If the buyer will not purchase the Tagging Shareholders' shares, the transfer may not proceed.
- (d) **Pro rata reduction:** If the buyer will purchase only a limited number of shares, each participating shareholder (transferring and tagging) sells a pro rata proportion.

## 6.2 Drag-Along Right

(a) **Trigger:** If shareholders holding at least seventy-five percent (75%) of the total issued shares wish to accept a bona fide offer from a third-party buyer for one hundred percent (100%) of the shares ("Drag Sale"), they may require all remaining shareholders ("Dragged Shareholders") to sell their shares on the same terms and at the same price per share.

(b) **Floor Price:** A Drag Sale cannot be triggered at a price per share that is less than the original subscription price paid by the Dragged Shareholders (adjusted for any share splits, consolidations, or bonus issues).

(c) **Warranties:** Dragged Shareholders are required to give only warranties as to:

- Title to their shares (free from encumbrances)
- Capacity and authority to sell
- No additional business or operational warranties

(d) **Non-compete:** Dragged Shareholders are bound by a non-compete of no more than twelve (12) months post-completion (see clause 14). Marc recommends resisting any PE push to extend this to 24 months.

(e) **Threshold -- Negotiation Note:** 75% is the founding position. PE investors commonly push for 60%. The 75% threshold ensures that neither the KI Trust (60%) alone, nor any single minority holder with PE support, can force a drag without broader consensus.

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## 7. ANTI-DILUTION PROTECTION

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### 7.1 Mechanism

If the Company issues shares at a price per share lower than the price paid by Class B Preference shareholders in their most recent subscription ("Down-Round"), the Class B conversion price shall be adjusted using the **broad-based weighted average** formula:

$$\text{Adjusted Price} = \text{CP} \times (\text{A} + \text{B}) / (\text{A} + \text{C})$$

Where:

- **CP** = Current conversion price (original Class B subscription price)
- **A** = Number of shares on issue immediately before the Down-Round (fully diluted)
- **B** = Number of shares that would have been issued at CP for the aggregate Down-Round consideration
- **C** = Number of shares actually issued in the Down-Round

## 7.2 Full Ratchet Excluded

Full ratchet anti-dilution is expressly excluded. The broad-based weighted average method is fairer to founders and is the market-standard approach for Australian PE/VC transactions.

## 7.3 Carve-Outs

The anti-dilution adjustment does NOT apply to:

- (a) ESOP issuances (Class C shares);
- (b) Shares issued in connection with a bona fide strategic acquisition;
- (c) Shares issued on conversion of pre-existing convertible instruments;
- (d) Bonus issues or share splits applying equally to all classes.

## 7.4 Pay-to-Play

Any Class B shareholder who does not participate in a new equity financing (to at least their pro rata entitlement) forfeits their anti-dilution protection for that round and all subsequent rounds, and their Class B shares automatically convert to Class A.

# 8. FOUNDER VESTING

## 8.1 Reverse Vesting

PE investors will expect reverse vesting of founder Class A shares. The following terms are proposed:

(a) **Vesting Credit:** Twenty-five percent (25%) of each founder's shares are deemed vested at the date of execution of this agreement, in recognition of the founders' existing IP contribution and work-to-date in developing the CogniKin platform.

(b) **Remaining Vesting:** The remaining seventy-five percent (75%) of each founder's shares vest over thirty-six (36) months (3 years), vesting monthly in equal instalments, following a six (6) month cliff from the date of this agreement.

Period	Vesting
Execution date	25% deemed vested
Months 1-6	No additional vesting (cliff period)

Period	Vesting
Months 7-42	75% vests monthly in equal instalments (approximately 2.08% per month)
Month 42	100% fully vested

(c) **Key Person Requirement:** Vesting is conditional on the Key Person associated with the shareholder remaining actively engaged with the Company (as director, employee, or contractor providing services at least [TBD] days per month).

## 8.2 Good Leaver

If a Key Person ceases engagement with the Company as a Good Leaver:

- (a) The shareholder retains all vested shares;
- (b) The Company (or nominees designated by the Board) has a call option over all unvested shares at Fair Market Value (determined by an independent valuer agreed by the parties or, failing agreement, appointed by the President of the Queensland Law Society).

