

DATED THE 20 DAY OF November 2009

BETWEEN

Berman Holdings Pty Ltd as trustee for the Berman Holdings
Trust

- and -

Martin Gishen & Laureen Gishen as trustees for Marlau Trust

- and -

SHAMIR

- and -

RAW MOBILITY
(ACN 140 679 269)

SHAREHOLDERS AGREEMENT

SHAREHOLDERS AGREEMENT

This Agreement is dated the 20th day of November 2009

BETWEEN:

Berman Holdings Pty Ltd as trustee for the Berman Holdings Trust
of 1/29 Sussex Road, South Caulfield, Victoria 3162
("BHT ")

AND **Martin Gishen & Laureen Gishen as trustees for Marlau Trust**
of 85 Market St, Randwick, NSW, 2031
("MT")

AND **Asaf Shamir**
of 73 The Avenue, Windsor, 3181
("Shamir ")

AND **RAW MOBILITY LTD (ACN 140 679 269)**
of 3 St Kilda Road St Kilda, Victoria 3182
("the Company")

RECITALS

- A. The Company is a company duly incorporated under the Corporations Act 2001 (Commonwealth).
- B. The Directors of the Company are Ari Berman and Bradley Gishen.
- C. There are one hundred (100) issued shares in the Company. The Shareholders of the Company are Shamir who owns eighteen (18) shares, BHT who owns forty one (41) shares and MT who owns forty one (41) shares.
- D. The Parties propose that the Company operates the Business from the Effective Date.
- E. The Parties wish to record in writing the arrangement between them and agree to be bound by the terms and conditions contained in this Agreement in respect to the relationship of the Shareholders in respect to the Company notwithstanding any terms and provisions in the Company Constitution to the contrary.

AGREEMENT

1. INTERPRETATION

In this Agreement, unless the context otherwise requires:-

- 1.1 expressions importing a natural person include a corporation and vice versa;
- 1.2 a covenant, agreement, warranty, obligation, liability or similar on the part of two or more persons binds each of them jointly and severally;
- 1.3 headings are for convenience or reference only and shall not be construed as affecting the meaning or interpretation of this Agreement.

- 1.4 **"Act"** means the Corporations Act 2001
- 1.5 **"Agreement"** means this Agreement.
- 1.6 **"Board"** means the board of Directors of the Company.
- 1.7 **"Board Meeting"** means a meeting of the board duly convened and held in accordance with this Agreement and the Company's Constitution.
- 1.8 **"Business day"** means any day other than a Saturday, Sunday, Bank Holiday or Public Holiday in Victoria.
- 1.9 **"Business"** means software development for mobile messaging, gateways for SMS and MMS, content delivery platforms for mobile devices and aggregation in Australia.
- 1.10 **"Company Constitution"** means the Constitution of the Company.
- 1.11 **"Confidential Information"** means all information in whatever form, forms, specifications, processes, statements, trade secrets, drawings and data (and copies and extracts made of or from that information and data) concerning:
- (a) The operations and dealing of the Parties and the Business;
 - (b) The Company, finance, customers, markets, suppliers, intellectual property and know-how of the Business; or
 - (c) The operations and transactions of a Party concerning the Business.
- which is not in the public domain (except by the failure of a Party to perform and observe its covenants and obligations under the Agreement).
- 1.12 **"Directors"** means the Directors of the Company for the time being and "Director" means one of them.
- 1.13 **"Effective Date"** means the date that the Business commenced its operations and being deemed to be 20 November 2009.
- 1.14 **"Encumber"** means to mortgage, pledge, charge, assign as security or otherwise encumber.
- 1.15 **"Interest Rate"** means the rate from time to time as the current Reserve Bank of Australia cash rate +4%
- 1.16 **"Parties"** mean all of the Shareholders and "Party" means one of them.
- 1.17 **"Profits"** mean profits after tax, calculated in accordance with generally accepted Australian accounting principles.
- 1.18 **"Simple Majority"** means the majority that together holds not less than 51% of the total voting rights of all Directors at Directors meetings and Shareholders at Shareholders meetings.
- 1.19 **"Shareholders"** means Shamir and MA and "Shareholder" means one of them.
- 1.20 **"Shares"** means a share in the issued capital of the Company.

