

## **Australian Rare Earths Limited**

ACN 632 645 302

## **Employee Option Plan**

DATE

23 April 2021

1. **Definitions and interpretation**

1.1 **Definitions**

In these Terms, unless the contrary intention appears:

**Applicable Law** means any one or more or all, as the context requires of:

- (a) Corporations Act and the Corporations Regulations 2001 (Cth);
- (b) Listing Rules;
- (c) any other applicable securities laws;
- (d) the Constitution of the Company;
- (e) any practice note, policy statement, class order, declaration, guideline, policy or procedure pursuant to the provisions of which ASIC, ASX or other equivalent authority is authorised or entitled to regulate, implement or enforce, either directly or indirectly, the provisions of any of the foregoing statutes, regulations or rules or any conduct of any duly authorised person, pursuant to any of the abovementioned statutes, regulations or rules.

**Approved Foreign Market** has the meaning ascribed to that term in section 9 of the Corporations Act, as notionally inserted by *ASIC Corporations (Definition of Approved Foreign Market) Instrument 2017/669*.

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the same meaning as is ascribed to that term in sections 12 to 16 (inclusive) of the Corporations Act.

**Associated Body Corporate** means:

- (a) a body corporate that is a Related Body Corporate of the Company;
- (b) a body corporate that has voting power in the Company of not less than 20%;  
or
- (c) a body corporate in which the Company has voting power of not less than 20%.

**ASX** means the ASX Limited ACN 008 624 691.

**Auditor** means the registered auditor of the Company as appointed from time to time.

**Australian CDI** means a CHESS Depository Interest traded on ASX, with a Share or stock as the underlying security.

**Bid Period**, in relation to an off-market bid or a market bid in respect of Eligible Products, means the period referred to in the definition of that expression in section 9 of the Corporations Act (or equivalent legislation), provided that where a bid is publicly announced prior to the service of a bidder's statement on the Company, the bid period shall be deemed to have commenced at the time of that announcement.

**Business Day** means a day on which the stock market of ASX is open for trading in securities.

**Certificate** means the certificate for the Options issued by the Company to a Participant.

**Change of Control Event** means, if an entity does not have Control of the Company, the event pursuant to which that entity acquires Control of the Company.

**Company** means Australian Rare Earths Limited ACN 632 645 302.

**Company Secretary** means the secretary of the Company (or his delegate) as appointed from time to time.

**Control** has the meaning ascribed to that term in section 50AA of the Corporations Act.

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

**Depository Interest** means:

- (a) Australian CDIs, able to be traded on ASX, where the underlying security is a share or stock; or
- (b) depository interests that are able to be traded on an Approved Foreign Market where the underlying security is a share or stock,

where 'able to be traded' has the meaning given in section 761A of the Corporations Act.

**Directors** means the directors for the time being of the Company.

**Eligible Employee, Eligible Associate, Eligible Contractor and Eligible Person** have the meanings ascribed to those terms in clause 13.

**Eligible Financial Market** means ASX or an Approved Foreign Market (and, unless otherwise stated, is limited to the main board of that market).

**Eligible Nominee** means:

- (a) an immediate family member of the Eligible Person;
- (b) a company whose members comprise no persons other than the Eligible Person or immediate family members of the Eligible Person; or
- (c) a corporate trustee of a self-managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth)), where the Eligible Person is a director of the trustee.

**Eligible Products** means:

- (a) Shares in a class able to be traded on ASX;
- (b) Shares or fully paid stocks in a class able to be traded on an Approved Foreign Market;

- (c) Depository (beneficial) Interests in a class able to be traded on an Eligible Financial Market;
- (d) fully paid units in registered managed investment schemes in a class able to be traded on ASX; and
- (e) fully paid Stapled Securities in a class able to be traded on ASX,

where, 'able to be traded' has the meaning given in section 761A of the Corporations Act, and subject to such other criteria as may be imposed by ASIC Class Order [CO 14/1000] or otherwise from time to time.

**Eligible Products Registry** means the applicable Eligible Products registry of the Company from time to time.

**Eligible Prospective Person** means a person to whom an offer of an Option is made, but who can only accept the offer if an arrangement is entered into that will result in the person becoming an Eligible Person of a kind other than an Eligible Prospective Person.

