

POLYMETALS RESOURCES LTD

Loan Funded Share Plan Rules

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Loan Funded Share Plan Rules

The Rules of the Polymetals Resources Ltd Loan Funded Share Plan (**Plan**) are set out in this document.

An offer of Restricted Shares is made in an Invitation provided by the Company and the purchase of the Restricted Shares is to be funded by a Loan from the Company. This document should be read with that Invitation and the Loan Agreement. In this document:

- Rule 8 relates to the eligibility of persons to participate in the Plan.
- Rule 9 sets out how an Invitation to participate in the Loan Funded Share Plan will be made, what that offer may contain and deals with the restrictions on the Disposal of Restricted Shares and Converted Shares.
- Rules 10 and 11 set out the arrangements in relation to the Loan to be provided to fund the acquisition of the Restricted Shares.
- Rules 12 and 13 address what happens if a Participant leaves employment or ceases to be engaged by the Company.
- Rules 14, 15 and 17 set out the situations where the Restricted Shares and Converted Shares may have to be forfeited, surrendered or instances where they can be bought back by the Company.
- Rules 18 and 19 relate to a sale of the Company or changes to the capital structure of the Company.
- Rule 20 provides that the Board may determine that Converted Shares to be acquired under the Plan be held on trust on the Participants' behalf.
- Rule 23 sets out how the Plan is administered. Essentially the Board administers the Plan and is responsible for the terms of any Invitation made.

The remainder of the document contains procedural provisions in relation to the Plan. Definitions are set out at the beginning of the document.

Loan Funded Share Plan Rules dated 29 November 2021

These Rules set out the rules which govern the Polymetals Resources Ltd Loan Funded Share Plan.

1. Definitions and interpretation

1.1 Definitions

In these Rules, the following words and expressions have the meanings indicated unless the contrary intention appears:

Acquisition Price means the amount payable by an Eligible Person in respect of Restricted Shares the subject of an Invitation.

Additional Securities means future bonus shares or other securities issued by the Company in respect of the Restricted Shares or Converted Shares, if any.

Advance means in relation to a Loan Agreement, the amount advanced under the Loan Agreement.

After Tax Dividend Amount means that amount equal to the total cash dividend payable on Converted Shares held by a Participant less the amount remaining after deducting the maximum taxation amount payable in respect of that dividend, calculated using the Participant's highest marginal rate.

Amount Outstanding means, at any given time, the total amount of the Advance that is payable but unpaid pursuant to the Loan Agreement.

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

- (a) the Corporations Act;
- (b) the Listing Rules;
- (c) the Constitution;
- (d) the ITAA and the *Taxation Administration Act 1953* (Cth);
- (e) ASIC Class Order [14/1000];
- (f) any practice note, policy statement, regulatory guide, class order, declaration, guideline, policy, procedure, ruling, judicial interpretation or other guidance note made to clarify, expand or amend (a), (b), (c), (d) and (e) above; and
- (g) any other legal requirement that applies to the Plan.

Application means an application by an Eligible Person to participate in the Plan in response to the Invitation.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or the securities exchange it operates, as the context requires.

Bad Leaver means a Participant who:

- (a) after the Departure Date breaches a non-compete or non-solicit or similar restrictive covenant owed to a Group Member;

- (b) ceases to be employed or engaged by, or a director of, a Group Member, in connection with, or during the course of their engagement commits:
 - (i) a fraud, a theft or is dishonest;
 - (ii) an indictable offence other than a traffic offence, which the Board resolves is detrimental to the interests of the Company or Group;
 - (iii) serious or persistent breach of duty or serious or persistent neglect of duty; or
 - (iv) serious misconduct, including:
 - (A) refusing or neglecting to comply with any lawful and reasonable direction given to the Leaver by the Board or CEO;
 - (B) wilfully or recklessly damaging or causing the loss of any property of a Group Member or property on the premises of a Group Member;
 - (C) wilfully or recklessly risking someone else's health or the business of a Group Member; or
 - (D) falsifying the records, documents or materials of a Group Member,

and in each case treating a consultant, director or advisory board member as an employee for this purpose; or

- (c) in the case of a consultant, director or advisory board member, ceases to be engaged by a Group Member for one or more actions or omissions defined as "Disreputable" or such similar term under, or which constitute a similar material breach of, the person's appointment letter or engagement or service agreement.