**Good Leaver** means cessation due to:

- Death or permanent incapacity
- Termination of service agreement by the Company without cause
- Retirement with Board approval
- Redundancy

## 8.3 Bad Leaver

If a Key Person ceases engagement with the Company as a Bad Leaver:

- (a) The Company (or nominees) has a call option over ALL shares (vested and unvested) at the lower of:
  - Original subscription price; or
  - Fair Market Value.

**Bad Leaver** means cessation due to:

- Resignation without Board consent (other than for Good Reason)
- Termination for cause (material breach of duties, fraud, dishonesty, conviction of a criminal offence, material breach of this agreement)
- Breach of non-compete or confidentiality obligations

## 8.4 Change of Control Acceleration (Double Trigger)

All unvested shares shall vest immediately upon the occurrence of BOTH:

- (a) A Change of Control event (being the acquisition of more than 50% of the Company's shares by a person or group not currently a shareholder, or a sale of all or substantially all of the Company's assets); AND
- (b) The termination or constructive termination of the Key Person's engagement within twelve (12) months of the Change of Control event.

This is a "double trigger" -- a Change of Control alone does not accelerate vesting.

## 9. BOARD COMPOSITION AND GOVERNANCE

### 9.1 Board Composition

The Board shall comprise five (5) directors:

Seat	Appointment Right	Initial Appointee
<b>Chair</b>	KI Investment Trust (Marc Withnall to exercise appointment right)	Marc Withnall [TBD -- subject to confirmation]
<b>Founder Director 1</b>	KI Investment Trust (Nick Wells to exercise appointment right)	Nick Wells
<b>Founder Director 2</b>	Jointly appointed by Anthony's Trust and Kevin's Entity	Anthony Brace
<b>PE Director</b>	Class B Preference shareholders (appointed after PE investment)	[Vacant until PE round]
<b>Independent Director</b>	Joint appointment by all shareholders, within 12 months of incorporation	[Vacant -- to be appointed within 12 months]

### 9.2 Board Meetings

- (a) The Board shall meet at least **ten (10) times per calendar year** (monthly, with a maximum of 2 months between meetings).
- (b) **Quorum:** Three (3) directors, including at least one Founder Director and (once appointed) the PE Director or the Independent Director.
- (c) **Chair casting vote:** The Chair has a casting vote in the event of a deadlock at Board level,

except on Reserved Matters.

(d) **Board papers:** Distributed at least five (5) Business Days before each meeting.

### **9.3 Board Observer Rights**

Class B Preference shareholders (PE investors) shall have the right to appoint one (1) observer to attend Board meetings in a non-voting capacity, in addition to the PE Director seat.

### **9.4 Director Removal**

(a) Any director may be removed by the shareholder(s) who appointed them, at any time and without cause.

(b) The Independent Director may be removed by a resolution of shareholders holding at least 75% of the total issued shares.

(c) Any director may be removed by special resolution of shareholders in accordance with s203D of the Corporations Act.

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## **10. RESERVED MATTERS**

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### **10.1 Unanimous Consent Required (100% of all shareholders)**

The following matters require the prior written consent of ALL shareholders:

(a) Amendment to the Company's constitution or this Shareholders Agreement;

(b) Any material change to the principal business of the Company;

(c) Voluntary winding up or deregistration of the Company;

(d) Any related party transaction exceeding \$50,000 (individual or aggregate in a 12-month period) (s208-210 Corporations Act);

(e) Issuance of any shares ranking senior to existing shares in terms of liquidation preference or dividend rights;

(f) Consolidation, sub-division, or reclassification of shares;

(g) Any merger, amalgamation, or scheme of arrangement;

(h) Any corporate restructure, including creation of subsidiaries or holding companies (relevant to any future PE-driven restructure).

