

EXECUTIVE GROUP SERVICES PTY LTD ACN 164 994 245 (ADMINISTRATORS APPOINTED)

Company

and

ANDREW PETER SCHWARZ AND JON BRENNAN HOWARTH

Administrators

and

SANYA GRUJIC-SMITH

Guarantor

DEED OF COMPANY ARRANGEMENT (EXECUTIVE GROUP SERVICES)

Patrick & Associates

Level 9, 224-236 Queen St
Melbourne VIC 3000
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TABLE OF CONTENTS

1	Definitions	1
2	Interpration	3
3	Objectives of this Deed	4
4	Contribution Fund	4
5	Contribution	4
6	Abandonment	5
7	Effective Time of This Deed	5
8	Effect of arrangement on Claims of Creditors and Morotorium	5
9	Effect of Deed on Oowners and lessors of Property	6
10	Deed Administrators	6
11	Deed Administrators' Remuneration, indemnity and Lien	7
12	Termination of Deed	7
13	Notices	8
14	General Provisions	8

Date	This Deed is made the day of June 2022
Parties	
1	EXECUTIVE GROUP SERVICES PTY LTD ACN 164 994 245 (Administrators Appointed) c/- Stratum Accountants Pty Ltd, Unit 49B, 2 Slough Avenue, Silverwater, NSW, 2128 (Company)
2	ANDREW PETER SCHWARZ and JON BRENNAN HOWARTH of AS Advisory Pty Ltd Level 3, 90 William Street, Melbourne, VIC, 3000 (Administrators)
3	SANYA GRUJIC-SMITH (Guarantor) of 72 Kempbridge Avenue Seaforth, NSW, 2092
Recitals	
A	On 4 April 2022, the Administrators were jointly and severally appointed as administrators of the Company pursuant to section 436A of the Act.
B	On 19 May 2022 at the second meeting of the Company's Creditors duly convened under section 439A of the Act, those Creditors resolved unanimously to cause the Company to enter into a deed of company arrangement in accordance with the terms set out in this Deed (Resolution) .
C	This Deed gives effect to the Resolution and constitutes the instrument that records the terms of the deed of company arrangement made in relation to the Company for the purposes of section 444A of the Act.

Operative Part:

IT IS AGREED as follows:

1 DEFINITIONS

1.1 Definitions

In this Deed, including the recitals, unless the context otherwise requires, the following terms have the following meanings:

Act means *Corporations Act 2001*;

Administrators means Andrew Peter Schwarz and Jon Brennan Howarth of AS Advisory Pty Ltd Level 3, 90 William Street, Melbourne VIC 3000;

Admitted Claims means those Creditor's Claims admitted by the Deed Administrators in accordance with the procedure set out in clause 5;

Claim means, in relation to the Company, any claim, costs (including legal costs on a solicitor and client basis), damages, debt, expense, Tax, liability, loss, obligation, allegation, suit, action, demand, cause of action, prayer for relief, proceeding or judgment of any kind however calculated or caused, whether direct or indirect, consequential, incidental or economic, known or unknown as at the date of commencement of Company's administration, liquidated or unliquidated, present, prospective, future or contingent, the circumstances giving rise to which occurred on or before the Relevant Date, including but not limited to any claims arising out of or in connection with or relating in any way to any Pre-Administration Contract (whether or not the Company had breached such Pre-Administration Contract on or before the commencements of its administration);

Company means Executive Group Services Pty Ltd ACN 164 994 245 c/- Stratum Accountants Pty Ltd, Unit 49B, 2 Slough Avenue, Silverwater, NSW, 2128;

Contribution means a sum of money calculated in accordance with clause 5.1;

Contribution Fund means the fund compromised of the matters set out in clause 4.1;

Contribution Instalment means the sum of \$524,352;

Contribution Instalment Date means a date 90 days from the execution of this Deed;

Creditor means, in relation to the Company, any person with a Claim;

Deed Administrators means Andrew Peter Schwarz and Jon Brennan Howarth in their capacity as deed administrators of this Deed in relation to the Company;

Director means Sanya Grujic-Smith of 72 Kempbridge Avenue Seaforth, NSW, 2092;

Final Contribution Instalment Date means a date 10 days after the day on which the Deed Administrators determine that the process of adjudicating Creditor Claims are complete and the Contribution can be calculated;

Guarantor means Sanya Grujic-Smith of 72 Kempbridge Avenue Seaforth, NSW, 2092;

Indemnity Contribution means the indemnity set out in clause 11.2 and 11.3 of this Deed and is limited to \$15,000 plus any GST);

Moratorium means a date from the execution of this Deed to facilitate performance of the terms of this Deed until termination of this Deed in accordance with the procedure set out in clause 12, during which time Creditors will be unable to continue or commence a Claim against the Company;

Net Available Property means the proceeds of realization of the Property of the Company including any cash of the Company held by the Administrators, any realized debtors of the Company collected by the Administrators and any proceeds from the sale or realization of the Property of the Company.