Board means the board of directors of the Company from time to time.

Business Day means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in Sydney, Australia.

Buy-Back means the purchase by the Company of Restricted Shares or Converted Share pursuant to Rule 17, and **Bought-Back** has a corresponding meaning.

Casual Employee, in relation to the Company or any other Group Member, means an individual 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 body.

Change of Control Event means:

- (a) where a person or entity becomes a legal or beneficial owner of 50% or more of the issued ordinary share capital of the Company; or
- (b) where a person or entity becomes entitled to, acquires, holds or has an equitable interest in more than 50% of the issued ordinary share capital of the Company.

Company means Polymetals Resources Ltd (ACN 644 736 247).

Constitution means the constitution of the Company from time to time.

Contractor, in relation to the Company or any other Group Member, means:

- (a) an individual with whom the body has entered into a contract for the provision of services under which the individual performs work for the body; or
- (b) a company with whom the body 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 body,

in each case 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 body.

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

Conversion Notification means, in relation to a Restricted Share, a notice from the Board to a Participant informing the Participant that the Performance Conditions in relation to that Restricted Share have been satisfied and that those Restricted Shares have automatically converted into Shares in accordance with Rule 9.5(d).

Converted Share means a Share into which a Restricted Share converts in accordance with Rule 9.5(d).

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

Departure Date means the date that a Participant becomes a Leaver.

Director means a director of the Company from time to time.

Dispose means, in relation to a Restricted Share or Converted Share:

- (a) sell, assign, Buy-Back, redeem, transfer, convey, grant an option over, grant or allow a Security Interest over;
- (b) enter into any swap arrangement, any derivative arrangements or other similar arrangement; or
- (c) otherwise directly or indirectly dispose of a legal, beneficial or economic interest in the Share,

and **Disposal** has a corresponding meaning.

Disposal Event means the sale, transfer, Buy-Back or any other Disposal of Restricted Shares or Converted Shares pursuant to a Repayment Event.

Disposal Proceeds means the proceeds from the sale, transfer or Buy-Back or any other Disposal of the relevant portion of Restricted Shares or Converted Shares following the occurrence of a Disposal Event.

Disposal Restrictions means in relation to a Restricted Share or Converted Share, any restrictions in relation to the Disposal or other dealing with that Restricted Share or Converted Share in the Listing Rules, the share trading policy of the Company or otherwise under Applicable Law or the Offer Documents.

Eligible Person means any full-time or part-time employee, Contractor, Casual Employee, director (or prospective full-time and part-time employee, Contractor, Casual Employee or director) of one or more Group Members selected by the Board to participate in the Plan.

Expire has the meaning given in Rule 16(a), and **Expiry** and **Expired** has the corresponding meaning.

Expiry Date means, in respect of a Restricted Share or a Converted Share, the date specified in the relevant Invitation as being the last day by which all Performance Conditions, Vesting Conditions and/or Disposal Restrictions applicable to that Restricted Share or Converted Share must be satisfied or waived by the Board in accordance with their terms and these Rules, provided that such date cannot be more than 60 months after its Grant Date. For the avoidance of doubt, the Invitation may specify an earlier date(s) by which any particular Performance Condition, Vesting Condition or Disposal Restriction applicable to that Restricted Share or Converted Share must be satisfied.

Flip-Up means a transaction or series of related transactions which involves the grant to Participants of new shares in a Group Member or a New Holding Entity in substitution and cancellation of some or all of the Restricted Shares or Converted Shares issued to Participants under the Plan on a like for like basis.