**Exercise** means an exercise effected under clause 7.

**Exercise Date** means the date upon which an Option is Exercised in accordance with clause 7.1.

**Exercise Notice** means a notice given under clause 7.1.

**Exercise Period** means in relation to a particular grant of Options, the period beginning on the date determined in accordance with the provisions of clause 6.3 and ending on the date of the third anniversary of the Issue Date of those Options or as otherwise determined by the Directors at the Relevant Date.

**Exercise Price** means the price at which an Option may be Exercised in accordance with clause 4.2(b), as varied in accordance with these Terms.

**Issue Date** means the date upon which Options are issued to an Eligible Person pursuant to this Plan.

**Listing Rules** means the official listing rules of ASX, as varied from time to time and, for so long as the Eligible Products are listed or quoted on any other stock exchange (if ever) where such stock exchange requires compliance with its listing rules, the listing rules applicable to that stock exchange.

**Offer** means an Offer of Options by the Directors to an Eligible Person pursuant to this Plan.

**Option** means an option over Plan Products granted pursuant to the Plan.

**Option Price** means the amount payable for an Option as referred to in clause 4.2(a).

**Participant** means an Eligible Person to whom Options have been issued pursuant to the Plan.

**Performance Conditions** means one or more conditions (if any), as determined by the Directors under clause 6.2 and notified to a Participant in the Offer, which must be satisfied or waived by the Directors before an Option may be Exercised.

**Permitted Nominee** has the meaning given to it by clause 5.3.

**Plan** means the Employee Option Plan for the Company established in accordance with these Terms.

**Plan Product** means an Eligible Product in the capital of the Company issued upon Exercise of an Option or in respect of which an Option has been granted.

**Related Body Corporate** has the same meaning as is ascribed to that term in section 50 of the Corporations Act.

**Relevant Date** means the date on which the Directors resolve to offer an Option or such other date as the Directors determine.

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

**Stapled Security** means two or more Eligible Products which, under the terms on which each is traded, must be transferred together.

**Terms** means these general terms and conditions, as varied from time to time.

## 1.2 Interpretation

In these Terms, unless the context requires otherwise:

- (a) a reference to a word includes the singular and the plural of the word and vice versa;
- (b) a reference to a gender includes any gender;
- (c) if a word or phrase is defined, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
- (d) a term which refers to a natural person includes a company, a partnership, an association, a corporation, a body corporate, a joint venture or a governmental agency;
- (e) headings are included for convenience only and do not affect interpretation;
- (f) a reference to a document includes a reference to that document as amended, novated, supplemented, varied or replaced;
- (g) a reference to a thing includes a part of that thing and includes but is not limited to a right;
- (h) the terms 'included', 'including' and similar expressions when introducing a list of items do not exclude a reference to other items of the same class or genus;
- (i) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to an item of that type in these Terms and includes a reference to the provisions or terms of that part, clause, annexure, exhibit or schedule;

- (j) a reference to these Terms includes each annexure, exhibit and a schedule to these Terms;
- (k) a reference to a party to this document includes the party's successors and permitted assigns and includes any person to whom these Terms are novated;
- (l) a reference to a statute or statutory provision includes but is not limited to:
  - (1) a statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision;
  - (2) a statute or statutory provision which has been amended, extended, consolidated or replaced by the statute or statutory provision; and
  - (3) subordinate legislation made under the statute or statutory provision including but not limited to an order, regulation, or instrument;
- (m) a reference to a document is a reference to a document of any kind including but not limited to an agreement in writing, a certificate, a notice, or an instrument;
- (n) reference to '\$', 'A\$', 'Australian Dollars' or 'dollars' is a reference to the lawful tender for the time being and from time to time of the Commonwealth of Australia;
- (o) a provision of these Terms is not to be construed against the Company solely on the ground that the Company is responsible for the preparation of these Terms or a particular provision;
- (p) a reference to an asset includes all property or title of any nature including but not limited to a business, a right, a revenue and a benefit, whether beneficial, legal or otherwise;
- (q) a reference to liquidation includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme composition or arrangement of creditors, insolvency, bankruptcy or any similar procedure or if applicable changes in the Constitution of a partnership or the death of a person; and
- (r) a reference to a body which is not a party to these Terms which ceases to exist or whose power or function is transferred to another body, is a reference to the body which replaces or substantially succeeds to the power or function of the first body.