2. OBJECTIVE

- 2.1 The objective of the Shareholders in establishing the Company is to carry on the Business.
- 2.2 In order to fulfil the objective listed in clause 2 of this Agreement, each Shareholder must:
- (a) Exercise all voting rights and powers of control available in relation to the Company and execute all such documents and do all such acts and things as may be reasonably required, so as to give full effect to the terms and conditions, and promote the purposes of, the Agreement including, where appropriate the carrying into effect of such terms and conditions as if they were embodied into the Company's Constitution.
 - (b) Be honest, faithful and act in good faith in all activities and dealings with each other and make decisions that are in the best interests of the Company and the carrying on of the Business as a commercial venture.
 - (c) Not unreasonably delay an action, approval, direction, determination or decision required by any Shareholder.
 - (d) Not use Confidential Information in any way which damages or is reasonably likely to damage the Company, the Shareholders.

3. STRUCTURE OF THE COMPANY

On the Effective Date and subject to clause 18, the issued Shares in the Company are held as follows:

- 3.1 Shamir - (18) Shares.
- 3.2 BHT - (41) Shares.
- 3.3 MT - (41) Shares.

4. [BLANK]

4.1

5. BOARD OF DIRECTORS AND SHAREHOLDERS

- 5.1 The number of Directors (excluding alternate Directors) must be not less than two (2) unless the Parties otherwise unanimously determine.
- 5.2 A Director will remain a Director:
- (a) until he resigns or is removed under the Constitution; or
 - (b) until he is prohibited by law from continuing to act as a Director; or
 - (c) until he is unable to continue to act as a Director because of disability or any other impediment; or

(d) unless he is forcibly resigned by the other Director because it is clear that the Director is not acting in the best interests of the Business or is not working in the manner required by the Business. Prior to being forcibly resigned, the following procedure must be complied with:

- (i) A Director must provide a minimum of two (2) written bona fide warning notices to the other Director within a three (3) month period setting out the breach and requesting rectification.
- (ii) The Director who receives the warning notice or notices (as the case may be) must respond within seven (7) days of receiving each notice. If no bona fide response is provided to either warning notice, at the end of the three (3) month period, the Director who has not responded may be forcibly resigned by the other Director.
- (iii) If there is a dispute as to whether the Director has been acting in the best interests of the Company, the Parties agree to submit to the dispute resolution procedure set out in this Agreement.

5.3 Shamir can appoint a Director, including himself at any time as long as Shamir has in excess of 15% of the Shares in the Company.

5.4 Each Director will receive remuneration of \$1,200 per annum.

6. RESOLUTIONS

Unless otherwise stated in this agreement resolutions of the:

- 6.1 Board of Directors will be passed by a Simple Majority of Directors in favour of the resolution with each Director having one vote; and
- 6.2 Shareholders will be passed by a Simple Majority of Shareholders in favour of the resolution with each Shareholder being entitled to one vote per Share held.

7. CHAIRPERSON

The Parties agree that the Chairperson will rotate for each Board Meeting and that the Chairperson will not have a casting vote.

8. DIRECTOR RESTRICTIONS

No Director may do any of the following without the prior authorisation or resolution of the Board and the unanimous agreement of all the Directors and Parties:

- 8.1 Enter into any Agreement for the Company to purchase or Lease any real property;
- 8.2 Transfer the Business or any substantial part of it;
- 8.3 Encumber any asset of the Company;
- 8.4 Commit the Company to any single debt, liability or obligation valued at more than \$1,000 or its equivalent in any other currency;

- 8.5 Provide any guarantee, indemnity or like surety under which the Company may incur liability in respect to the obligations of any other Party;
- 8.6 Enter into any arrangement or incur any liability which is not in the ordinary course of the Business or is not on an arms length basis;
- 8.7 Commence any new business (other than the Business);
- 8.8 Execute any service employment or consultancy contract or employ any personnel by the Company;
- 8.9 The release and discharge of any real property by the Company;
- 8.10 An increase or adjustment of the salary and wages of any Director and/or employee and/or consultant of the Company;
- 8.11 The variation of any rights as set out in this Agreement;
- 8.12 The provision of any third party guarantees;
- 8.13 The implementation of any employee share schemes;
- 8.14 The issue of any legal proceedings;
- 8.15 The restructuring of the Company;
- 8.16 Any decision to list the Company on a Stock Exchange;
- 8.17 Any change in the Business of the Company;
- 8.18 The Liquidation of the Company.
- 8.19 Issue any cheque(s), other like negotiable instrument(s), conduct electronic banking, or make any other form of payment(s) whatsoever in the name of the Company for an amount greater than \$1,000 in any currency in relation to the one transaction.

