



ME AMENDMENTS: 9 APRIL 2020

Electro Optic Systems Holdings Limited Share Plan Trust

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Amended and Restated Trust Deed

Electro Optic Systems Holdings Limited (**Company**)

EOS Loan Plan Pty Ltd (**Trustee**)

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Electro Optic Systems Holdings Limited Share Plan Trust

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Details

Date 22 April 2020

Parties

Name **Electro Optic Systems Holdings Limited** (ABN 95 092 708 364)
Short form name **Electro**
Role Company
Notice details Suite 2, Level 12
75 Elizabeth Street
Sydney NSW 2000
Australia
Attention: Company Secretary

Name **EOS Loan Plan Pty Ltd** (ACN 637 891 144)
Short form name **Trustee**
Notice details Suite 2, Level 12
75 Elizabeth Street
Sydney NSW 2000
Australia
Attention: Company Secretary

Background

- A The Company has determined to create and establish the Trust for the purpose of holding the Loan Funded Shares for the benefit of employees of the Company who have acquired such Loan Funded Shares pursuant to the Loan Funded Share Plan.
- B The Company has appointed the Trustee, and the Trustee has agreed to act, as the trustee of the Trust on the terms and conditions set out in this Deed.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this Deed:

Accretion means any accretion, dividend, distribution, entitlement, benefit or right of whatever kind whether cash or otherwise which is issued, declared, paid, made, arises or accrues directly or indirectly to, or in respect of, a Share, including any such entitlement relating to a subdivision, consolidation or other reconstruction, any Entitlements Offer or distribution from any reserve of the Company and any reduction of capital.

Applicable Law means any one or more or all, as the context requires and to the extent applicable, of:

- (a) the laws of New South Wales;
- (b) the Corporations Act;
- (c) the Listing Rules;
- (d) the ITAA;
- (e) any other applicable laws relating to securities, financial products or financial services;
- (f) any applicable practice note, policy statement, class order, declaration, guideline, ruling, policy or procedure pursuant to the provisions of which ASIC, ASX or any other applicable regulator is authorised or entitled to regulate, implement or enforce, either directly or indirectly, the provisions of any of the foregoing statutes, regulations, rules, deeds or agreements or any conduct or proposed conduct of any person pursuant to any of the abovementioned statutes, regulations, rules, deeds or agreements;
- (g) the constitution of the Company;
- (h) any other legislation regulating or applying to the activities of the Company or the Trust;
- (i) any other legal requirement that applies to the Loan Funded Share Plan;

ASIC means the Australian Securities and Investments Commission;

ASX means ASX Limited ACN 008 624 691;

Auditor means any person who is a registered company auditor (as that term is defined in the Corporations Act).

Board means all or some of the directors of the Company acting as a board.

Bonus Shares means Shares issued in respect of Plan Shares as part of a bonus issue to shareholders holders of the Company.

Cash Distribution means a dividend or other distribution declared or determined with respect to Shares which is payable in cash.

Commencement Date means the first date on which both of the following conditions are satisfied:

- (a) the Company has paid the Initial Sum to the Plan Trustee to be held upon trust under this Deed; and
- (b) this Deed has been executed.

Company Entity means the Company and any member of the Group.

Controlled Entity means an entity that the Company controls within the meaning given to the term control under section 259E of the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Deed means this deed.

Entitlements Offer means an invitation to apply or offer to subscribe for, or otherwise acquire, issued or unissued Shares.

Forfeited Shares means Issued Plan Shares in respect of a Participant which have been forfeited in accordance with clause 6.

Group means, collectively, the Company and its Subsidiaries and Controlled Entities from time to time.

Initial Sum means the sum of \$10.00.

Issued Plan Shares, in relation to a Participant, means Loan Funded Plan Shares acquired by, and held by the Plan Trustee on behalf of, the Participant in accordance with clause 5.1 and any Bonus Shares issued in respect of those Loan Funded Plan Shares and any Shares issued in respect of those Loan Funded Plan Shares under a dividend reinvestment plan operated by the Company.

ITAA means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth) or both, as the context requires.

Listing Rules means the listing rules of the ASX.

Loan Funded Share means a Share acquired by a Participant under the Loan Funded Share Plan.

Loan Funded Share Plan means the plan called the Electro Optic Systems Holdings Limited Loan Funded Share Plan established by the Company and governed by Plan Rules adopted by the Board for that plan on 20 March 2018, as amended from time to time.

Net Income means, in respect of a Year of Income of the Trust, unless the Plan Trustee determines otherwise, the income, profits and gains realised by the Trust for the particular Year of Income less expenses referable thereto, determined by the Trustee by reference to generally accepted accounting principles without regard to any loss incurred in any preceding Year of Income and including amounts accrued, due or receivable in respect of such Year of Income.

Participant means a Person who acquires Loan Funded Shares.

Person includes a company, trust and any other entity having separate legal personality.

Plan Administrator means a person appointed by the Plan Committee to provide administration services, including a person appointed under clause 3.1.

Plan Committee means any committee of the Board to which power to administer the Loan Funded Share Plan (on behalf of the Company) has been delegated, or if there has been no such delegation, then the Board.

Plan Purpose means for the sole purpose of obtaining Plan Shares to be held by the Plan Trustee on behalf of Participants.

Plan Rules means the plan rules that govern the Loan Funded Share Plan.

Plan Shares means:

- (a) the Loan Funded Shares; and
- (b) Bonus Shares which are deemed to be Plan Shares by virtue of clause 9; and
- (c) Shares which are acquired by the Plan Trustee in respect of the Loan Funded Shares under a dividend reinvestment plan or dividend bonus election plan.

Plan Trustee means the trustee for the time being of the Trust.

Related Body Corporate has the meaning given to it under the Corporations Act.