Pre-Administration Contract means a contract, deed, agreement, lease or understanding entered into by the Company on or before the Relevant Date;

Property has the same meaning in section 9 of the Corporations Act;

Relevant Date means 4 April 2022, the date on which the Administrators were appointed as voluntary administrators of the Company;

Resolution means the resolution set out in Recital B to this Deed;

SGC Liability means the sum of \$109,696.91 owed by the Company to the Australian Taxation Office.

Tax means:

- (a) a tax, levy, charge, impost, deduction, withholding or duty of any nature (including income, stamp and transaction duty and GST) at any time imposed or levied by any Government Agency or required to be remitted to, or collected, withheld or assessed by, any

- Government Agency; and
- (b) any related interest, expense, fine, penalty or other charge on those amounts, and includes any amount that a person is required to pay to another person on account of that other person's liability for tax.

2 INTERPRETATION

Interpretation

- 2.1** In this Deed, headings and boldings are for convenience only and do not affect the interpretation of this Deed and, unless the context requires otherwise:
- (a) words importing the singular include the plural and vice versa;
 - (b) words importing a gender include any gender;
 - (c) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
 - (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
 - (e) a reference to a clause, party or schedule is a reference to a clause of, and a party and schedule to, this Deed and a reference to this Agreement includes any annexure and schedule;
 - (f) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
 - (g) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
 - (h) a reference to a party to any document includes that party's successor/s and permitted assigns;
 - (i) no provision of this Deed may be construed adversely to a Party solely on the ground that the Party was responsible for the preparation of this Deed or that provision;
 - (j) a promise by two or more persons binds each person individually and all of them jointly;
 - (k) a reference to a thing (including, but not limited to, a right) includes any part of that thing;
 - (l) a reference to a right includes a remedy, power, authority, discretion or benefit;
 - (m) a reference to a deed or agreement other than this Deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing;
 - (n) examples are descriptive only and not exhaustive;
 - (o) a reference to a body, other than a Party to this Deed (including but not limited to, an association, authority, corporation, body corporate or institution), whether statutory or not:
 - (i) which ceases to exist;
 - (ii) which is reconstituted, renamed or replaced; or
 - (iii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which serves substantially the same

- purpose or has the same powers or functions;
- (p) if a Party consists of more than one person this Deed binds each of them separately and any two or more of them jointly; and
 - (q) a Party who is a trustee is bound both personally and in its capacity as trustee.

Business Day

- 2.2** Where the day on or by which the thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

3 OBJECTIVES OF THIS DEED

- 3.1** The objectives of this Deed are to:

- (a) provide the Company's Creditors with a better return than would result from the winding up of the Company.
- (b) maintain the Moratorium while this Deed remains in force.

4 CONTRIBUTION FUND

- 4.1** The Contribution Fund shall, with respect to the Company, comprise:

- (a) Net Available Property;
- (b) the Contribution;
- (c) the Indemnity Contribution; and
- (d) any interest on or increase of any money or property referred to in either paragraph 5.1(a) or (b) above.

- 4.2** Subject to clause 5, the Deed Administrators must distribute the Contribution Fund in the following order:

- (a) To the Administrators in payment of their remuneration to the extent it has not been paid at the date of this Deed;
- (b) In satisfaction of all SGC Liability; and
- (c) Subject to clause 5.1(e), in payment of all Admitted Claims.

5 CONTRIBUTION

- 5.1** The Contribution is to be calculated as follows:

- (a) Within 5 business days of the execution of this Deed, the Deed Administrators will call on all Creditors to prove their claims for any money due and owing by the Company;
- (b) Creditors will provide their response to the call set out in clause 5.1 above to the Deed Administrators within 20 business of the execution of this Deed;
- (c) The Deed Administrators will adjudicate on the claims made by the Creditors who seek to prove;
- (d) The Deed Administrators' decision is final and binding; and
- (e) The Contribution is the amount calculated as 20% of the aggregated for all Admitted Claims and 100% the SGC Liability.