### **10.2 Special Majority Required (75% of all shareholders)**

The following matters require the prior written consent of shareholders holding at least seventy-five percent (75%) of the total issued shares:

- (a) Issuance of any new shares (subject to the pre-emptive rights carve-outs in clause 4.3);
- (b) Declaration or payment of any dividend;
- (c) Approval of the annual budget and business plan;
- (d) Capital expenditure exceeding \$100,000 (individual item or aggregate in any 12-month period);
- (e) Borrowings or financial indebtedness exceeding \$250,000 (individual or aggregate);
- (f) Appointment or removal of the CEO or other key management personnel;
- (g) Entry into, material amendment, or termination of any material contract (value exceeding \$100,000 annually);
- (h) Commencement, settlement, or abandonment of any litigation, arbitration, or regulatory proceedings where the amount in dispute exceeds \$50,000;
- (i) Any transaction outside the ordinary course of business;
- (j) Establishment of any subsidiary or joint venture.

### **10.3 Class B (PE) Veto**

The following matters require the prior written consent of holders of at least a majority of the Class B Preference Shares (in addition to any other approval required):

- (a) Any action that adversely affects the rights, preferences, or privileges of the Class B shares;
  - (b) Any redemption, buyback, or cancellation of shares;
  - (c) Any amendment to the ESOP terms or increase in the ESOP pool beyond 150 shares;
  - (d) Any related party transaction between the Company and any founder, founder entity, or their associates, exceeding \$10,000 (individual or aggregate in a 12-month period);
  - (e) Any change in the Company's auditors;
  - (f) Any change in the Company's financial year end.
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## **11. INFORMATION RIGHTS AND REPORTING**

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### **11.1 Monthly Reporting (to all shareholders)**

Within twenty (20) Business Days of month end:

- (a) Management accounts (profit & loss, balance sheet, cash flow statement);
- (b) Key performance indicators dashboard (seats deployed, revenue per seat, churn, pipeline);
- (c) Cash position and 90-day cash flow forecast;
- (d) Material events summary.

### **11.2 Quarterly Reporting (to all shareholders)**

Within thirty (30) Business Days of quarter end:

- (a) Board-approved quarterly financial statements;
- (b) Updated business plan and budget variance analysis;
- (c) Updated capitalisation table;
- (d) Risk register update;
- (e) IP register update.

### **11.3 Annual Reporting (to all shareholders)**

Within ninety (90) days of financial year end:

- (a) Audited financial statements (once PE investment is received; reviewed financials prior to PE);
- (b) Annual budget and business plan for the following year;
- (c) Directors' report;
- (d) Updated independent valuation (if requested by any shareholder holding 10%+ of issued shares).

### **11.4 Inspection Rights**

Each shareholder holding at least 10% of the issued shares has the right to:

- (a) Inspect the Company's books and records on reasonable notice;
- (b) Request additional information from management, not more frequently than monthly;
- (c) Appoint an independent accountant (at the requesting shareholder's cost) to review the Company's financial records.

### **11.5 PE Enhanced Information Rights**

Class B Preference shareholders shall have the following additional rights:

- (a) Attendance (directly or via observer) at all Board meetings;
  - (b) Access to the Company's data room (maintained on an ongoing basis);
  - (c) Direct access to the Company's auditors and accountants.
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## 12. LIQUIDATION WATERFALL

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### 12.1 Distribution on Winding Up or Deemed Liquidation Event

On a winding up of the Company, or a Deemed Liquidation Event, the available proceeds shall be distributed in the following order of priority:

Priority	Recipient	Amount
1	Creditors	All debts and liabilities in accordance with the Corporations Act
2	Class B Preference shareholders	1x the original subscription price per Class B share (the "Liquidation Preference Amount")
3	All remaining shareholders (Class A and any converted Class B)	Pro rata in proportion to the number of shares held

### 12.2 Non-Participating Preference

The Class B Liquidation Preference is **non-participating**. This means:

- Class B shareholders receive the **greater of**: (i) the Liquidation Preference Amount; OR (ii) the amount they would receive if all Class B shares were converted to Class A and participated pro rata.
- Class B shareholders do NOT receive the Liquidation Preference Amount AND a pro rata share. They choose one or the other.

This protects founders from the double-dipping effect of participating preferred structures.

### 12.3 Deemed Liquidation Events

The following are Deemed Liquidation Events (triggering the waterfall as if a winding up had occurred):

- (a) A trade sale (sale of more than 50% of the Company's shares to a third party);
- (b) A sale of all or substantially all of the Company's assets (including IP);
- (c) A merger or scheme of arrangement in which existing shareholders hold less than 50% of the surviving entity.