Security Interest means a mortgage, charge, pledge, lien, security interest or other third party interest of any nature.

Security Trading Policies means the Company's security trading policies (if any).

Share means a fully paid ordinary share in the capital of the Company.

Share Rights means any rights to acquire Shares or other securities issued, or to be issued, by the Company.

Subsidiary means:

- (a) a body corporate of which the Company is a holding company in terms of Division 6 of Part 1.2 of the Corporations Act and which the Plan Committee has approved for participation in the Loan Funded Share Plan; or
- (b) a body corporate in which the Company has voting power of not less than 20% (determined under section 610 of the Corporations Act) and which the Plan Committee has approved for participation in the Loan Funded Share Plan.

Tax means any tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding of any nature, including stamp and transaction duty or any goods and services tax, value added tax or consumption tax, which is assessed, levied, imposed or collected by any government agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on or in respect of any of the above.

Trust means the trust established by this Deed.

Trust Expenses means all expenses, outgoings, costs and charges incurred in establishing and operating the Loan Funded Share Plan and includes any amount of income or other Tax payable by the Company and/or the Plan Trustee in relation to the Loan Funded Share Plan but excludes:

- (a) any costs directly related to selling and transferring Loan Funded Shares;
- (b) any income tax payable by the Plan Trustee on fees earned by the Plan Trustee for acting as trustee; and
- (c) such fees and expenses as are covered by the terms of any written agreement between the Plan Trustee and the Company in accordance with clause 4.11(b).

Trust Property means all the property, rights and income held by the Plan Trustee on the terms of the Trust, including (without limitation):

- (a) the Initial Sum paid by the Company to the Plan Trustee;
- (b) all Plan Shares; and
- (c) all Accretions in respect of Plan Shares,

but excluding Issued Plan Shares that have been transferred to a Participant under clause 5.1.

Vesting Condition has the meaning set out in the Plan Rules.

Year of Income means a period of 12 months ending on 30 June in any year and includes the period commencing on the date of this Deed and terminating on the next 30 June and the period ending on the date of termination of the Trust and commencing on the preceding 1 July.

1.2 Terms defined in the Plan Rules

In this Deed, terms defined in the Plan Rules that are not defined in this Deed have the meaning given to them in the Plan Rules.

1.3 Interpretation

In this Deed:

- (a) a reference to any legislation or any provision of any legislation includes any amendment, modification or re-enactment of the legislation or provision, any legislative provision substituted for the provision and all legislation and statutory instruments and regulations issued under the legislation;
- (b) words denoting the singular include the plural and vice versa;
- (c) headings are inserted for convenience only and do not affect the interpretation of the provisions of this Deed;
- (d) a reference to any document or agreement includes reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (e) where any word or phrase is given a defined meaning in these Rules, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;

- (f) a reference to a Rule is a reference to a Rule of the Plan Rules, or the corresponding Rule of the Loan Funded Share Plan as amended from time to time; and
- (g) where any act or thing must be done on a particular day or within a particular period, that act or thing must be done before, and that period will end at, 5.00 pm Sydney time on the relevant day.

1.4 Headings and notes

Headings are for ease of reference only, and headings and notes do not affect the interpretation of this Deed.

2. Operation

2.1 Commencement

The trust created by this Deed commences on the Commencement Date. Unless terminated sooner in accordance with this Deed, the trust created by this Deed continues for the longest period that the law permits without exceeding any limits imposed by laws governing the duration of trusts and the vesting of beneficial interests under trusts, as provided for in clause 15.1 of this Deed.

2.2 Operation

- (a) The Trust must be operated in accordance with:
 - (i) this Deed which binds the Company and the Plan Trustee; and
 - (ii) the Plan Rules.
- (b) Subject to this Deed, the entitlements of Participants under this Deed and the Applicable Law, the Plan Trustee must follow any direction given to it by the Plan Committee in relation to the operation of the Trust.

2.3 Trust Expenses

Subject to any agreement between the Company and the Plan Trustee, the Company must pay all Trust Expenses.

2.4 Rights in respect of Shares

It is the intention of this Deed to give each Participant (if any) on whose behalf the Plan Trustee holds Issued Plan Shares substantially the same rights in respect of those Issued Plan Shares (other than bare legal title and the restrictions applicable while any such securities are subject to a Vesting Condition) as if the Issued Plan Shares were registered in the name of the relevant Participant.

3. Administration of the Trust

3.1 Plan Committee delegation

The Plan Committee may delegate all or any of its functions and powers under this Deed to any person or persons for any period and on any conditions that the Plan Committee decides upon and may authorise them to sub-delegate the functions or powers delegated to them. Without limiting the foregoing, the Plan Committee may appoint from time to time an administrator of a Plan on such terms as it thinks fit.

3.2 Advice

The Company and the Plan Trustee may take and rely upon independent professional or expert advice in relation to the exercise of any of their powers or discretions under this Deed.

3.3 Powers and discretions of the Company

Any power or discretion that is conferred on the Company or the Plan Committee by this Deed may be exercised by the Company or the Plan Committee in its absolute discretion and in the

interests or for the benefit of the Company, and neither the Company nor the Plan Committee is, in exercising any such power or discretion, under any fiduciary obligation to the Plan Trustee, any Participant or any other person.

4. Plan Trustee

4.1 Appointment

The Company has appointed the Trustee as the Plan Trustee and the Trustee has accepted the appointment and has agreed to act as the Plan Trustee on the terms and conditions of this Deed.

4.2 Company

The Plan Trustee must be a company registered under the Corporations Act.

4.3 Assets

The Plan Shares and other Trust Property will be vested in the Plan Trustee upon trust for the benefit of Participants generally from time to time on and subject to the terms and conditions set out in this Deed, and until Plan Shares are transferred or allocated to a Participant under clause 5.1, no Participant has any interest in any particular Plan Share or any other part of the Trust Property.