- 5.2 If by the Contribution Installment Date, or some other earlier date, the process set out in clause 5.1 above is determined by the Administrators to be complete and the Contribution is capable of final calculation, the Contribution must be paid in full by the Contributor to the Deed Administrators on the Contribution Installment Date.
- 5.3 If by the Contribution Installment Date the process set out in clause 5.1 is determined by the Deed Administrators to be incomplete and the Contribution is incapable of final calculation then:
- (a) On the Contribution Instalment Date, the Contributor must pay to the Deed Administrators the Contribution Instalment;
 - (b) If, when the Contribution is calculated, the quantum exceeds the Contribution Instalment, then on or before the Final Contribution Date the balance of the Contribution payable must be paid by the Contributor to the Deed Administrators.
 - (c) If, when the Contribution is calculated, the quantum is less than the Contribution Instalment then on or before the Final Contribution Date the Deed Administrators will refund to the Contributor so much of the Contribution Instalment that is greater than the quantum of the Contribution.
- 5.4 The Deed Administrators must notify the Contributor at least 5 business days prior to the Contribution Instalment Date:
- (a) The quantum of the Contribution payable on the Contribution Instalment Date; or
 - (b) The quantum of the Contribution is not yet capable of calculation and that the Contribution is payable on the Contribution Instalment Date.
- 5.5 In the event that the Contribution Instalment was paid on the Contribution Instalment Date, the Deed Administrators must notify the Contributor at least 5 business days prior to the Final Contribution Date of the:
- (a) Quantum of the Contribution; and
 - (b) The Final Contribution Date.
- 5.6 Without derogating from the matters set out in clause 5 above, the Director otherwise guarantees payment of the Contribution.
- 5.7 The Director acknowledges that she has had the opportunity to seek independent legal advice about the contents of this Deed, including the guarantee in paragraph 5.6 above.

6 ABANDONMENT

- 6.1 A Creditor is deemed to have abandoned that Creditor's Claim if they do not provide a response to the Deed Administrators in the time set out in clause 5.1(b) of this Deed.

7 EFFECTIVE TIME OF THIS DEED

- 7.1 This Deed is binding and has force and effect when the Company has executed this Deed.

8 EFFECT OF ARRANGEMENT ON CLAIMS OF CREDITORS AND MORATORIUM

- 8.1 Creditors must accept their rights and entitlements specified in this Deed in substitution for all Claims which they may have or claim to have against the Company.
- 8.2 If this Deed terminates in accordance with clause 11.1, all Claims of Creditors against the Company are released in full and extinguished on termination of this Deed (whether or not they have been proved or accepted to participate in a distribution under this Deed), and this Deed may be pleaded against

any Creditor in bar of its Claim against the Company. Each of the Creditors will, if called upon to do so, execute and deliver to the Company such forms of release of any such Claim as the Deed Administrators require.

8.3 Subject to section 444D of the Act, while this Deed remains in force, this Deed may be pleaded by the Companies against any Creditor as a bar to any Claims that are admissible under this Deed and Creditors must not, in relation to their respective Claims against the Company:

- (a) begin, take any further steps in, or continue with, any legal proceedings, arbitration or other procedure of any kind in relation to their respective Claims; or
- (b) begin or continue with a proceeding or action of any kind against the Company in relation to any of their Property, or begin or proceed with any Enforcement Process in relation to property used or occupied by, or in the possession of, the Company except with leave of the Court and in accordance with such terms (if any) as the Court imposes.

8.4 Clause 4.3 has effect in addition to, and not in derogation of, section 444E of the Act.

9 EFFECT OF DEED ON OWNERS AND LESSORS OF PROPERTY

9.1 Nothing in this Deed affects in any way the rights that an owner or lessor of Property has in relation to that Property.

10 DEED ADMINISTRATORS

10.1 The administrators of this Deed are the Deed Administrators, who hereby consent to and accept their appointment.

10.2 The Deed Administrators will:

- (a) have control of the Company's business, property and affairs during the period when this Deed is in place;
- (b) administer the arrangements in accordance with the terms of this Deed and will exercise their powers and perform their functions and duties as agents for and on behalf of the Company only, and accept no person liability for any acts, matters or omissions relating to things done or not done in that capacity; and
- (c) not be personally liable (other than under section 443A of the Act) for any debt, liability or other obligation which they incur on behalf of the Company other than by reason of fraud, willful default or gross negligence by the Deed Administrators.