## **12.4 Shortfall**

If available proceeds are insufficient to pay the full Liquidation Preference Amount to all Class B shareholders, the available proceeds (after creditors) shall be distributed among Class B shareholders pro rata to their respective Liquidation Preference Amounts.

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## **13. EMPLOYEE SHARE OPTION PLAN (ESOP)**

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### **13.1 Reservation**

One hundred and fifty (150) Class C shares are reserved for the ESOP, representing approximately 12.5% of fully diluted capital.

### **13.2 Administration**

- (a) The ESOP shall be established and administered by the Board.
- (b) The Board has discretion over grant recipients, vesting conditions, exercise price, and other terms, subject to this clause and any PE veto rights (clause 10.3).
- (c) The ESOP must comply with the Employee Share Scheme provisions of Subdivision 83A-C of the Income Tax Assessment Act 1997 (Cth).

### **13.3 Standard Vesting Terms**

Unless the Board determines otherwise for a specific grant:

- (a) Vesting period: Four (4) years;
- (b) Cliff: Twelve (12) months (25% vests at the 12-month anniversary);
- (c) Remaining: Monthly vesting over the following 36 months;
- (d) Good leaver: Retains vested options, unvested options lapse;
- (e) Bad leaver: All options (vested and unvested) lapse;
- (f) Change of control: Board discretion to accelerate vesting.

### **13.4 Exercise Price**

The exercise price for each grant shall be at least the fair market value per share at the date of grant, as determined by the Board (and, if required, an independent valuation).

### 13.5 Increase in Pool

Any increase in the ESOP pool beyond 150 shares requires the approval of holders of 75% of issued shares AND the consent of Class B Preference shareholders (clause 10.3(c)).

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## 14. NON-COMPETE, NON-SOLICITATION, AND IP

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### 14.1 Non-Compete

Each Key Person (Marc Withnall, Nick Wells, Anthony Brace, Kevin Withnall) covenants that, during the Restriction Period, they will not:

- (a) Directly or indirectly engage in, or have a material interest in, any business that competes with the Business (being AI brain deployment, personalised AI assistant platforms, or inter-brain communication systems);
- (b) Solicit or assist any person to solicit the Company's clients, customers, or prospective clients.

**Restriction Period:** The later of:

- The period of active engagement with the Company (as director, employee, or contractor); PLUS
- Twelve (12) months following cessation of engagement.

**Cascading provision:** If 12 months is found to be unenforceable, the non-compete period shall be read as 9 months; if 9 months is unenforceable, 6 months; if 6 months is unenforceable, 3 months.

### 14.2 Non-Solicitation (of Personnel)

Each Key Person covenants not to solicit or entice away any employee, contractor, or consultant of the Company during the Restriction Period.

### 14.3 IP Assignment -- Pre-Existing IP

(a) Each founder (via their entity vehicle) assigns to the Company all CogniKin-specific intellectual property existing at the date of this agreement, as set out in the IP Assignment Deed (to be executed contemporaneously).

(b) **Schedule of Assigned IP:** All CogniKin-specific IP including:

- CogniKin brain deployment framework
- K2K inter-brain communication protocol

- Agent configuration and deployment systems
- Vault architecture (as used for CogniKin deployment, NOT ODIN personal tools)
- Prompt engineering libraries for brain deployment
- CogniKin branding, trade marks, domain names

**14.4 IP Assignment -- Ongoing (Invention Assignment)**

All intellectual property created by any Key Person, employee, or contractor in the course of their engagement with the Company (or using Company resources) shall vest in the Company immediately upon creation. The Company owns all IP directly -- there is no inter-company licence arrangement.

**14.5 Schedule of Excluded IP (NOT Assigned)**

The following IP is expressly excluded from assignment to the Company:

Founder	Excluded IP
Marc Withnall	ODIN personal vault system, daily rituals, personal CRM, family brain configurations (VESTA, CASSIUS, NYX, DAIMON)
Marc Withnall / Nick Wells	AWC Holdings business-specific IP, MAH business IP, Superior Bin Solutions business IP, KCP business IP
Anthony Brace	Personal infrastructure tools not specific to CogniKin
Kevin Withnall	ILB pre-existing IP not specific to CogniKin, Experience Co. work product

**14.6 Moral Rights**

Each Key Person consents to acts or omissions that would otherwise infringe their moral rights in any work created for the Company, pursuant to s195AW of the Copyright Act 1968 (Cth).