4.4 Removal

The Plan Trustee ceases to be the trustee of the Trust when:

- (a) either:
 - (i) the Company gives not less than 60 days written notice to the Plan Trustee that it is removed from office as trustee of the Trust;
 - (ii) the Plan Trustee gives not less than 60 days written notice to the Company that it wishes to retire as trustee of the Trust; or
 - (iii) a receiver or manager or receiver and manager or administrator is appointed to the Plan Trustee or the Plan Trustee goes into liquidation or an order or resolution is made for its winding up; and
- (b) a new trustee of the Trust is appointed under clause 4.5.

4.5 New trustee

With effect from the removal or retirement of the Plan Trustee, the Company may appoint a new trustee of the Trust as it thinks fit.

4.6 Execution of documents

On a change of Plan Trustee:

- (a) the ceasing Plan Trustee:
 - (i) must promptly execute all transfers, deeds and other documents necessary to transfer all assets of the Trust into the name of the new Plan Trustee; and
 - (ii) will, subject to clause 4.9, be liable for all of its acts and omissions in its capacity as Plan Trustee prior to and up to the date of ceasing to act as Plan Trustee;
- (b) the Company must procure the execution by the new Plan Trustee of:
 - (i) a deed of appointment by which it agrees to be bound by this Deed; and
 - (ii) all transfers, deeds and other documents necessary to transfer all assets of the Trust into the name of the new Plan Trustee; and
- (c) the new Plan Trustee will, subject to clause 4.9, be liable for all of its acts and omissions in its capacity as Plan Trustee from the date of commencing to act as Plan Trustee.

4.7 Powers of Plan Trustee

Subject to this Deed (and to clause 4.15 in particular), the Plan Trustee has all of the powers in respect of the Trust that it is legally possible for a Plan Trustee to have and as though it were the absolute owner of the assets of the Trust and acting in its personal capacity including, without limitation, power to:

- (a) enter into and execute all agreements, deeds and documents;
- (b) enter into and give undertakings;
- (c) delegate powers and duties to any person or persons;
- (d) subscribe for, purchase or otherwise acquire and to sell or otherwise dispose of property, rights or privileges which the Plan Trustee is authorised to acquire or dispose of on terms and conditions it thinks fit;
- (e) appoint and remove or suspend custodians, trustees, managers, servants and other agents, determine the powers and duties to be delegated to them, pay such remuneration to them as it thinks fit and any person so employed or engaged is deemed for the purpose of the deed to be employed or engaged by the Plan Trustee;
- (f) institute, conduct, defend, compound or abandon any legal proceeding concerning the Trust and settle or compromise and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the Plan Trustee in respect of the Trust;
- (g) refer any claim or demand by or against the Plan Trustee in respect of the Trust to arbitration and observe and perform awards;
- (h) make and give receipts, releases and other discharges for money payable to the Trust;
- (i) open bank accounts, retain on current or deposit account at any bank any money which it considers proper and make regulations for the operation of those bank accounts including the signing and endorsing of cheques;
- (j) raise and borrow money in any manner (including, without limitation, from the Company either without security or secured by a mortgage or charge over all or any part of the Trust Fund and to pay any interest on money borrowed;
- (k) employ or engage, and at its discretion, remove or suspend custodians, trustees, managers, servants and other agents, determine the powers and duties to be delegated to them and pay the remuneration to them it thinks fit;
- (l) take and act upon the advice or opinion of any legal practitioner, or other professional person and whether obtained by the Plan Trustee or not, whether in relation to the interpretation of this Deed, any other document or statute or the administration of the Trust without being liable in respect of any act done or omitted to be done by it in accordance with such advice or opinion;
- (m) determine who is entitled to sign on the Plan Trustee's behalf receipts, acceptances, endorsements, releases, agreements and documents;
- (n) pay any taxes or duties as required;
- (o) withhold any monies as required;
- (p) vote or refrain from voting on securities held as Trust Property in accordance with the Plan Rules and this Deed; and
- (q) do all acts, matters or things which it may deem necessary or expedient for the purpose of giving effect to, and carrying out, the trusts, powers and discretions conferred on the Plan Trustee by this Deed or the law.

4.8 Indemnity

- (a) Without limiting the rights of indemnity given by law to trustees and subject to the terms of the agreement contemplated by clause 4.11(b), the Company hereby covenants with the Plan Trustee that it will indemnify and keep indemnified, from the Company's own resources, the Plan Trustee:

(i) in respect of all liabilities, costs and reasonable expenses incurred by the Plan Trustee in the due execution or purported due execution of the Trust or any of the powers, authorities or discretions vested in the Plan Trustee as trustee of the Trust; and

(ii) from and against all actions, proceedings, claims and demands in respect of any matter or thing done or omitted to be done as trustee of the Trust,

other than any such liabilities, costs, expenses, actions, proceedings, claims or demands arising out of or resulting from (whether directly or indirectly) the negligence, dishonesty, fraud, or wilful default of the Plan Trustee or of any of its directors, officers, employees, agents or representatives or the Plan Trustee wilfully or knowingly being party to a breach of trust.

(b) The Plan Trustee is not bound to act if the Plan Trustee would not be entitled to be indemnified under clause 4.8(a) but, for the avoidance of doubt, where such an indemnity would not be available to the Plan Trustee only as a result of negligence, dishonesty, fraud, wilful default or breach of trust as set out in clause 4.8(a), the Plan Trustee remains bound to act notwithstanding this clause.

4.9 Exclusion of liability

The Plan Trustee shall not be under any liability whatsoever as trustee of the Trust except for liability arising out of or resulting from (whether directly or indirectly) the negligence, dishonesty, fraud, or wilful default of the Plan Trustee or any of its directors, officers, employees, agents or representatives or the Plan Trustee wilfully or knowingly being party to a breach of trust.