### 1.3 **Business Day and Day**

- (a) If these Terms require that the day on which a thing must be done is a day which is not a Business Day, then that thing must be done on or by the next Business Day.
- (b) If an event occurs on a day which is not a Business Day, or occurs later than 5.00 pm local time at the place that the event occurs, then the event is

deemed to have occurred on the next Business Day in the place that the event occurs.

- (c) A reference to a day is a reference to a time period which begins at midnight and ends 24 hours later.
- (d) A reference to a period of time unless specifically written otherwise, includes the first day of that period.

## 2. Directors' authority

2.1 The Directors will establish and administer the Plan in accordance with these Terms and, subject to any Applicable Law, will have the absolute discretion and power to:

- (a) determine appropriate procedures for administration of the Plan;
- (b) resolve conclusively all questions of fact or interpretation arising in connection with the Plan or these Terms;
- (c) delegate to any one or more persons for such period and subject to such conditions as they may determine, the exercise of their powers or discretions, or of any of them, under these Terms; and
- (d) alter, modify, add to or repeal any of these Terms, even where such alteration, modification, addition or repeal:
  - (1) will or may adversely affect, whether materially or otherwise, any existing right or entitlement of a Participant or otherwise disadvantage an existing Participant; and
  - (2) occurs either during or after the expiry of the Exercise Period and irrespective of whether or not the Options, or the Plan Product or Plan Products that have been issued to a Participant pursuant to the Exercise of an Option, have or would have otherwise fully vested in that Participant.

2.2 The Company undertakes to each Participant that the powers and rights available to the Directors under clause 2.1(d) will not be exercised in a capricious, malicious or unreasonable manner.

2.3 Subject to these Terms, the Directors may from time to time in their absolute discretion determine those Eligible Persons to whom an offer to participate in the Plan will be made and the terms of such an offer.

## 3. Taxation

The Plan is a plan to which tax deferral under Subdivision 83A-C of the *Income Tax Assessment Act 1997* (Cth) applies (subject to requirements of that Act), unless specifically stated otherwise in the Offer.

## 4. Options, option price and exercise price

4.1 Subject to these Terms, the Directors may determine from time to time to grant Options upon such terms and to such Eligible Persons as they see fit.

- 4.2 Unless otherwise determined by the Directors:
- (a) the Option Price will be nil;
  - (b) the Exercise Price will be the amount determined by the Directors on the Relevant Date and specified in an Offer; and
  - (c) the Directors will notify the Participants in writing of the Exercise Price of an Option at the time of making an Offer.

**5. Offer of options**

- 5.1 Subject to these Terms, the Company (acting through the Directors) may make an Offer at such times and on such terms as the Directors consider appropriate. Each Offer must state:
- (a) that the Eligible Person to whom it is addressed may accept the whole or any lesser number of Options offered. The Offer may stipulate a minimum number of Options and any multiple of such minimum or any other number which may be accepted;
  - (b) the period within which the Offer may be accepted and the Exercise Period;
  - (c) the method of calculation of the Exercise Price; and
  - (d) any other matters which the Directors may determine or is required under any Applicable Law.
- 5.2 Upon receipt of an Offer of Options, an Eligible Person may, within the period specified in the Offer:
- (a) accept the whole or any lesser number of Options offered by notice in writing to the Directors; or
  - (b) nominate an Eligible Nominee in whose favour the Eligible Person wishes to renounce the Offer by notice in writing to the Directors. The Directors may, in their absolute discretion, resolve not to allow such renunciation of an Offer in favour of an Eligible Nominee without giving any reason for such decision.
- 5.3 Upon:
- (a) receipt of the acceptance referred to in paragraph 5.2(a); or
  - (b) the Directors resolving to allow a renunciation of an Offer in favour of an Eligible Nominee (Permitted Nominee) and the Permitted Nominee accepting the whole or any lesser number of Options offered by notice in writing to the Directors,
- the Eligible Person or the Permitted Nominee, as the case may be, will be taken to have agreed to be bound by these Terms and will be issued Options subject to these Terms.
- 5.4 Certificates for Options will be dispatched within 10 Business Days after their Issue Date.