**14.7 Boundary Clarification**

Where any IP could reasonably fall within both the Assigned IP and the Excluded IP categories, the parties shall negotiate in good faith to resolve the classification. In the absence of agreement, the matter shall be referred to the Independent Director (once appointed) or, failing that, to expert determination in accordance with clause 16.

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## 15. EXIT MECHANISMS

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### 15.1 Qualifying IPO

(a) A **Qualifying IPO** means an initial public offering on a recognised stock exchange (ASX or equivalent) raising at least \$20,000,000 in aggregate gross proceeds at a pre-money valuation of at least 3x the Class B subscription price.

(b) On a Qualifying IPO, all Class B Preference Shares automatically convert to Class A Ordinary Shares.

(c) All shareholders shall cooperate in good faith with an IPO process if approved by holders of 75% of issued shares.

### 15.2 Trade Sale

(a) A trade sale may be effected via the drag-along mechanism (clause 6.2) with 75% shareholder approval.

(b) The liquidation waterfall (clause 12) applies to proceeds of a trade sale as if it were a Deemed Liquidation Event.

### 15.3 Founder Lock-Up

(a) **Hard lock:** No founder may sell any shares for twenty-four (24) months from the date of the PE investment (except to a Permitted Transferee or in connection with a drag-along).

(b) **Post-IPO lock-up:** If the Company undertakes an IPO, founders are subject to a further twelve (12) month lock-up from the date of listing (or such longer period as required by the exchange or underwriters).

### 15.4 PE Put Right

(a) After the fifth (5th) anniversary of the initial Class B subscription date, Class B Preference shareholders have the right to require the Company to purchase all of their Class B shares at Fair Market Value ("PE Put Right").

(b) Fair Market Value shall be determined by an independent valuer agreed by the parties or, failing agreement within 20 Business Days, appointed by the President of the Queensland Law Society.

(c) The Company shall have twelve (12) months to satisfy the purchase price, which may be satisfied in cash, by way of an orderly sale process, or by the issue of a promissory note on arm's length terms.

(d) **Resist 3-year:** Marc's position is to resist any PE request to reduce the put right period below 5 years.

### **15.5 Compulsory Transfer on Death or Incapacity**

If a Key Person dies or becomes permanently incapacitated:

- (a) The estate or legal representative of the Key Person may retain the vested shares;
  - (b) The Company (or nominees) has a call option over unvested shares at Fair Market Value;
  - (c) The estate must comply with all transfer provisions of this agreement.
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## **16. DEADLOCK RESOLUTION**

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### **16.1 CEO Negotiation**

If the Board or shareholders are unable to resolve a matter after two (2) consecutive meetings at which the matter is considered, the matter is a **Deadlock**. The CEO (or Chair, if no CEO is appointed) shall have five (5) Business Days to negotiate a resolution.

### **16.2 Mediation**

If the Deadlock is not resolved under clause 16.1, the parties shall refer the matter to mediation under the ACDC (Australian Commercial Disputes Centre) Rules, or such other mediation rules as the parties agree. The mediation shall be conducted in Brisbane within twenty (20) Business Days of referral.

### **16.3 Expert Determination**

If the Deadlock is not resolved by mediation, either party may refer the matter to an independent expert for determination. The expert shall be:

- (a) Agreed by the parties; or
- (b) Failing agreement within 10 Business Days, appointed by the President of the Queensland Law Society.

The expert's determination shall be final and binding (except in the case of manifest error) on questions of valuation or financial matters. On governance matters, the expert's determination shall be advisory only.