Forfeiture Conditions means any criteria, requirements or conditions as determined by the Board (as specified in the Invitation) or under these Rules which if met (notwithstanding the satisfaction or waiver of any Performance Conditions or Vesting Conditions) will result in a Participant surrendering Restricted Shares or Converted Shares under Rule 15.

Good Leaver means a Leaver who is not a Bad Leaver.

Grant Date has the meaning given in Rule 9.6(b).

Group means the Company and each of its Subsidiaries (if any) from time to time, and for the purposes of Rule 19(e) includes a New Holding Entity.

Group Member means any member of the Group from time to time.

Invitation means an invitation to an Eligible Person to apply for the grant of Restricted Shares under these Rules.

ITAA means the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*.

Leaver means a Participant who ceases to be employed or contracted by or ceases to be a director or advisory board member of a Group Member.

Listing Rules means the ASX Listing Rules and any other rules of ASX which apply to an entity while it is admitted to the official list of ASX (or the rules of any other applicable recognised securities exchange), each as amended or replaced from time to time, except to the extent of any express written waiver by ASX (or other applicable recognised securities exchange).

Loan means a loan to the Participant to assist in funding the acquisition of Restricted Shares as contemplated in Rule 10.

Loan Agreement means an agreement entered into by the Company (or a Group Member) and a Participant which sets out the terms and conditions upon which the Company (or the Group Member) will make a Loan to the Participant.

Market Value means, in the case of a Share, the “volume weighted average price” (as that term is defined in the Listing Rules) per Share for the previous five trading days and in the case of a Restricted Share, the price determined by the Board in consultation with an independent, appropriately qualified professional adviser.

New Holding Entity means an entity in which equity securities are issued in exchange for Shares as part of a Reconstruction.

Offer Documents means in relation to each Eligible Person or Participant:

- (a) these Rules;
- (b) the Invitation;
- (c) the Loan Agreement;
- (d) the Constitution;
- (e) the Application;
- (f) the Participation Certificate;
- (g) the Conversion Notification;
- (h) the Vesting Notification; and
- (i) any other document determined by the Board to be an Offer Document for the purposes of these Rules.

Participant means an Eligible Person who subscribes for and is issued Restricted Shares pursuant to the Plan or, subject to prior approval of the Board, a nominee appointed by the Eligible Person.

Participation Certificate means a certificate issued by the Company to a Participant in accordance with Rule 9.6(c).

Performance Conditions means the ongoing minimum performance requirements as set out in the Invitation and determined by the Board that are to apply to Restricted Shares granted to a Participant.

Plan means the Polymetals Resources Ltd Loan Funded Share Plan as established in accordance with these Rules.

Portion has the meaning given in the Loan Agreement.

Reconstruction means the reconstruction of the Company involving holders of Shares exchanging those Shares for equity securities in a New Holding Entity such that the equity security holders of the New Holding Entity are, or after the reconstruction become, the same or substantially the same as the former holders of Shares.

Reorganisation Event means any one or more of the following:

- (d) a share split, consolidation or other similar action in respect of the share capital of the Company; or
- (e) any other internal reorganisation, recapitalisation, reclassification or similar event with respect to the share capital of the Company.

Repayment Date has the meaning given to it in Rule 10.3(c).

Repayment Event has the meaning given to it in Rule 10.3(c).

Restricted Securities has the meaning given to it in the Listing Rules.

Restricted Share means a share in the capital of the Company with the rights set out in clause 22 which is the subject of an Invitation that are acquired by a Participant.

Restriction Deed has the meaning give to it in the Listing Rules.

Rules means these Rules in respect of the operation of the Plan, as set out in this document, and as amended from time to time.

Share means an ordinary share in the capital of the Company.

Shareholders means the shareholders of the Company from time to time.

Subsidiary has the meaning given in section 46 of the Corporations Act.

Unvested means, in respect of a Restricted Share or Converted Share, that that Restricted Share or Converted Share has not Vested.

Vested means, in respect of a Restricted Share or Converted Share, that all of the Performance Conditions, Vesting Conditions and/or the Disposal Restrictions attaching to that Restricted Share or Converted Share have been satisfied or waived by the Board in accordance with these Rules, and **Vest** has a corresponding meaning.