4.10 Participants

(a) Subject to clause 4.10(b) and without derogating from the right of indemnity given by law to trustees, nothing in clause 4.8 enables the Plan Trustee to recover any liabilities, costs and expenses from any Participant personally.

(b) The Plan Trustee is entitled to be indemnified by a Participant in respect of any Tax payable by the Plan Trustee in respect of the Participant's Issued Plan Shares.

4.11 Remuneration

(a) The Plan Trustee is not entitled to receive from the Trust any fees, commission or other remuneration in respect of its office and must not levy any fees or charges for operating and administering the Trust that are payable directly by the beneficiaries of the Trust or out of assets of the Trust that consist of Issued Plan Shares or Accretions in respect of Issued Plan Shares.

(b) The Company must pay to the Plan Trustee, from the Company's own resources, such fees and reimburse such expenses incurred by the Plan Trustee as the Company and the Plan Trustee agree in writing.

(c) The Plan Trustee is entitled to retain for its own benefit any fee or reimbursement referred to in clause 4.11(b).

4.12 Security Interest

Subject to clauses 5.1, neither the Plan Trustee nor the Company may grant a Security Interest over any Plan Share.

4.13 Instructions by Participants

For the purposes of this Deed, the Plan Trustee is entitled to regard as valid an instruction, consent or other authorisation given or purported to be given by a Participant, whether in writing and signed, or purporting to be signed, by the Participant or by any attorney or agent of the Participant, or in any other form approved by the Plan Committee.

4.14 Conflict of interest

A person who is a director of the Plan Trustee may, except where prohibited by the Corporations Act, act in that capacity notwithstanding a conflict of interest or duty.

4.15 Sole Activities Test

Notwithstanding any other provision of this Deed, the Trust must be managed and administered so that it satisfies the "Sole Activities Test". For the purposes of this clause, the "Sole Activities Test" means the requirement that the Trust is at all times an employee share trust under, and satisfying the requirements of, section 130-85(4) of the ITAA, as that section may be interpreted by the Commissioner of Taxation in any ruling or advice having application to the Trust and on which the Company and/or the Trustee are entitled to rely.

4.16 Administrative Functions

Notwithstanding any other provision of this Deed, but subject at all times to Applicable Law, the Plan Trustee is taken to have complied with and performed its functions and duties under this Deed if such function or duty is performed by the Plan Administrator. However, the foregoing does not relieve the Plan Trustee from any obligations as to the holding of any part of the Trust Property.

5. How the Trust works

5.1 Issue of Loan Funded Shares

- (a) Loan Funded Shares acquired by a Participant under the Loan Funded Share Plan, and which are subject to a Vesting Condition pursuant to the Plan Rules, will be issued to the Plan Trustee. The Plan Trustee will hold the Loan Funded Shares on behalf of the Participant during the period where the Loan Funded Shares are subject to a Vesting Condition.
- (b) Any Loan Funded Shares issued to the Plan Trustee to be held on behalf of a Participant in accordance with clause 5.1(a), and any other Plan Shares allocated to a Participant and issued to the Plan Trustee, must, subject to the relevant Plan Rules (to the extent applicable), be:
 - (i) held by the Plan Trustee on the terms and conditions of this Deed and the Plan Rules (including, for the avoidance of doubt, the terms of any vesting and/or disposal conditions applying to the Loan Funded Shares), and on behalf of the relevant Participant, who will be the beneficial owner of the Plan Shares; and
 - (ii) allocated in the books of the Plan Trustee to the relevant Participant.
- (c) Any and all interests and benefits held by the Plan Trustee on behalf of a Participant under this Deed are strictly personal to that Participant.

5.2 Transfer of Plan Shares

- (a) On receipt of a direction by the Plan Committee to do so, the Trustee must transfer to any Participant nominated by the Plan Committee the number of Plan Shares specified by the Plan Committee, on the date specified by the Plan Committee.
- (b) Upon Plan Shares being transferred to a Participant in accordance with clause 5.2(a), the Company will register the Participant as the holder of those Shares and the Participant will be absolutely entitled to them (legally and beneficially).

5.3 Notification of Share transfer or allocation

The Plan Trustee must ensure that, subject to the relevant Plan Rules, and as soon as reasonably practicable after the Plan Trustee transfers or allocates Shares to a Participant under clause 5.1, the Participant is given written notice specifying the:

- (a) number of Plan Shares transferred or allocated to the Participant; and
- (b) date on which the Plan Shares were so transferred or allocated.

5.4 Fractions of Plan Shares

- (a) The Plan Trustee must not hold fractions of Plan Shares.
- (b) If directed by the Plan Committee to do so, the Plan Trustee must sell any Plan Shares remaining after whole Plan Shares are transferred or allocated to a Participant and use

the proceeds, together with any other funds remaining, for the future purchase of Shares to be held by the Plan Trustee for a Plan Purpose.

- (c) Proceeds from a sale under clause 5.4(b) must not be paid to the Company, or any Controlled Entity or Subsidiary, nor otherwise be held for the benefit of the Company, any Controlled Entity or any Subsidiary.

5.5 Rights of the Company

- (a) Nothing in this Deed confers, or is intended to confer, on the Company, the Company or any Controlled Entity or Subsidiary any Security Interest, proprietary right or proprietary interest (whether legal or beneficial) in Shares issued to or acquired by the Plan Trustee under this clause 5 or otherwise.
- (b) The rights of the Company under this Deed are purely contractual.

6. Forfeited Shares

6.1 When Shares are forfeited

A Participant (and any person claiming through that Participant) may cease to have any right or interest in their Issued Plan Shares (if any) where required by and in accordance with the Plan Rules under which those Issued Plan Shares were provided to the Participant.