## 16.4 Texas Shootout

If the Deadlock remains unresolved after expert determination, any shareholder may invoke a **Texas Shootout** (sealed bid) mechanism:

- (a) Each shareholder (or group of shareholders acting together) submits a sealed bid specifying the price per share at which they are willing to purchase all shares held by the other shareholders;
  - (b) The highest bidder must purchase all shares held by the lower bidder(s) at the price nominated by the higher bidder;
  - (c) If bids are equal, the matter is resolved by coin toss (or such other random method as the mediator determines);
  - (d) Completion within sixty (60) Business Days of the bid opening.
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## 17. DIVIDEND POLICY

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### 17.1 General Policy

- (a) The Company does not intend to declare dividends during the initial growth phase. Retained earnings shall be reinvested in the business.
- (b) Any dividend requires Board recommendation and shareholder approval (75% -- clause 10.2(b)).
- (c) Dividends on Class A and Class B shares shall be paid pari passu on an as-converted basis (no preferential dividend for Class B).
- (d) No cumulative dividend rights for any class.

### 17.2 Dividend Entitlement

Each share of the same class carries an equal entitlement to dividends. Dividends are declared at the discretion of the Board, subject to the solvency requirements of s254T of the Corporations Act (the Company must have assets exceeding liabilities by at least the amount of the dividend, and the dividend must be fair and reasonable to shareholders as a whole, and not materially prejudice the Company's ability to pay its creditors).

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## 18. CONFIDENTIALITY

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### 18.1 Obligations

Each party agrees to keep confidential all Confidential Information of the Company and the other parties, and to use Confidential Information only for the purposes of this agreement and the conduct of the Company's business.

### 18.2 Definition

**Confidential Information** means all information relating to the business, finances, technology, intellectual property, customers, suppliers, and affairs of the Company and the other parties, whether disclosed orally, in writing, electronically, or otherwise, and whether before or after the date of this agreement.

### 18.3 Exceptions

Confidential Information does not include information that:

- (a) Is or becomes publicly available other than through a breach of this agreement;
- (b) Was known to the receiving party before disclosure;
- (c) Is independently developed without use of Confidential Information;
- (d) Is disclosed with the prior written consent of the disclosing party;
- (e) Is required to be disclosed by law, regulation, or court order (with prompt notice to the disclosing party).

### 18.4 Duration

The confidentiality obligations survive the termination of this agreement and continue in perpetuity.

### 18.5 Permitted Disclosures

A party may disclose Confidential Information to its professional advisors, auditors, and (in the case of a trust) to the trustee's directors and beneficiaries, provided such persons are bound by equivalent confidentiality obligations.

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## 19. GOVERNING LAW AND DISPUTE RESOLUTION

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### 19.1 Governing Law

This agreement is governed by and construed in accordance with the laws of **Queensland, Australia**.

### 19.2 Jurisdiction

Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland and any courts of appeal therefrom.

### 19.3 Dispute Resolution

Before commencing any court proceedings (other than for urgent interlocutory relief), the parties must follow the deadlock resolution procedure in clause 16 (to the extent applicable to the dispute).

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## 20. GENERAL PROVISIONS

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### 20.1 Entire Agreement

This agreement (together with the constitution, the IP Assignment Deed, any service agreements, and any Subscription Agreement) constitutes the entire agreement between the parties in relation to its subject matter.

### 20.2 Amendment

This agreement may only be amended by written agreement signed by all parties (unanimous consent -- clause 10.1(a)).

### 20.3 Waiver

No waiver of any provision of this agreement is effective unless it is in writing and signed by the party granting the waiver.

## 20.4 Severability

If any provision of this agreement is or becomes invalid, illegal, or unenforceable, it shall be severed from this agreement without affecting the validity or enforceability of the remaining provisions.

## 20.5 Costs

Each party bears its own legal and professional costs in connection with the negotiation, preparation, and execution of this agreement.

## 20.6 Counterparts

This agreement may be executed in any number of counterparts, each of which is an original and all of which together constitute one agreement.

## 20.7 Notices

All notices under this agreement must be in writing and delivered to the registered address of the relevant party (or such other address as notified from time to time).