9. Blank

10. NEW SHAREHOLDER

If a new person or party wishes to purchase Shares and have an interest in the Company and such proposal is acceptable to all of the existing Shareholders, the value of such Shares and the amount which such Party will be required to pay will be decided by the existing Shareholders.

11. [Blank]

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12. SALE OF SHARES

The Parties agree that the remaining Shareholders (other than a permitted transfer as set out in clause 12) will have the first option to buy out the selling Shareholder's Shares if he wishes to sell.

The Parties agree that in the event that any Shareholder wishes to sell or transfer his Shares in the Company (the "selling party"), the procedure to be adopted shall be as follows:

- (a) The Party that is not selling his Shares (the "remaining party") will have the first right of refusal to purchase the selling party's Shares.
- (b) If the Parties are unable to agree on a price between themselves, the value of the Shares will be determined by obtaining two independent valuations of the value of the Shares and taking the average of such independent valuations. One valuation will be obtained from the selling party and one valuation will be obtained from the remaining party.
- (c) The remaining party will have fourteen (14) days from the date that the value procedure as set out in clause 12.2(b) is determined and is provided to him to decide whether he will purchase the selling party's Shares at the price as determined ("the price"). If he decides to purchase the selling party's Shares, he must pay for such Shares as soon as he practically can and within sixty (60) days from the date that he agreed to purchase the Shares. Upon payment in full of the price, the selling party must transfer the Shares to the remaining party and sign all documents necessary to effect such transfer.
- (d) Prior to the sale of any Shares, any loans made to the Company by the selling party must be repaid to the selling party (unless the Parties agree otherwise).
- (e) Subject to clauses 12.2(f) and 12.2(g) hereof, if the remaining party does not elect to purchase the Shares within the fourteen (14) day period, the selling party may sell the Shares to any other person or party at the same price (or more) but on no more favourable terms than as referred to in clause 12.2(c) hereof that was offered to the remaining party ("the new price"). The remaining party will have fourteen (14) days from the date that he is advised of the new price to decide whether he will purchase the selling party's Shares. If he decides to purchase the selling party's Shares, he must pay for such Shares as soon as he practically can and within sixty (60) days from the date that he agreed to purchase the Shares and in equal monthly instalments, unless the Parties agree otherwise. Upon payment in full of the price, the selling party must transfer the Shares to the remaining party.
- (f) The other person or party who purchases the shares must agree to be bound by the terms contained in this Agreement (including assuming the obligations of the selling party) and must agree to sign a similar Agreement which reflects the provisions detailed in this Agreement, unless the remaining party agrees to vary the terms of the Agreement.
- (g) In the event that the selling party sells his Shares to either the remaining party or any other person or party, the selling party will do all things necessary to effect the sale of the Shares required under this Agreement including ensuring that he ceases all dealings with the Company and Business and resigns from any positions which he holds within the Company.

- (h) The Parties agree that if the selling party sells his Shares, the clients of the Company and the Business at the time of the sale shall remain the clients of the Company and the Business and the remaining party and the third party (if any), for the purpose of carrying on the Business and the selling party shall not compete with the remaining party for such clients as set out in clause 24 hereof.
- (i) Title to the Shares do not pass to any person or party who buys the Shares until that person or party has made full and final settlement of the purchase price. Until then, the selling party retains all its rights, title, interest, obligations and liabilities under this Agreement (including a right to receive any profits declared by the Company)

The Parties agree that certain permitted transfers, being a transfer of Shares to a related entity or family member will only be allowed if a majority of the Directors agree to such a transfer and market value is paid for the transfer of such Shares.