- 5.5 If Options are issued to a Permitted Nominee of an Eligible Person, the Eligible Person must, without limiting any provision in these Terms, ensure that the Permitted Nominee complies with these Terms.

**6. Vesting and entitlement**

- 6.1 At the time of making an Offer of Options, the Directors may impose such vesting conditions (if any) as they consider appropriate.
- 6.2 At the time of making an Offer of Options, the Directors may impose such Performance Conditions (if any) as they consider appropriate.
- 6.3 No Option can be Exercised until:
- (a) it has vested under the vesting conditions (if any) applicable to the Option in accordance with clause 6.1 or the vesting conditions have been waived by the Directors; and
  - (b) the Performance Conditions (if any) applicable to the Option in accordance with clause 6.2 have been satisfied or waived by the Directors.
- 6.4 Once an Option is able to be exercised in accordance with clause 6.3, it:
- (a) may be Exercised during the Exercise Period; and
  - (b) entitles the Participant to subscribe for and be allotted one Plan Product at the Exercise Price.
- 6.5 Notwithstanding these Terms, while the Eligible Products are listed on the ASX or other Eligible Financial Market, the Company must allot and issue Plan Products upon Exercise of an Option in accordance with the Applicable Laws.
- 6.6 Plan Products issued upon the Exercise of Options will rank equally with all existing Eligible Products (of that class) in the capital of the Company from their respective issue date.

**7. Exercise of options**

- 7.1 An Option is Exercised by:
- (a) the Participant lodging with the Company an Exercise Notice;
  - (b) the receipt by the Company of a payment by or on behalf of a Participant and in immediately available funds, of the Exercise Price for each of the Options the subject of such Exercise Notice; and
  - (c) the Participant lodging with the Company the Certificate for those Options, for cancellation by the Company.
- 7.2 Subject to clause 7.1, within 15 Business Days after the later of the following:
- (a) receipt by the Company of an Exercise Notice given in accordance with these terms and conditions and payment of the Exercise Price for each Option being exercised if the Company is not in possession of excluded information (as defined in section 708A(7) of the Corporations Act); and

- (b) the date the Company ceases to be in possession of excluded information in respect to the Company (if any) following the receipt of the Exercise Notice and payment of the Exercise Price for each Option being exercised by the Company,

the Company will:

- (c) allot and issue the Plan Products pursuant to the exercise of the Options;
- (d) comply with all Applicable Laws, including, in respect of Eligible Products being Shares (**Plan Shares**) to give ASX a notice that complies with section 708A(5)(e) of the Corporations Act or lodge a prospectus with ASIC that qualifies the Plan Shares for resale under section 708A(11) of the Corporations Act; and
- (e) apply for official quotation on ASX or other Eligible Financial Market (as the case may require) of the Plan Products issued pursuant to the exercise of the Options.

7.3 Subject to the provisions of clause 7.4, Exercise of some only of the Options held by a Participant does not prevent Exercise of any remaining vested unexercised Options.

7.4 Options may not be Exercised in parcels of less than 1,000. Holders of less than 1,000 Options may Exercise those Options in full but not in part.

7.5 Notwithstanding any other provision of this clause 7 or clause 6 but subject to the written consent of the Directors, all Options may be Exercised:

- (a) during a Bid Period;
- (b) at any time after a Change of Control Event has occurred; or
- (c) if, on an application under section 411 of the Corporations Act, a Court orders a meeting to be held concerning a proposed compromise or arrangement for the purposes of or in connection with a scheme for the reconstruction of the Company or its amalgamation with any other company.

## 8. Lapse of options

8.1 Subject to clause 6.3, if the Participant is a Director or the Permitted Nominee of a Director, an Option may be Exercised by that Participant at any time prior to the first to occur of:

- (a) the expiry of the Exercise Period;
- (b) the expiry of 30 days after the person ceases to be a Director; and
- (c) a determination by the other Directors that that Director has acted fraudulently, dishonestly or in breach of that Director's obligations to the Company and that the Option is to be forfeited.