6.2 Reallocation of Forfeited Shares

- (a) The Plan Trustee must, if directed by the Plan Committee by written notice, reallocate any Forfeited Shares to or for the benefit of one or more other Participants to be held in accordance with clause 5.1.
- (b) The Plan Trustee must not pay the proceeds of sale of any Forfeited Shares or transfer the Forfeited Shares to the Company, any Controlled Entity, any Subsidiary or (unless directed by the Plan Committee) any Participant.

7. Dividends and Income Distributions

7.1 Entitlement

Notwithstanding any other provision of this Deed and subject to the Plan Rules (to the extent applicable) and the Applicable Law, if the Plan Trustee holds Issued Plan Shares on a Participant's behalf, the Company will apply, and each Participant irrevocably directs, all Cash Distributions in respect of their Issued Plan Shares, net of any deductions required to be made, towards repayment of the outstanding balance of any loan advanced to the Participant pursuant to the Plan Rules.

7.2 Distribution plan

The Trustee may, subject to the applicable Plan Rules or otherwise with the consent of the Plan Committee, make arrangements to enable any Participants on whose behalf it holds Issued Plan Shares to participate in any distribution reinvestment plan.

8. Voting Rights

8.1 Notice

If the Plan Trustee holds Issued Plan Shares on behalf of any Participant, the Plan Trustee must give the Participant a copy of each notice of meeting of the Company which the Plan Trustee receives, unless the Participant notifies the Plan Trustee in writing that they do not wish to receive such notices.

8.2 Voting by poll

If the Plan Trustee holds Issued Plan Shares on behalf of any Participant, then, subject to the Applicable Law, in respect of voting occurring by poll:

- (a) the Participant may direct the Plan Trustee in writing, not less than 5 Business Days prior to the meeting, to vote on their behalf and how to exercise their voting rights, either generally or on any particular resolution; and
- (b) the Plan Trustee (whether personally or by proxy, attorney or corporate representative) must only exercise voting rights attached to the Participant's Issued Plan Shares in accordance with the Participant's directions under clause 8.2(a).

8.3 Show of hands

The Plan Trustee (whether personally or by proxy, attorney or corporate representative) must not vote in respect of any Plan Shares on any resolution where voting occurs by show of hands.

8.4 Proxy

Subject to the Applicable Law, where the Plan Trustee holds Plan Shares, the Plan Trustee may appoint a proxy, attorney or corporate representative to represent and vote for the Plan Trustee at any general meeting of the Company.

9. Bonus Shares

9.1 Entitlement

If the Plan Trustee holds Issued Plan Shares on behalf of any Participant, then, subject to each of clause 9.2, the relevant Plan Rules and the Applicable Law, the Participant is entitled to any Bonus Shares which are issued in respect of their Issued Plan Shares.

9.2 Registration

The Bonus Shares issued in respect of a Participant's Issued Plan Shares must be held by the Plan Trustee on the same terms and conditions of this Deed as apply to the Issued Plan Shares on behalf of that Participant, who will be the beneficial owner of the Bonus Shares.

9.3 Allotment

Upon allotment to the Plan Trustee, Bonus Shares are deemed to be Plan Shares for the purposes of this Deed.

10. Entitlements Offers

10.1 Notice

If the Plan Trustee holds Issued Plan Shares on behalf of any Participant, then, subject to the relevant Plan Rules and the Applicable Law, the Plan Trustee must notify that Participant in writing of any Share Rights which accrue to their Issued Plan Shares.

10.2 Instructions

- (a) Within 7 days of receiving the notice referred to in clause 10.1, the Participant may provide the Plan Trustee with written instructions in the form (if any) prescribed by the Plan Committee to either:
 - (i) sell some or all of the Share Rights to the extent permitted by the Applicable Law; or
 - (ii) acquire some or all of the Shares or other securities in the Company to which the Share Rights relate to the extent permitted by the Applicable Law.
- (b) If the Participant gives written instructions under clause 10.2(a)(ii), the Participant must, at the time of giving the written instructions, provide to the Plan Trustee payment of an amount equal to the cost of accepting the Share Rights entitlement plus, if the Plan

Trustee so requires, such additional amount as the Plan Trustee reasonably estimates and notifies to the Participant to be the costs and expenses relating to transferring the securities to the Participant.

- (c) If the Participant does not give written instructions under clause 10.2(a), the Plan Trustee is entitled to sell the Share Rights.

10.3 Sale

If the Plan Trustee sells the Share Rights in accordance with clause 10.2, regardless of whether instructed by the Participant or not, the Plan Trustee:

- (a) must pay to the Participant the proceeds of the sale after deduction of the costs and expenses relating to the sale;
- (b) has no obligation to maximise the sale price of the Share Rights;
- (c) may aggregate Share Rights to be sold; and
- (d) may attribute a sale price to each Share Right sold equal to the average price for each Share Right sold.

10.4 Acquisition

If the Plan Trustee acquires a specified number of securities pursuant to Share Rights on behalf of a Participant in accordance with clause 10.2(a)(ii), the Plan Trustee must transfer those shares to the Participant.

11. Other accretions

If the Plan Trustee holds an Allocated Plan Share on behalf of a Participant and an Accretion arises in respect of the Participant's Allocated Plan Share other than by way of Cash Distributions, Bonus Shares or Share Rights, then, subject to the Applicable Law, the Plan Trustee may decide to transfer, or provide the benefit of, all or part of the Accretion to the Participant as the Plan Trustee determines.