13. [Blank]

14. DIVIDENDS

The Directors and Parties agree that at the end of each financial year, any profit will be distributed to the Shareholders by way of a DECLARED dividend AT THE DISCRETION OF THE COMPANY in accordance with the number of Shares that each Party owns in the Company.

15. ADDITIONAL FINANCE CONTRIBUTIONS

The Parties agree that if the Directors and Parties all unanimously agree, the Parties will be required to contribute further finance in proportion to their respective shareholding. In the event that a party fails to make the additional financial contributions required within fourteen (14) days of being requested or such other time frame agreed between the Parties, such Shareholder will either receive an equivalent reduction in the person's Shareholding or alternatively, the Party who provides the funds shall be entitled to lodge a debenture over the Company's assets to secure his loan plus interest at the Interest Rate from the date the funds are provided. The Parties will agree between themselves on which of the two alternatives set out in this clause shall be adopted and failing agreement, a debenture charge shall be lodged.

16. LOAN BY SHAREHOLDER OR DIRECTOR

All initial funding will be provided by BHT and MT by way of Loan account to a maximum of \$100,000.

In the event that any of the Shareholders or Directors makes a loan to the Company, it shall be agreed that the loan shall be a debt from the Company to the Shareholder or Directors who made the loan.

Subject to any other Agreement between the Shareholders or Directors who made the loan to the Company, the Company must repay the loan together with interest at the Interest Rate on the following terms:

- (a) the loan will be fixed for a period of two years;
- (b) interest is payable on the loan at the Interest Rate, calculated as simple interest;
- (c) after two years, the Company must repay the loan together with interest within 30 days of:
 - i. The date on which the Shareholder or Director who made the loan makes a demand on the Company for repayment; or
 - ii. The date on which the Company gives notice of its intention to repay the money to the Shareholder or Director who made the loan.

unless otherwise agreed to in writing between the Company and the Shareholder or Director who made the loan.

Any loan to the Company made under this section does not (save as otherwise set out in this Agreement):

- (a) constitute an increase in the capital of the Shareholder advancing the loan; and
- (b) entitle that Shareholder to any increased share in the profits of the Company.

If the loan is not repaid in accordance with Clause 16, the Party who loaned the money shall be entitled to lodge a Debenture Charge over the assets of the Company to secure his loan, and agrees to immediately remove the Debenture Charge upon repayment of the loan and any disbursements and costs associated with the lodgement of the Debenture Charge.

17. MEETINGS

All meetings of the Board or Shareholders shall be held at the principal Business address of the Company in Melbourne unless all of the Directors agree otherwise in respect to a meeting of the Board; and all of the Shareholders agree otherwise in respect to a meeting of the Shareholders.

A quorum for a meeting of the Board shall be constituted by the attendance of at least two (2) Directors unless the total number of Directors of the Company is reduced to one. If at a scheduled meeting of the Board a quorum is not present, the meeting shall be adjourned to the same time and place seven (7) days after the original meeting.

The Parties in voting on any relevant issues will have one vote per Share which it holds in the Company.

18. EMPLOYMENT

Shamir agrees to work for the Company in accordance with the employment contract attached as Schedule 1 ("Employment Contract").

For the sake of clarity and in accordance with remuneration schedule of the Employment Contract attached hereto, BHT and MT shall in proportion to their respective shareholdings have an option to buy back:

- 18% for \$1 should Shamir's employment terminate without reason within 10 months from the date at which Shamir's employment commences ("Employment Start Date");
- 12% for \$1 should Shamir's employment terminate without reason within 11 to 20 months from Employment Start Date;
- 6% for \$1 should Shamir's employment terminate without reason within 21 to 30 months from the Employment Start Date.

19. PROFITS AND LOSSES

The Parties agree that any profits will be distributed or incurred as the case may be in proportion to the Shareholding entitlement and as set out in clauses 3 of this Agreement.

20. DECISION MAKING

Subject to the Act and to the provisions of this Agreement, all decisions of the Board or the Shareholders in general meetings or Board meetings will be made by Simple Majority Vote.

21. TERMINATION

This Agreement will terminate:

- (a) by mutual agreement in writing of all of the Parties;
- (b) six (6) months after a Shareholder has given the other Shareholder a notice to terminate the Agreement when a Shareholder is declared bankrupt;

Termination of the Agreement will be without prejudice to any rights of the Shareholders accrued before the Termination Date.