If such a Participant fails, for any reason, to Exercise all the Options registered in his or her name prior to such occurrence, those Options that the Participant would have been entitled to Exercise and that have not been Exercised, and any right or

entitlement of a Participant to have those Options vested in that Participant, will lapse and be of no further force or effect.

8.2 If a resolution of a general meeting of the Company to remove a person as a Director is passed, that person or the Permitted Nominee of that person who is a Participant may only Exercise a proportion of the Options that are registered in that Participant's name as is equal to the proportion that the period from the Issue Date of those Options to the date of passage of the resolution bears to the Exercise Period and the balance of those Options will be wholly and unconditionally forfeited, lapse and be of no further force or effect upon and from the date of passage of the resolution.

8.3 Unless otherwise determined by the Directors and subject to clause 6.3, if a Participant is an Eligible Employee or the Permitted Nominee of an Eligible Employee, an Option may be Exercised by that Participant at any time prior to the first to occur of:

- (a) the expiry of the Exercise Period;
- (b) the expiry of 30 days after termination of the Eligible Employee's employment where such termination has either been voluntary on the Eligible Employee's part or otherwise has occurred without cause; and
- (c) termination of the Eligible Employee's employment with cause.

If such a Participant fails, for any reason, to Exercise all the Options registered in his or her name prior to such occurrence, those Options that the Participant would have been entitled to Exercise and that have not been Exercised, and any right or entitlement of a Participant to have those Options vested in that Participant, will lapse and be of no further force or effect.

8.4 Unless otherwise determined by the Directors and subject to clause 6.3, if a Participant is an Eligible Contractor or the Permitted Nominee of an Eligible Contractor, an Option may be Exercised by that Participant at any time prior to the first to occur of:

- (a) the expiry of the Exercise Period;
- (b) the expiry of 30 days after termination of the Eligible Contractor's engagement where such termination has either been voluntary on the Eligible Contractor's part or otherwise has occurred without cause; and
- (c) termination of the Eligible Contractor's engagement with cause.

If such a Participant fails, for any reason, to Exercise all the Options registered in his or her name prior to such occurrence, those Options that the Participant would have been entitled to Exercise and that have not been Exercised, and any right or entitlement of a Participant to have those Options vested in that Participant, will lapse and be of no further force or effect.

## 9. **Transfer**

Except with the consent of Directors, Options may not be transferred and will not be quoted on or by the ASX or other Eligible Financial Market. The Directors may in their discretion, and subject to the requirements of ASIC Class Order [CO 14/1000] or other applicable

requirements from time to time, allow the transfer of Options to an Associate or Related Body Corporate of a Participant.

10. **Quotation of plan products**

The Company will apply to the ASX or other applicable Eligible Financial Market for official quotation of Plan Products issued on the Exercise of Options, if the Company is, at the time of issue of those Plan Products, admitted to the official list of the ASX or other Eligible Financial Market, as the case may be.

11. **Participation in future issues**

11.1 **New Issues**

Participants may only participate in new issues of securities to holders of Eligible Products if an Option has been exercised and Plan Products allotted in respect of the Option before the record date for determining entitlements to the issue. The Company must give at least nine Business Days' notice (or such greater period of notice (if any) as may be required by the Listing Rules) to Participants of any new issue before the record date for determining entitlements to the issue in accordance with the Listing Rules.

11.2 **Bonus Issues**

If there is a bonus issue of Eligible Products of the relevant class (**Bonus Issue**) to the holder of Eligible Products, the number of Plan Products over which an Option is exercisable will be increased by the number of Eligible Products which the Participant would have received if the Option had been exercised before the record date for the Bonus Issue (**Bonus Eligible Products**). Upon issue the bonus Eligible Products will rank pari passu in all respects with the other Eligible Products of the Company in that class on issue at the date of issue of the Bonus Eligible Products.

11.3 **Pro Rata Issue**

If there is a pro rata issue (other than a Bonus Issue) to the holders of Eligible Products, the Exercise Price of an Option will be reduced according to the following formula:

$$A = \frac{O - E [P - (S+D)]}{N + 1}$$

A = the new exercise price of the Option.