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## 21. CONDITIONS PRECEDENT

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This agreement is conditional upon:

- (a) Incorporation of CogniKin Pty Ltd;
  - (b) Adoption of the bespoke constitution authorising Class A, B, and C shares;
  - (c) Subscription for shares by all founding shareholders at incorporation;
  - (d) Execution of the IP Assignment Deed by all founders;
  - (e) Confirmation of Anthony's entity vehicle (trust name and trustee);
  - (f) Confirmation of Kevin's entity vehicle.
- 

## SCHEDULE 1: CAPITALISATION TABLE

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### At Incorporation (Undiluted)

Shareholder	Class A	%
KI Investment Trust No. 1	600	60.00%

Shareholder	Class A	%
[Anthony's Family Trust]	200	20.00%
[Kevin's Entity]	200	20.00%
<b>Total</b>	<b>1,000</b>	<b>100.00%</b>

### Fully Diluted (Including ESOP Reserve)

Holder	Class	Shares	%
KI Investment Trust No. 1	A	600	52.17%
[Anthony's Family Trust]	A	200	17.39%
[Kevin's Entity]	A	200	17.39%
ESOP Reserve	C	150	13.04%
<b>Total</b>		<b>1,150</b>	<b>100.00%</b>

### Post-PE Illustrative (Example Only)

[To be completed when PE terms are known. The SHA should include a mechanism for updating the capitalisation table as an appendix after each equity event.]

## SCHEDULE 2: RESERVED MATTERS SUMMARY

Matter	Approval Threshold	Clause
Constitution/SHA amendments	100%	10.1(a)
Change of business	100%	10.1(b)
Voluntary winding up	100%	10.1(c)
Related party txns >\$50K	100%	10.1(d)
Senior share issuance	100%	10.1(e)
Share consolidation/reclassification	100%	10.1(f)

Matter	Approval Threshold	Clause
Merger/scheme of arrangement	100%	10.1(g)
Corporate restructure	100%	10.1(h)
New share issuance	75%	10.2(a)
Dividends	75%	10.2(b)
Annual budget	75%	10.2(c)
Capex >\$100K	75%	10.2(d)
Borrowings >\$250K	75%	10.2(e)
Key management changes	75%	10.2(f)
Material contracts >\$100K/yr	75%	10.2(g)
Litigation >\$50K	75%	10.2(h)
Non-ordinary course transactions	75%	10.2(i)
New subsidiary/JV	75%	10.2(j)
Actions affecting Class B rights	Class B majority	10.3(a)
Share buyback/cancellation	Class B majority	10.3(b)
ESOP changes	Class B majority	10.3(c)
Founder-related txns >\$10K	Class B majority	10.3(d)
Change of auditors	Class B majority	10.3(e)
Change of FY end	Class B majority	10.3(f)

## DECISIONS REQUIRED BEFORE DEFINITIVE DRAFTING

#	Decision	Owner	Status
1	Marc's director status		TBD

#	Decision	Owner	Status
		Marc / Matthew Sweeney (Cyre Partners)	
2	Anthony's entity vehicle -- exact trust name and trustee	Anthony	TBD
3	Kevin's entity vehicle -- ILB or family trust	Kevin	TBD (email sent 22 Mar)
4	Subscription price per share at incorporation	Marc / Matthew Sweeney (Cyre Partners)	TBD
5	Company secretary appointment	Matthew Sweeney (Cyre Partners)	TBD
6	Registered office address	Marc	TBD
7	CEO appointment (if any, pre-PE)	Board	TBD
8	Independent director -- shortlist and timeline	Board	Within 12 months
9	D&O insurance broker and coverage	Marc	Week 1
10	ESIC eligibility assessment	Matthew Sweeney (Cyre Partners)	Week 2

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## END OF DOCUMENT

*These Heads of Agreement are intended for the solicitor drafting definitive terms. They do not constitute a binding agreement. Marc should obtain independent legal advice before execution of the definitive SHA.*

## Signatures

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NAME

**Marc Withnall**

ROLE

**Principal, KI Investment Trust No. 1**

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*Signature pending*

NAME

**Nick Wells**

ROLE

**Principal, KI Investment Trust No. 1**

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*Signature pending*

NAME

**Anthony Brace**

ROLE

**Director-designate / CTO, CogniKin Pty Ltd**

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*Signature pending*

NAME

**Kevin Withnall**

ROLE

**Principal, ILB Pty Ltd**

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*Signature pending*