12. Income and capital distributions

12.1 Income entitlement of Participant

Subject to the Applicable Law and the Plan Rules (to the extent applicable), a Participant is presently entitled to so much (if any) of the Net Income of the Trust for a Year of Income which is attributable to:

- (a) any Issued Plan Shares held by the Plan Trustee on behalf of the Participant;
- (b) the proceeds of sale arising from the sale of Share Rights or Issued Plan Shares by the Plan Trustee on behalf of the Participant; and
- (c) transactions or events related to any Issued Plan Shares held by the Plan Trustee on behalf of the Participant or property related to, or arising from, those Issued Plan Shares.

12.2 Income to which no Participant is entitled

The balance of the Net Income of the Trust for a Year of Income to which no Participant is presently entitled in accordance with clause 12.1 may, subject to compliance with the Applicable Law and the prior written consent of the Company, be applied in whole or in part for the benefit of one or more of the following beneficiaries as determined by the Plan Trustee with the prior written consent of the Company:

- (a) an employee of the Company;
- (b) a Participant;
- (c) an employee share or option trust established and maintained for the benefit of all or any employees of the Company and which satisfies the definition of "employee share trust" under section 130-85(4) of the ITAA,

provided that any such application of income is permitted by clause 4.15.

12.3 Balance of Net Income

The balance of the Net Income of the Trust for a Year of Income to which no Participant is presently entitled in accordance with clause 12.1 and not applied in accordance with clause 12.2 may be accumulated by the Plan Trustee as an Accretion to the Trust and dealt with in accordance with this Deed (and, in particular, clause 4.15).

12.4 Trustee powers as to income

- (a) Before the end of each Year of Income, the Plan Trustee may decide whether:
 - (i) any amount received or held by the Plan Trustee is to be treated as being on income or capital account; and
 - (ii) any actual or deemed capital gain arising in that Year of Income under the ITAA is to be included as income of the Trust.
- (b) Unless the Plan Trustee has made a decision under clause 12.4(a), an item is taken into account in calculating the income of the Trust if it would be taken into account in calculating the Net Income of the Trust.
- (c) The Plan Trustee may decide that any part of a payment or distribution made under the Trust is to be from a particular class or source of income or property of the Trust.

12.5 Capital distribution

The Plan Trustee may, prior to the termination of the Trust as set out in clause 15.1 and subject to compliance with Applicable Law and the prior written consent of the Company, apply that part of the capital of the Trust to which no Participant would be entitled as set out in clause 15 if the Trust was terminated at that time in one or more of the following:

- (a) in payment of any costs and expenses reasonably incurred by the Plan Trustee in the due execution or purported due execution of the Trust or any of the powers, authorities or discretions vested in the Plan Trustee; or
- (b) for the benefit of any one or more of the following beneficiaries as determined by the Plan Trustee with the prior written consent of the Company:
 - (i) an employee of the Company;
 - (ii) a Participant;
 - (iii) an employee share or option trust established and maintained for the benefit of all or any employees of the Company and which satisfies the Sole Activities Test,

provided that any such application of capital is permitted by clause 4.15.

13. Warranties

13.1 Plan Trustee warranties and covenants

The Plan Trustee warrants to, and covenants with, the Company that:

- (a) it is a corporation validly existing under the laws of its place and registration;
- (b) it has the corporate power to enter into and perform its obligations under this Deed and to carry out the transactions contemplated by this Deed;
- (c) it has taken all necessary corporate action to authorise its entry into this Deed and has taken or will take all necessary corporate action to authorise the performance of this Deed and to carry out the transactions contemplated by this Deed;
- (d) this Deed is valid and binding on it;
- (e) it will perform its duties and obligations and exercise its powers and discretions under this Deed in good faith and with due care and skill, and will at all times observe its fiduciary obligations as trustee of the Trust;

- (f) the performance by it of its duties and obligations under this Trust Deed will not breach any Applicable Law;
- (g) it has and will maintain adequate resources (including financial, technological and human resources) to perform its duties and exercise its powers and discretions under this Deed; and
- (h) it has and will maintain appropriate back-up and disaster recovery arrangements to protect the records required to be maintained under this Deed from loss or destruction.

13.2 Company warranties

The Company warrants that:

- (a) it is a corporation validly existing under the laws of its place and registration;
- (b) it has the corporate power to enter into and perform its obligations under this Deed and to carry out the transactions contemplated by this Deed;
- (c) it has taken all necessary corporate action to authorise its entry into this Deed and has taken or will take all necessary corporate action to authorise the performance of this Deed and to carry out the transactions contemplated by this Deed; and
- (d) this Deed is valid and binding on it.

14. Amending this Deed or Plan Rules

14.1 Amending this Deed

Subject to clause 14.2, the Company may at any time, with the prior written consent of the Plan Trustee (which must not be unreasonably withheld or delayed):

- (a) amend this Deed by instrument in writing; and
- (b) waive or modify the application of any of the provisions in this Deed in relation to a Participant.

14.2 Rights of Participants

- (a) Subject to clause 14.2(b), if any amendment to this Deed under clause 14.1 reduces any of the rights of any one or more Participants in respect of Issued Plan Shares held on behalf of those Participants, the Plan Committee must obtain the prior written consent of at least 75% of the Participants affected by the proposed amendment in respect of those Issued Plan Shares. For the avoidance of doubt, the imposition of vesting conditions or performance hurdles under the terms of the Loan Funded Share Plan is not a reduction of the rights of Participants in respect of Issued Plan Shares.
- (b) Subject to clause 14.2(c), the Company may amend this Deed without the written consent of the Plan Trustee under clause 14.1 or Participants under clause 14.2(a):
 - (i) for the purpose of complying with, or conforming to, the Applicable Law or for the purpose of complying with or conforming to present or future State or Commonwealth legislation governing or regulating the maintenance or operation of employee equity plans of any kind;
 - (ii) to take into consideration any possible adverse tax implications to the Loan Funded Share Plan arising from public or private rulings, determinations, interpretative decisions or other statements of the Commissioner of Taxation or any other relevant taxation authority, changes or proposed changes to tax legislation (including any announcement by any relevant taxation authority) and/or changes in the interpretation of tax legislation by a competent court or tribunal; or
 - (iii) to correct a manifest error or mistake.
- (c) The Company must not make any amendment to the Deed under clause 14.2(b) which will have a material effect on the powers, rights or obligations of the Plan Trustee, without first notifying in writing the Plan Trustee.