10.3 For the purpose only of administering this Deed, the Deed Administrators have all of the powers set out in:

- (a) the Act in respect of deed administrators;
- (b) the Corporations Regulation 5.3A.06 and paragraph 2 of the Prescribed Provisions;
- (c) Sections 437A and 442A of the Act as if references to "administrator" in these sections were references to an administrators of this Deed and references to the administration under this Deed; and
- (d) this Deed.

10.4 Any obligations or liabilities of the Deed Administrators bind each of them severally and all of them jointly. Each party comprising the Deed Administrators may separately exercise the rights and powers conferred on the Deed Administrators under this Deed.

- 10.5** Upon the execution of this Deed, the stewardship, control and management of the Company's business affairs shall remain with the Administrators to the exclusion of the Director and all powers of the Director remain suspended.

11 DEED ADMINISTRATORS' REMUNERATION, INDEMNITY AND LIEN

- 11.1** Subject to Division 60 of Schedule 2 of the Act, the Deed Administrators will be remunerated out of the Deed Fund for their work as Deed Administrators on a time cost basis in respect of work done by them, their partners and employees at the rates customarily charged from time to time for insolvency work by the Deed Administrators' firm, AS Advisory, in connection with the exercise of the Deed Administrators' functions or powers or the performance of their duties, obligations and responsibilities.
- 11.2** The Director will provide an indemnity to the Deed Administrators by way of the Indemnity Contribution to contribute to the Deed Administrators remuneration.
- 11.3** The Deed Administrators are entitled to an indemnity in the circumstances described in section 443D of the Act.
- 11.4** The Indemnity shall continue after this Deed is terminated, and even if the Deed Administrators are removed as administrators of this Deed, to the extent of the Deed Fund.
- 11.5** The Indemnity shall not apply to any Claim arising out of any fraud, willful default or gross negligence by the Deed Administrators.
- 11.6** The Deed Administrators' lien under section 443F of the Corporations Act is limited to the Deed Fund.

12 TERMINATION OF DEED

- 12.1** If:
- (a) the Contribution Fund has been constituted and distributed in accordance with the terms of the Deed; and
 - (b) this Deed has not otherwise been prematurely terminated,
- the Deed Administrators must certify to that effect in writing and must promptly lodge with the Australian Securities and Investments Commission a notice of termination of this Deed substantially in the following form:
- "We, Andrew Peter Schwarz and Jon Brennan Howarth of Level 3, 90 William Street, Melbourne, VIC, 3000 as administrators of a deed of company arrangement relating to Executive Group Services Pty Ltd (ACN 164 994 245) executed on [insert date] June 2022 certify that this deed has been wholly effectuated."*
- 12.2** Execution of the notice under clause 12.1 terminates this Deed and control of the Company's business and affairs returns completely to the Director.
- 12.3** If the arrangement set out in this Deed is terminated other than in accordance with clause 12.1, then the release and extinguishment of Claims provided for in clause 8.2 does not operate.
- 12.4** Should the terms of the Deed relevant to Contribution and Indemnity as set out in clause 5 and 11 above not be fulfilled by the Director, the Deed Administrators may issue a notice of default on the Director seeking rectification within 10 days or such further time as may be extended in writing by the Deed Administrators. Should the Director fail to comply with the notice of default, the arrangements in this Deed are terminated and the Company will be deemed to have passed a special resolution under section 491 of the Act to be wound up and the Deed Administrators will become the joint and several liquidators of the Company.

13 NOTICES

13.1 Any notice, consent or approval given in connection with this Deed:

- (a) must be in legible writing and in English;
- (b) addressed to the recipient at the address or email address set out below:
to the Company
Address: Level 3, 90 William Street, Melbourne, VIC, 3000
Attention: The Deed Administrators
Email: andrew@asadvisory.com.au
jon@asadvisory.com.au
to the Deed Administrators
Address Level 3, 90 William Street, Melbourne, VIC, 3000
Attention: The Deed Administrators
Email: andrew@asadvisory.com.au
jon@asadvisory.com.au
- (c) where the sender is a company, must be signed by an officer or in accordance with section 127 of the *Corporations Act*;
- (d) is regarded as being given by the sender and received by the addressee:
 - (i) if by delivery in person, when delivered to the addressee;
 - (ii) if by prepaid post, on the fifth business day after the date of posting; or
 - (iii) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (e) In this clause 10 a reference to an addressee includes a reference to an addressee's officers, agents or employees.

