

# CONSTITUTION

of MOKAI Pty Ltd (ACN [insert])

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## 1. Preliminary

**1.1** This Constitution applies to MOKAI Pty Ltd (the "Company").

**1.2** The replaceable rules in the Corporations Act 2001 (Cth) do not apply except where expressly incorporated.

**1.3** Relationship with Shareholders Agreement:

- (a) This Constitution must be read consistently with the Shareholders Agreement dated / / 2025.
  - (b) To the extent of any inconsistency between this Constitution and the Shareholders Agreement:
    - (i) The Corporations Act 2001 (Cth) prevails over both documents;
    - (ii) This Constitution prevails over the Shareholders Agreement to the minimum extent necessary for the Company to comply with the Corporations Act;
    - (iii) In all other cases, the Shareholders Agreement prevails.
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## 2. Share Capital

**2.1** The share capital of the Company is divided into ordinary shares.

**2.2** Harrison Sayers holds 51 ordinary shares (51%).

**2.3** Jack Bell holds 49 ordinary shares (49%).

**2.4** Shares may not be transferred, issued, or encumbered except in accordance with this Constitution and the Shareholders Agreement.

**2.5** Indigenous Ownership Threshold:

- (a) At all times, Indigenous Australians must hold in aggregate not less than 51% of all issued shares in the Company.
- (b) The Board must not register any transfer, issue, or dealing with shares that would result in Indigenous ownership falling below 51%.
- (c) Any transfer, issue, or dealing that would breach clause 2.5(b) is void and of no effect.

**2.6** Future Share Classes:

- (a) Subject to the Corporations Act and clause 2.5, the Board may issue preference shares, performance shares, or other classes of shares with rights determined by the Board.
  - (b) Any such issue requires approval by Special Resolution of shareholders.
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## 3. Directors and Officers

**3.1** The initial directors are Harrison Sayers and Jack Bell.

**3.2** The Board may appoint additional directors by Board resolution, provided that:

- (a) At least one director must be an Indigenous Australian while the Indigenous Ownership Threshold applies; and
- (b) Total number of directors must not exceed five without shareholder approval.

**3.3** The Board may appoint executive officers including a Chief Executive Officer, Chief Technology Officer, Chief Operating Officer, and such other officers as the Board determines from time to time.

**3.4** Officers serve at the pleasure of the Board and may be removed by Board resolution.

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## 4. Board Meetings

**4.1** The Board must meet at least quarterly.

**4.2** A quorum is a majority of directors then in office (rounded up if necessary).

**4.3** Questions at Board meetings are decided by majority vote. Each director has one vote.

**4.4** In the case of an equality of votes, the Chair does not have a casting vote, and the resolution fails.

**4.5** The Board may pass a resolution in writing signed by all directors without holding a meeting.

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## 5. Shareholder Decisions

**5.1** Ordinary Resolutions require approval by holders of more than 50% of issued shares entitled to vote.

**5.2** Special Resolutions require approval by holders of at least 75% of issued shares entitled to vote.

**5.3** The following matters require Special Resolution approval:

- (a) Amendment of this Constitution;
  - (b) Issue of new shares or creation of new share classes (except as permitted under the Shareholders Agreement);
  - (c) Sale of all or substantially all Company assets;
  - (d) Winding up of the Company;
  - (e) Any matter that would affect the Indigenous Ownership Threshold.
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## **6. Dividends**

**6.1** Subject to the Corporations Act and solvency requirements, the Board may declare and pay dividends having regard to:

- (a) Company profitability and cash flow;
- (b) Working capital requirements;
- (c) Taxation obligations and prudent reserves;
- (d) Terms of any loan agreements or client contracts.

**6.2** The Board will adopt and annually review a written dividend policy.

**6.3** Dividends are distributed to shareholders in proportion to their shareholding unless different rights attach to particular share classes.