O = the old exercise price of the Option.

E = the number of Plan Eligible Products into which one Option is exercisable.

P = the value of an Eligible Product at the time the pro rata rights issue is made as determined by an accountant independent of the Company, but if the Eligible Products are quoted on the ASX or other Eligible Financial Market, the average closing sale price per Eligible Product (weighted by reference to volume) recorded on the stock market of ASX or other applicable Eligible Financial Market during the five trading days ending on the day immediately before the

ex rights date or ex entitlements date (excluding special crossings, overnight sales and exchange traded option exercises).

S = the subscription price for an Eligible Product under the pro rata issue.

D = any dividend due but not yet paid on existing Eligible Products which will not be payable in respect of new Eligible Products issued under the pro rata issue.

N = the number of Eligible Products with rights or entitlements that must be held to receive a right to one new Eligible Product.

#### 11.4 Reorganisation of Capital

If, prior to the expiry or lapse of any Options, there is a reorganisation of the issued capital of the Company, those Options will be reorganised to the extent necessary to comply with the Listing Rules.

#### 11.5 Aggregation

If Options are Exercised simultaneously then the Participant may aggregate the number of Plan Products or fractions of Plan Products to which the Participant is entitled to subscribe for under those Options. Fractions in the aggregate number only will be disregarded in determining the total entitlement to subscribe.

#### 11.6 Advice

In accordance with the Listing Rules, the Company must give notice to each Participant of any adjustment to the number of Eligible Products for which the Participant is entitled to subscribe or to the Exercise Price pursuant to the provisions of clauses 11.2, 11.3 or 11.4.

### 12. Maximum number

12.1 Subject to any variation to the requirements under ASIC Class Order [CO 14/1000] or otherwise from time to time, the Company shall not offer or issue Options to any Eligible Person in accordance with this Plan if the total number of Eligible Products the subject of Options, when aggregated with:

- (a) the number of Eligible Products in that class issuable if each outstanding right or option to acquire unissued Eligible Products was exercised into Eligible Products pursuant to the Plan or any share, performance right or option scheme extended to any or all of the employees, contractors and/or directors of the Company and its Associated Bodies Corporate, and which includes this Plan (Incentive Scheme); and
- (b) the number of Eligible Products in that class issued pursuant to the Plan or any Incentive Scheme during the previous three years,

(disregarding any offer or invitation made, or option acquired or share or other Eligible Product issued following the making of an offer or invitation, to a person situated at the time of receipt of the offer or invitation outside Australia or any offer or invitation which, pursuant to Chapter 6D of the Corporations Act (or other Applicable Law), does not need disclosure to investors), would exceed 5% of the total number of issued Eligible Products in that class as at the time of the proposed offer or issue.

For the avoidance of doubt, where an Option lapses without being exercised, the Eligible Products concerned shall be excluded from any calculation under this clause.

**13. Eligible persons**

**13.1 Eligible Employee** means:

- (a) a person who is engaged in the full time or part time employment of the Company or an Associated Body Corporate of the Company and includes any Director holding a salaried employment or office in the Company or an Associated Body Corporate of the Company;
- (b) a person within the meaning of a 'casual employee' as defined in ASIC Class Order [CO 14/1000] as varied or replaced from time to time and, as at the date of this Plan, a person who is, or might reasonably be expected to be, engaged to work the number of hours that are the pro-rata equivalent of 40% or more of a comparable full-time position with the Company or an Associated Body Corporate of the Company, or such other criteria as may be imposed by ASIC Class Order [CO 14/1000] or otherwise from time to time; and
- (c) subject to the requirements of ASIC Class Order [CO 14/1000] as varied or replaced from time to time, any person acquiring and holding any Plan Product or Options for the benefit of any such employee (other than any employee who is a Director), provided that the Plan Product and Options are acquired and held on such terms and conditions as have been previously approved by the Directors including, without limitation, any trustee of a trust established by the Company to hold Plan Products or Options for the benefit of such employees.