14 GENERAL PROVISIONS

Section 444A(4)(i) day

14.1 For the purposes of section 444A(4)(i) of the *Corporations Act*, the "relevant day" is 4 April 2022.

Enforcement of deed

14.2 The Creditors of the Company irrevocably appoint the Deed Administrators as their attorneys for the purpose of enforcing the terms of this Deed and, if necessary for that purpose, to commence and pursue Court proceedings until termination of this Deed.

Entire agreement

14.3 This Deed and any other documents referred to in this Deed or executed in connection with this Deed is the entire agreement of the parties about the subject matter of this Deed and supersedes all other representations, negotiations, arrangements, understandings or agreements and all other communications. No party has entered into this Deed relying on the representations made by or on behalf of the other, other than those expressly made in this Deed.

Moratorium legislation

14.4 To the extent permitted by law, a provision of a law is excluded if it does or may, directly or indirectly:

- (a) lessen or vary in any other way a party's obligations under this Deed; or
- (b) delay, curtail or prevent or adversely affect in any other way the exercise by a party of any of its rights, remedies or powers under this Deed.

Execution by attorneys

14.5 Each attorney executing this Deed states that the attorney has no notice of revocation or suspension of the power of attorney under which the attorney executes this Deed.

Invalid or unenforceable provisions

14.6 If a provision of this Deed is invalid or unenforceable in a jurisdiction:

- (a) It is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
- (b) that fact does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

Waiver and exercise of rights

14.7 A provision of or a right under this Deed may not be waived or varied except in writing signed by the person to be bound.

Amendment

14.8 This Deed may be amended only by a document signed by all the parties.

Counterparts

14.9 This Deed may be signed in counterparts and all counterparts taken together constitute one document.

14.10 The parties may exchange counterparts of this Deed by email, on the basis that the party or parties so exchanging will be taken to have undertaken to exchange the original executed counterpart as soon as practicable.

Rights cumulative

14.11 The rights, remedies and powers of the parties under this Deed are cumulative and do not exclude any other rights, remedies or powers.

Consents and approvals

14.12 A party may give its approval or consent conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this Deed expressly provides otherwise.

Inconsistency

14.13 If there is any conflict or inconsistency between the terms of this Deed and any other document, the terms of Deed will prevail to the extent of the conflict or inconsistency.

Successors and assigns

14.14 This Deed is binding on, and has effect for the benefit of, the parties and their respective successors and permitted assigns.

Governing law

14.15 This Deed is governed by laws in Victoria.

Jurisdiction

14.16 Each party irrevocably and unconditionally:

- (a) submits to the non-exclusive jurisdiction of the courts of Victoria; and
- (b) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

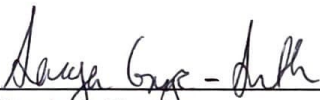
Service of process

14.17 Each party agrees that a document required to be served in proceedings about this Deed may be served:

- (a) by being delivered to or left at its address for service of notices under clause 13; or
- (b) in any other way permitted by law.

Executed as Deed.

Executed by **EXECUTIVE GROUP SERVICES PTY LTD ACN 164 994 245**
in accordance with section 127 of the
Corporations Act 2001 (Cth):



Director's Signature

SANYA GRUSIC - SMITH
Director's Name (Print name)

Director/Secretary's Signature

Director/Secretary's Name (Print name)

Signed by **ANDREW PETER SCHWARZ** in the presence
of:

Andrew Schwarz Signature

Witness Signature

Witness Name (Print name)

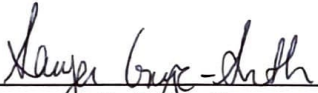
Signed by **JON BRENNAN HOWARTH** in the presence
of:

Jon Howarth Signature

Witness Signature

Witness Name (Print name)

Signed by **SANYA GRUJIC-SMITH** in the presence
of:


Sanya Grujic-Smith Signature


Witness Signature

EMILY SMITH
Witness Name (Print name)

Corporations Act 2001 (Cth):

David Gage - Smith
Director's Signature

SANNA GRUSIC-SMITH
Director's Name (Print name)

Director/Secretary's Signature

Director/Secretary's Name (Print name)

Signed by ANDREW PETER SCHWARZ in the presence
of:

Andrew Schwarz
Andrew Schwarz Signature

Seville
Witness Signature

Jacob Carville
Witness Name (Print name)

Signed by JON BRENNAN HOWARTH in the presence
of:

Jon Howarth
Jon Howarth Signature

Andrew
Witness Signature

ANDREW PATTINSON
Witness Name (Print name)