Vesting Condition means any time-based requirement or condition (as specified in the Invitation and determined by the Board) which must be met prior to the Restricted Shares or the Converted Shares vesting in the Participant.

Vesting Notification means a notice from the Board to a Participant informing the Participant that the Restricted Shares or the Converted Shares have Vested.

1.2 Interpretation

In this Agreement headings are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (d) an expression importing a natural person includes any individual, company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) no provision of this Agreement will be construed adversely to a party solely on the grounds that the party was responsible for the preparation of this Agreement or that provision;
- (f) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;
- (g) in determining the time of day where relevant to this Agreement, the relevant time of day is the time of day in the place where the party required to perform the obligation is located; and
- (h) a reference to:

- (i) anything (including any right) includes a part of that thing but nothing in this Rule 1.2 implies that performance of part of an obligation constitutes performance of the obligation;
- (ii) a Rule, clause, party, annexure, exhibit or schedule is a reference to a Rule, clause of, and a party, annexure, exhibit and schedule to, this Agreement and a reference to this Agreement includes any annexure, exhibit and schedule;
- (iii) a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (iv) a document (including this Agreement) includes all amendments or supplements to, or replacements or novations of, that document;
- (v) a party to a document includes that party's executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (vi) "including", "for example", "such as" or similar expressions when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (vii) "law" includes legislation, the rules of the general law, including common law and equity, and any judgment order or decree, declaration or ruling of a court of competent jurisdiction or governmental agency binding on a person or the assets of that person; and
- (viii) a monetary amount is a reference to Australian dollars.

1.3 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on the preceding Business Day.

1.4 Applicable Legislation

These Rules, the acquisition of any Shares and the rights attaching to the Shares will at all times be subject to Applicable Law from time to time.

1.5 Rounding

Where any calculation or adjustment to be made pursuant to these Rules produces a fraction of a cent or a fraction of a Share, the fraction will be eliminated by rounding down to the nearest whole number.

2. Commencement of Plan

The Plan will commence on the date determined by the Board.

3. Purposes of Plan

The purpose of this Plan is to assist in the motivation, retention and reward of Employees by enabling them to acquire equity interests in the Company or another Group Member.

4. Risks and Implications

4.1 Risk of losing value

There are risks associated with the participation in the Plan. These include the risk that the acquired Restricted Shares will lose value and that Participants may not benefit from their investment in the Restricted Shares.

4.2 Tax and financial implications

Participation in the Plan has tax and financial implications and may have social security implications. Any advice provided by the Company or any other Group Member in relation to the Restricted Shares offered under this Plan does not take into account an Employee's objectives, financial situation and needs. Participants should consult their tax, financial or other professional advisors and obtain their own financial product advice from a person who is licensed by ASIC to give such advice.

5. Financial Assistance

Subject to compliance with Applicable Laws, the Company or other Group Member may financially assist a Participant (including by making an advance to an Eligible Person) to acquire Restricted Shares offered under this Plan.

6. Approvals

The issue of Restricted Shares is subject to the Company obtaining any necessary Shareholder or other approvals under any Applicable Law.

7. Plan limit

The maximum number of Restricted Shares that may be issued under the Plan is 5% of the total number of Shares on issue as at the date of adoption of the Plan by the Board, being 3,972,000 Restricted Shares.

8. Participation in the Plan

8.1 Eligibility

The Board may, in its absolute discretion, determine the criteria to apply for participation in the Plan.

8.2 Restriction on Participation

- (a) The Board may determine at any time that an Eligible Person may not participate in the Plan in relation to a particular income year or at all (as the case may be).
- (b) Without limiting rule 8.2(a), the Board must not make an Invitation to an Eligible Person to participate under the Plan unless:
 - (i) Chapter 6D of the Corporations Act does not apply to the Invitation;
 - (ii) the Invitation does not need disclosure to investors because of section 708 of the Corporations Act;
 - (iii) an exemption from Parts 6D.2 and 6D.3 of the Corporations Act applies to the Invitation and all conditions and requirements of that exemption are satisfied; or

- (iv) the Invitation complies with Parts 6D.2 and 6D.3 of the Corporations Act.