The Parties agree that after the termination of the Agreement the obligations under clause 2.2(d), 8 and 24 shall not merge on such termination and shall continue in force;

22. INCONSISTENCY

In the event of any inconsistency:

1. between the Company Constitution and this Agreement, the provisions of this Agreement shall prevail to the extent permitted by law.
2. between the Employment Contract as attached to in Schedule 1 and this Agreement, the Employment Contract shall prevail.

23. AMENDING AGREEMENT

No amendment shall prevail unless any amending Agreement has been signed by all Parties.

24. COMPLETION

The Parties agree to sign any further document needed or do all acts, matters and changes required in respect to this Agreement and the amendment between them.

25. NON-MERGER

A provision of this Agreement which can, and is intended to, operate after the Agreement is completed remains effective.

26. ENFORCEABILITY

In the event of the invalidity of any part or provision of this Agreement, such invalidity shall not affect the enforceability of any other part or provision of this Agreement

27. ENTIRE AGREEMENT

This Agreement contains the entire Agreement and understanding of the Parties with respect to the subject matter to which this Agreement relates and there are no other prior or subsequent Agreements, understanding, terms, conditions, warranties, representations, covenants, inducements or promises oral or written, whether express or implied between the Parties.

28. JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of the time being in force in the State of Victoria and the Parties irrevocably submit to the jurisdiction of the Courts of that State including any Courts having appellant jurisdiction.

29. DISPUTE RESOLUTION

If a dispute arises in relation to this Agreement, either Party may give the other a notice requiring that an attempt be made to resolve the dispute with the help of a mediator to be appointed jointly by the Parties. If the Parties do not agree on a mediator within seven (7) days after the notice is given, a mediator is to be appointed by the President of the Law Institute of Victoria. Each of the Parties must co-operate fully with the mediator and pay an equal share of the cost of mediation including the fees and expenses the mediator is entitled to. All Parties are entitled to their own legal representation at the mediation.

30. SEVERABILITY

If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this document, but the rest of the document is not affected.

31. NOTICE

A notice that must be given to a Party under this document is only given if it is:

- (a) delivered or posted to that Party at the following addresses:

- Shamir to 73 The Avenue, Windsor, 3181
- MT to 85 Market St, Randwick, NSW, 2031
- BHT to of 1/29 Sussex Road, South Caulfield, Victoria 3162

(b) emailed to that Party at their respective email addresses

A notice is treated to be given or made at the following time:

- (a) if it is delivered, when it is left at the relevant address;
- (b) if it is sent by post, 2 Business Days after it is posted;
- (c) if it is sent by email, as soon as the sender receives the email.

32. PRIORITY AGREEMENT

This Agreement takes priority over and replaces any other Shareholder's Agreement relating to the Company which may have been entered into by any of the Parties.

EXECUTED BY:

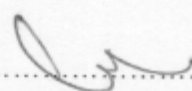
SIGNED SEALED and DELIVERED by the)
said Martin and Laureen Gishen **as trustee**)
for Marlau Trust in the presence of:

Witness:

Name:

Address:

.....

SIGNED SEALED and DELIVERED by the)
said **Asaf Shamir** in the presence of:) 

Witness: 

Name: John Huseinovic

Address: 229 Cranbourne Rd

3199 Frankston

EXECUTED by Berman Holdings Pty Ltd as)
trustee for the Berman Holdings Trust in)
accordance with Section 127 of the)
Corporations Act 2001 in the presence of:)

Berman

Director: Ari Berman

Name:

Address: 1/29 Sussex Road

South Caulfield Vic 3162

EXECUTED by Raw Mobility PTY LTD)
(ACN 140 679 269) in accordance with)
Section 127 of the Corporations Act 2001 in)
the presence of:)

Berman

Director: Ari Berman

Name:

Address: 3 St Hilda Road

St Hilda Vic 3182

Director: ~~.....~~

Name: ~~.....~~

Address: ~~.....~~

~~.....~~

SCHEDULE 1

ATTACH EMPLOYMENT CONTRACT