**13.2 Eligible Associate** means:

- (a) any Director, including non-executive Director or officer, of the Company or an Associated Body Corporate of the Company; and
- (b) subject to the requirements of ASIC Class Order [CO 14/1000] as varied or replaced from time to time, any person or entity acquiring and holding any Plan Product for the benefit of any Eligible Employee who is a Director or officer of the Company or an Associated Body Corporate of the Company at the time of such acquisition or any person referred to in clause 13.2(a), and provided that the Plan Product is acquired and held on such terms and conditions as have been previously approved by the Directors.

**13.3 Eligible Contractor** means an individual or company within the meaning of a 'contractor' as defined in ASIC Class Order [CO 14/1000] as varied or replaced from time to time and, as at the date of this Plan:

- (a) an individual with whom the Company or an Associated Body Corporate of the Company has entered into a contract for the provision of services under which that individual performs work for the Company or an Associated Body Corporate of the Company; or
- (b) a company with whom the Company or an Associated Body Corporate of the Company has entered into a contract for the provision of services under which an individual, who is a director of the company or their spouse,

performs work for the Company or an Associated Body Corporate of the Company,

where the individual who performs the work under or in relation to the contract is, or might reasonably be expected to be, engaged to work the number of hours that are the pro-rata equivalent of 40% or more of a comparable full-time position with the Company or an Associated Body Corporate of the Company, or such other criteria as may be imposed by ASIC Class Order [CO 14/1000] or otherwise from time to time; and

- (c) subject to the requirements of ASIC Class Order [CO 14/1000] as varied or replaced from time to time, any person acquiring and holding any Plan Product or Options for the benefit of any such Eligible Contractor (other than any Eligible Contractor who is a Director), provided that the Plan Product and Options are acquired and held on such terms and conditions as have been previously approved by the Directors including, without limitation, any trustee of a trust established by the Company to hold Plan Products or Options for the benefit of such Eligible Contractors.

13.4 An Eligible Employee or Eligible Contractor may also be an Eligible Associate.

13.5 **Eligible Persons** means Eligible Employees, Eligible Associates and Eligible Contractors and includes an Eligible Prospective Person.

#### 14. **Notices**

Notices must be given by the Company to the Participant in the manner prescribed by the Constitution of the Company for the giving of notices to members of the Company and the relevant provisions of the Constitution of the Company apply with all necessary modifications to notices to any Participant.

#### 15. **Right to accounts**

Participants will be sent all reports and accounts required to be laid before members of the Company in general meeting and all notices of general meetings of members but, unless otherwise entitled, will not have any right to attend or vote at those meetings.

#### 16. **Overriding restrictions on grant and exercise**

16.1 Notwithstanding any other provision of these Terms, all rights and entitlements attaching to an Option or of a Participant under this Plan will be changed or amended to the extent necessary to comply with the Listing Rules that apply to a reorganisation of the capital of the Company, at the time that that re-organisation becomes effective.

16.2 No Option may be Exercised if to do so would contravene the Applicable Law.

16.3 Without limitation to the provisions of this clause 16:

- (a) the Option terms and conditions must allow the rights of a Participant to comply with the Listing Rules applying to a reorganisation of capital of the Company at the time of the reorganisation; and
- (b) subject to the provisions of clause 16.3(a), any reorganisation of capital of the Company must not be done in a manner or with the effect that will prejudice

the rights or interests, or the value of the rights or interests, of Participants in the Options they hold, immediately prior to the time of any such reorganisation.

**17. Right of participants**

17.1 Nothing in these Terms:

- (a) confers on a Participant the right to receive any Eligible Products;
- (b) confers on a Participant who is a Director the right to continue as a Director;
- (c) confers on a Participant the right to continue as an employee or contractor of the Company or an Associated Body Corporate of the Company;
- (d) affects any rights which the Company, or an Associated Body Corporate of the Company, may have to terminate the appointment of a Participant who is a Director or terminate the employment of an employee or the engagement of a contractor; or
- (e) may be used to increase damages in any action brought against the Company or an Associated Body Corporate in respect of any such termination.

**18. Termination and suspension of the plan**

The Directors may resolve at any time to terminate or suspend the operation of the Plan.

**19. Governing law**

The Plan is governed by and shall be construed and take effect in accordance with the laws of South Australia.