8.3 Board approval matters

Notwithstanding any other provision of these Rules, any decision in relation to the allocation, pricing, transfer (including Buy-Back), terms (including restrictions) or amendments to the Plan or any Loan must require the approval of the Board in accordance with the Constitution.

9. Invitation to subscribe for Restricted Shares

9.1 Invitation to subscribe for Restricted Shares

- (a) The Board may from time to time invite any Eligible Person to participate in the Plan. The Board has an absolute discretion in determining whether to make an Invitation to an Eligible Person, when to make an Invitation and the number of Restricted Shares for which an Eligible Person is entitled to subscribe.
- (b) No Invitation will be made or be capable of acceptance to the extent that any such offer would contravene the Constitution, the Listing Rules, the Corporations Act or any other Applicable Law.

9.2 Terms to include in Invitation

- (a) The Invitation will be in writing and must include the following to the extent applicable:
 - (i) the name and address of the Eligible Person;
 - (ii) the number of Restricted Shares for which the Eligible Person is invited to apply;
 - (iii) the Acquisition Price of each Restricted Share (if any);
 - (iv) the Expiry Date of each Restricted Share;
 - (v) the Vesting Conditions (if any);
 - (vi) the Performance Conditions that apply to each Restricted Share (if any);
 - (vii) the terms and conditions of the Loan offered in conjunction with the Restricted Shares;
 - (viii) the Forfeiture Conditions (if any);
 - (ix) any Disposal Restrictions applicable to Restricted Shares Converted Shares; and
 - (x) any other conditions that the Board thinks fit to apply to the Restricted Shares or Converted Shares.

9.3 Restricted Shares to be recorded

Restricted Shares will be recorded in the appropriate register of the Company.

9.4 Multiple Invitations

Unless otherwise determined by the Board in its discretion, the Board may grant any number of Restricted Shares to an Eligible Person as set out in any Invitation, notwithstanding that a grant or grants may have previously been made to that Eligible Person.

9.5 Restrictions

- (a) For as long as a Participant's Restricted Shares:
 - (i) remain subject to Performance Conditions that have not been satisfied or waived by the Board;
 - (ii) remain subject to any Vesting Conditions; and/or
 - (iii) remain subject to the discharge of an Amount Outstanding under a relevant Loan Agreement,those Restricted Shares and any Additional Securities will be restricted in accordance with Rule 9.5(b).
- (b) Unless the Board resolves otherwise, for as long as a Participant's Restricted Shares are restricted under Rule 9.5(a), the Participant's Restricted Shares are subject to Disposal Restrictions and the Participant will not Dispose of such Restricted Shares and any Additional Securities and any such Disposal will not be recognised in any manner by the Company.
- (c) The Company will not seek quotation for Restricted Shares on the ASX.
- (d) Once the Performance Conditions applying to a parcel of Restricted Shares have been satisfied in accordance with their terms or waived in accordance with Rule 9.5(g):
 - (i) the Company will issue a Conversion Notification to the Participant holding those Restricted Securities; and
 - (ii) that parcel of Restricted Shares will automatically convert into Shares (being "Converted Shares") at a ratio of one Share for each Restricted Share as at the date specified in the Conversion Notification as being the date of satisfaction of the applicable Performance Conditions.
- (e) Unless the Board resolves otherwise, a Participant's Converted Shares are subject to Disposal Restrictions and the Participant will not Dispose of such Converted Shares and any Additional Securities and any such Disposal will not be recognised in any manner by the Company.
- (f) The Company may, for as long as any Converted Shares are subject to Vesting Conditions:
 - (i) impose a holding lock on any such Converted Shares and any Additional Securities, and by accepting an Invitation, the Participant consents to the imposition of a holding lock. The Participant will, if the Company requests, confirm that consent to the ASX or any other person who needs the consent or do any other thing (including entering into a Restriction Deed) required by the Listing Rules to make it effective; and/or