14.3 Retrospective effect

Subject to this clause 14, any amendment made pursuant to clause 14.1 may be given such retrospective effect as specified by the Company.

14.4 Amending the Plan Rules

The Company cannot make any amendment to any of the Plan Rules which will have a material effect on the powers, rights or obligations of the Plan Trustee, without first consulting with, and obtaining the written consent of, the Plan Trustee (which consent must not be unreasonably withheld or delayed).

14.5 Notification to Trustee

The Company must notify the Plan Trustee in writing of any amendment made to this Deed or the Plan Rules.

15. Termination of the Trust

15.1 Termination

- (a) The Trust terminates and must be wound up by the Plan Trustee upon the first to occur of the following events:
 - (i) an order being made or an effective resolution being passed for the winding up of the Company, other than for the purpose of amalgamation or reconstruction;
 - (ii) the Company determining that the Trust is to be wound up; and
 - (iii) the 80th anniversary of the date of this Deed.
- (b) When the Trust terminates, the Plan Trustee must transfer to each Participant the number of Issued Plan Shares (if any) standing to the credit of the account maintained by the Plan Trustee in respect of that Participant under clause 20.1.

15.2 Residual capital and income of the Trust

- (a) The balance of the capital or income of the Trust to which no Participant is entitled in accordance with clause 12 may, subject to compliance with Applicable Law and the prior written consent of the Company, be applied in whole or in part for the benefit of one or more of the following beneficiaries as determined by the Plan Trustee with the prior written consent of the Company:
 - (i) an employee of the Company;
 - (ii) a Participant;
 - (iii) a complying provident, benefit, superannuation or retirement fund;
 - (iv) an employee share or option trust established and maintained for the benefit of all or any employees of the Company; or
 - (v) any charity nominated by the Company,provided that any such application of income or capital is permitted by clause 4.15.
- (b) The Plan Trustee must not pay any balance under clause 15.2(a) to the Company, a Controlled Entity or a Subsidiary.

16. Relationship of the Company, Plan Trustee and Participants

16.1 No agency

The Plan Trustee does not act as an agent of the Company or any Participant.

16.2 No trustee

- (a) The Plan Trustee is not a trustee for the Company or any Controlled Entity or Subsidiary.

- (b) None of the Company, any Controlled Entity or any Subsidiary is or may become a beneficiary of the Trust or may otherwise hold any beneficial interest in the Trust or Trust Property.

16.3 Control

The Participants will not have any control over the operation of the Loan Funded Share Plan irrespective of any rights they may have under this Deed or as a beneficial owner of Issued Plan Shares.

17. Liability

The Company, each Company Entity, the Plan Trustee and their respective directors, officers, employees, agents and representatives are not liable for anything done or omitted to be done by such person or any other person with respect to:

- (a) the price, time, quantity or other conditions and circumstances of the acquisition, custody or sale of Shares, Plan Shares;
- (b) any fluctuations in the market price of Shares, Plan Shares; or
- (c) anything done in connection with the Loan Funded Share Plan,

except for the negligence, dishonesty, fraud, or wilful default of such person or, in the case of the Plan Trustee, the Plan Trustee wilfully or knowingly being party to a breach of trust.

18. Payments

Subject to clause 7 of this Deed, the Plan Rules and the Applicable Law, the Plan Trustee may:

- (a) make any payment to a Participant in relation to Issued Plan Shares held by the Plan Trustee for that Participant in the manner directed by the Company; and
- (b) deduct from any amount to be paid to a Participant an amount on account of Tax payable or reasonably anticipated to become payable by the Plan Trustee in respect of those Issued Plan Shares.

19. GST

- (a) For the purposes of paragraphs (b) and (c) of this clause 19, words or expressions used in this clause 19 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause.
- (b) Any consideration payable or to be provided for a supply made under or in connection with this Deed does not include any amount on account of GST. If GST is payable on any supply made under or in connection with this Deed, the recipient of the supply must pay to the supplier an additional amount equal to the GST payable on the supply, provided that the supplier gives the recipient a tax invoice for the supply.
- (c) If a payment to a party under this Deed is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

20. Accounts

20.1 Accounts to be kept by Plan Trustee

The Plan Trustee must open and maintain an account in respect of each Participant for whom it holds Issued Plan Shares, which must record the:

- (a) fact that the Issued Plan Shares were issued under the Loan Funded Share Plan;
- (b) number of Issued Plan Shares which the Plan Trustee holds on behalf of the Participant;

- (c) date on which those Issued Plan Shares were issued to the Trust, and allocated to the Participant, in accordance with this Deed; and
- (d) number of Bonus Shares (if any) to which each Participant is entitled.

21. Audit, books and records

21.1 Appointment of auditor

The Plan Trustee must appoint an Auditor of the Trust.

21.2 Books and records

- (a) The Plan Trustee must keep or cause to be kept proper books and financial records in respect of the activities of the Trust, the contents of which must include a record of:
 - (i) all sums of money received and expended by, or on behalf of, the Plan Trustee;
 - (ii) the matters in respect of which such receipt and expenditure takes place;
 - (iii) all sales and purchases of Shares; and
 - (iv) the assets and liabilities of the Trust.
- (b) The Plan Trustee must cause the books and records of the Trust to be audited annually by the Auditor of the Trust.