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## **7. Officers' Remuneration**

**7.1** The remuneration of executive officers (including the CEO, CTO, and COO) is determined by the Board.

**7.2** Directors' fees (if any) are determined by the shareholders in general meeting.

**7.3** The Board may establish performance incentive arrangements for officers and employees, including bonuses tied to Company performance, provided such arrangements:

- (a) Are documented in writing;
  - (b) Have clear, measurable performance criteria;
  - (c) Are reviewed annually; and
  - (d) Do not exceed reasonable market rates for equivalent roles.
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## 8. Indigenous Business Commitment

**8.1** Indigenous Status Objectives: The Company is committed to maintaining its status as an Indigenous-owned and controlled business, including:

- (a) Employment and training of Indigenous Australians in cybersecurity and technology roles;
- (b) Procurement from Indigenous-owned suppliers and subcontractors where commercially available;
- (c) Contributing a minimum of 1% of annual net profit to Indigenous community initiatives, education, or economic development;
- (d) Maintaining Supply Nation certification and Commonwealth/State Indigenous procurement eligibility.

**8.2** Indigenous Procurement and Social Impact Plan:

- (a) The Board must adopt and annually review an Indigenous Procurement and Social Impact Plan documenting the Company's Indigenous participation strategy.
  - (b) The Board may delegate implementation of the Plan to officers or employees as appropriate.
  - (c) The Board must report annually to shareholders on:
    - (i) Indigenous employment and training outcomes;
    - (ii) Indigenous supplier engagement;
    - (iii) Community contributions made;
    - (iv) Progress against Indigenous business objectives.
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## 9. Intellectual Property

**9.1** All intellectual property created by directors, officers, employees, or contractors in connection with the Company's business is owned by the Company.

**9.2** Moral Rights Consent: Each person creating intellectual property for the Company consents to any acts or omissions by the Company that may otherwise affect their moral rights (including attribution, false attribution, and integrity of authorship), to the extent permitted by the Copyright Act 1968 (Cth).

**9.3** All directors, officers, employees, and contractors must execute appropriate intellectual property assignment agreements in a form approved by the Board.

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## 10. Confidentiality and Privacy

**10.1** Shareholders, directors, officers, and employees must keep Company information confidential except:

- (a) Where disclosure is required by law;
- (b) Where disclosure is necessary for the proper performance of their duties;
- (c) Where disclosure is authorized by the Board.

**10.2** The Company must handle all personal information, including security vetting information, in accordance with the Privacy Act 1988 (Cth) and the Protective Security Policy Framework (where applicable).

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## **11. Security Clearances**

**11.1** Where a director, officer, or employee role requires a security clearance, the Company will sponsor and support the relevant person to obtain and maintain the required clearance.

**11.2** The Board must establish and maintain policies for managing security clearance requirements in accordance with the Protective Security Policy Framework.

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## **12. Insurance**

**12.1** The Company must maintain appropriate insurance including:

- (a) Professional indemnity insurance;
- (b) Cyber liability insurance;
- (c) Public liability insurance;
- (d) Directors and officers insurance;
- (e) Workers compensation insurance as required by law.

**12.2** Insurance coverage levels must be reviewed by the Board at least annually and adjusted as appropriate for the Company's risk profile, operations, and client requirements.

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## **13. Dispute Resolution**

**13.1** Disputes between shareholders, directors, or officers must first be resolved through negotiation in good faith.

**13.2** If unresolved within 14 days, disputes must be referred to mediation administered by the Resolution Institute (Australia) or similar body agreed by the parties.

**13.3** If still unresolved after mediation, disputes may be referred to arbitration or court proceedings.

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## 14. Notices

**14.1** A notice to a shareholder, director, or the Company must be in writing and may be given:

- (a) By delivery in person;
- (b) By post to the last known address;
- (c) By email to the last known email address.

**14.2** A notice sent by email is deemed received on the next Business Day after transmission, unless the sender receives notification that delivery failed.

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## 15. Amendment

**15.1** This Constitution may only be amended by Special Resolution of shareholders in accordance with the Corporations Act.

**15.2** No amendment may be made that would:

- (a) Breach the Indigenous Ownership Threshold; or
  - (b) Prejudice the Company's Indigenous business certification or eligibility for Indigenous procurement programs.
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## 16. Governing Law

**16.1** This Constitution is governed by the laws of New South Wales, Australia.

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**Adopted by the Board on: / / 2025**

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**Signed by Directors:**

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Harrison Sayers – Director

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