- (ii) retain share certificates for such Converted Shares provided under these Rules (if any).
- (g) Subject to Rule 9.5(i), Performance Conditions, Vesting Conditions and Disposal Restrictions may be waived at the discretion of the Board (unless such waiver is excluded by the terms of the Restricted Shares).
- (h) Following Vesting, the Company will issue a Vesting Notification to the Participant and seek the release of any holding lock or retained share certificate to allow the Participant to be able to Dispose of their Converted Shares.
- (i) Any waiver of Performance Conditions, Vesting Conditions and Disposal Restrictions applying to Restricted Shares or Converted Shares granted to directors of the Company, or any person subject to Rule 10.11 of the Listing Rules in relation to the Company, must not be given by the Board without the prior approval of the holders of the ordinary securities in the Company in accordance with the requirements of the Listing Rules.

9.6 **Application to Participate**

- (a) If an Eligible Person wishes to Participate in the Plan, they must, on or before the closing date set out in the Invitation, return the Application attached to the Invitation, together with a duly executed Loan Agreement:
 - (i) to the person specified in the Invitation;
 - (ii) in accordance with any instructions or conditions set out in the Invitation; and
 - (iii) stating the number of Restricted Shares for which the Eligible Person is applying (which must not exceed the number specified in the Invitation).
- (b) Upon receiving the Application, the Board will determine the number of Restricted Shares to grant to the Eligible Person in accordance with the Invitation (which must not exceed but may be less than the number specified in the Invitation). Unless otherwise determined by the Board, the date on which this determination is made by the Board will be the **Grant Date** and will constitute the date on which the Application is accepted and becomes binding.
- (c) Upon the Board making the determination referred to in clause 9.6(b) to grant the Eligible Person Restricted Shares, the Company will grant the relevant Restricted Shares to the Participant and issue a Participation Certificate setting out:
 - (i) the name of the Participant;
 - (ii) the Grant Date; and
 - (iii) the terms or a reference to the terms set out in the applicable Invitation.

9.7 **Undertaking to be bound**

By applying for a Restricted Share, an Eligible Person (and if applicable his or her nominee) agrees, as the context permits, to be bound by these Rules and the Offer Documents.

10. Loan Arrangements

10.1 Company to provide Loan

- (a) The Company will provide a Loan for some or all of the Acquisition Price for Restricted Shares by making an Advance to a Participant on the terms set out in the Loan Agreement, these Rules and any other Offer Document.
- (b) An Eligible Person who accepts an Invitation in relation to Restricted Shares, must also accept the Loan offered under Rule 10.1(a).
- (c) The Company will not offer, provide or accept an application for a Loan under this Rule 10, if to do so would be in breach of the Corporations Act, Listing Rules or other Applicable Law, and the relevant Participant will have no right of recovery or damages against the Company for any failure or inability to provide an Advance.

10.2 Form of Application

- (a) The Loan Agreement for the Loan will:
 - (i) be in writing; and
 - (ii) state the terms and conditions of the Loan (which will be supplemental to and not inconsistent with the terms and conditions in this Rule 10).
- (b) Upon acceptance of the Loan, the Participant irrevocably authorises the Company to apply the Advance to the payment of the Acquisition Price for the applicable Restricted Shares on behalf of the Participant.