21.3 Access

- (a) The Plan Trustee must ensure that the Auditor of the Trust has access to all papers, accounts and documents relating to the Trust.
- (b) The Plan Trustee must ensure that the books and financial records of the Trust are available for inspection by the Company, or any other Company Entity, and each Participant on whose behalf the Trustee holds Issued Plan Shares (if any) at the Plan Trustee's registered office during normal business hours free of charge within a reasonable time of a written request.

22. Annual Statement

As promptly as practicable after the end of each financial year, the Plan Trustee must cause a statement to be given to each Participant on whose behalf the Plan Trustee holds Issued Plan Shares (if any) setting out the dividend and other distributions made under the Trust to that Participant or other entitlements arising under the Trust during the financial year.

23. Applicable Law and Share Trading Policy

23.1 Contravention of Applicable Law

- (a) Notwithstanding any other provision of this Deed, no Share may be offered under the Loan Funded Share Plan if to do so would contravene the Applicable Law.
- (b) Notwithstanding any other provision of this Deed, the Plan Trustee must not acquire, transfer, allocate, sell, purchase or otherwise deal with Shares (or beneficial interests in Shares), or offer or agree to do any of those things, if to do so would contravene the Applicable Law.
- (c) This Deed and the entitlements of Participants under this Deed are subject to the Applicable Law.

23.2 Compliance with the Security Trading Policies

- (a) Notwithstanding any other provision of this Deed, unless otherwise determined by the Plan Committee, the Plan Trustee must not acquire, transfer, allocate, sell, purchase or otherwise deal with Shares (or beneficial interests in Shares), or offer or agree to do any

of those things, during a period specified or designated as a blackout period under the Company's Share Trading Policy (or any policy that replaces that policy), as amended from time to time.

- (b) The Company must:
- (i) give the Trustee a copy of the Security Trading Policies and any amended or replacement policies; and
 - (ii) notify the Trustee if the Board from time to time designates any additional blackout periods under the Security Trading Policies to those that ordinarily apply.

23.3 Deemed provisions

Notwithstanding any other provision of this Deed, every provision set out in an exemption form, or modification to, the provisions of any Applicable Law in respect of the Loan Funded Share Plan that is required to be included in this Deed in order for the exemption or modification to have effect is deemed to be contained in this Deed. Any provision that would otherwise have been deemed to be included pursuant to this clause, does not apply in respect of Plan Shares that have not been issued or allocated to a Participant or any Shares transferred to a Participant under clause 5.1.

23.4 Inconsistency

To the extent that any provision deemed by clause 23.3 to be contained in this Deed is inconsistent with any other provision in this Deed, the deemed provision shall prevail.

24. Notices

24.1 Valid delivery

- (a) A notice or direction given under this Deed is validly given to a Participant if it is:
- (i) handed to the person concerned;
 - (ii) posted by ordinary prepaid post to the person's last known address;
 - (iii) sent by facsimile to the person's last known facsimile number; or
 - (iv) given in such other manner as the Company determines.
- (b) A notice or direction given under this Deed to the Plan Trustee is validly given if it is delivered by hand, posted by ordinary prepaid post or emailed to the relevant address set out below:

EOS Loan Plan Pty Ltd

Suite 2, Level 12
75 Elizabeth Street
Sydney NSW 2000
Australia

Email: iandennis@eos-aus.com

or such other address as the Plan Trustee may give notice in writing to the Company and each Participant on whose behalf it holds Issued Plan Shares.

- (c) A notice or direction given under this Deed to the Company is validly given if it is delivered by hand, posted by ordinary prepaid post or emailed to the relevant address set out below:

Electro Optic Systems Holdings Limited

Suite 2, Level 12
75 Elizabeth Street
Sydney NSW 2000

Email: iandennis@eos-aus.com

or such other address as the Company may give notice in writing to the Plan Trustee or Participant (as applicable).

24.2 Deemed delivery

- (a) A notice will be deemed to be duly given:
 - (i) on the day of delivery by hand;
 - (ii) 2 days after the date of posting by prepaid registered post; or
 - (iii) if sent by facsimile, when the answer back or message confirmation is received, as the case may be.
- (b) This clause 24 is in addition to any other mode of service permitted by law.

25. General

25.1 Governing Law

- (a) This Deed must be governed by and construed in accordance with the laws applicable in New South Wales
- (b) The parties bound by this Deed irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales.

25.2 Severance

Part or all of any clause of this Deed that is unenforceable or illegal will be severed from this Deed and will not affect the enforceability of the remaining provisions of this Deed.

25.3 Counterparts

This Deed may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument. An executed counterpart may be delivered by facsimile.

25.4 No Waiver

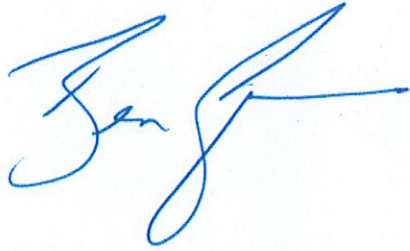
A party's failure to insist that another party perform any obligation under this Deed is not a waiver of that party's right:

- (a) to insist the other party perform, or to claim damages for breach of, that obligation; or
 - (b) to insist the other party perform any other obligation,
- unless the waiving party acknowledges the waiver in writing.

Signing page

EXECUTED as a deed.

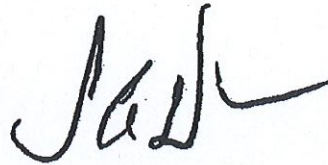
Executed by Electro Optic Systems Holdings Limited in accordance with Section 127 of the Corporations Act 2001



Signature of director

Ben Greene

Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

Ian Dennis

Name of director/company secretary (print)