10.3 Conditions of Loan

- (a) Unless otherwise determined by the Board, the Advance will equal the total Acquisition Price for the subscription or purchase of all or part of the Restricted Shares which are the subject of the Invitation.
- (b) Unless otherwise determined by the Board, Loans will be interest free.
- (c) Unless otherwise determined by the Board, or the terms of the Invitation specify otherwise, the Amount Outstanding under a Loan Agreement must be repaid by the Participant on the first of the following events (each a **Repayment Event**) to occur, by the date or time specified in the sub-paragraph in which the relevant event appears below (**Repayment Date**):
 - (i) if the Participant is declared by the Board to be a Good Leaver, a date determined by the Board that is not later than 6 months after the Participant's Departure Date;
 - (ii) if the Participant is declared by the Board to be a Bad Leaver, on the Departure Date;
 - (iii) if the Board determines that a Change of Control Event will occur, or is likely to occur, on the date of that determination;
 - (iv) immediately, if the Participant becomes subject to an application that the Borrower be made bankrupt for the purposes of the *Bankruptcy Act 1966*;
 - (v) immediately, on termination of the Plan under Rule 30;

- (vi) immediately upon the Restricted Shares or the Converted Shares being surrendered or Bought-Back or, where the Participant's Restricted Shares or Converted Shares are subject to Performance Conditions or Vesting Conditions, on the date that the Board determines that the applicable Performance Conditions or Vesting Conditions have not or cannot be satisfied;
- (vii) immediately on any breach by the Participant of:
 - (A) the relevant Loan Agreement;
 - (B) these Rules in any material respect;
 - (C) the terms of any other Offer Document where the breach cannot be remedied;
- (viii) immediately upon the lapsing of 20 days after the Company gives notice to the Participant to remedy a breach of any Offer Document where the Participant has failed to do so in that time;
- (ix) immediately, on the expiry of 36 months from the "Drawdown Date" specified in the relevant Loan Agreement; or
- (x) on such date as the parties to the relevant Loan Agreement otherwise agree in writing.

10.4 **Repayment**

- (a) Subject to Rule 10.4(b), the Amount Outstanding must be repaid on the Repayment Date.
- (b) Subject to Applicable Law, the Board may in its discretion extend the period for repayment of the Amount Outstanding, or any portion of it, or otherwise vary the terms of the Loan for the benefit of the Participant.

10.5 **Amount repayable – Limited recourse by the Company**

- (a) Subject to Rule 10.5(b), in respect of the Participant's repayment obligation under the Loan, the Company will not have any recourse to any amounts beyond the Disposal Proceeds.
- (b) The Company may take action against the Participant personally to recover any shortfall in the amounts owing to it to the extent that the shortfall (whether directly or indirectly) arises as a result of the Participant's fraud, deceit or wilful default in connection with an Offer Document.
- (c) Where the then Market Value of the total Restricted Shares and the Converted Shares held by the Participant is less than the Amount Outstanding:
 - (i) if any Restricted Shares or Converted Shares and any Additional Securities are transferred or sold, all Disposal Proceeds will be paid to the Company and that payment will be treated as full consideration for the repayment of that Portion of the Amount Outstanding to which those Restricted Shares or Converted Shares (as the case may be) relate; and/or
 - (ii) if any Restricted Shares or Converted Shares and any Additional Securities are Bought-Back in accordance with these Rules, the then Market Value of those Restricted Shares and Converted Shares that are

Bought-Back will be treated as full consideration of the repayment of that Portion of the Amount Outstanding to which those Restricted Shares or Converted Shares (as the case may be) relate.

10.6 Application of Proceeds of transfer, sale or Buy-Back

- (a) On the occurrence of a Disposal Event, the Participant irrevocably and unconditionally directs the Company to, at the Company's sole discretion, receive and apply as the Participant's agent and attorney, the Disposal Proceeds towards the satisfaction of the Participant's obligation to pay the Amount Outstanding with any remaining balance to be paid in accordance with the Rule 10.6(c) to the Participant.
- (b) The Company may as the Participant's agent, sell sufficient Restricted Shares and/or Converted Shares to satisfy the Participant's obligation to pay the Amount Outstanding and any other amounts due under these Rules with any remaining balance to be paid to the Participant in accordance with Rule 10.6(c).
- (c) At the discretion of the Board, where Restricted Shares or Converted Shares are transferred, sold or Bought-Back by the Company in accordance with Rule 9.5(h), Rule 15(a) or Rule 17 and the Disposal Proceeds of the transfer, sale or Buy-Back of the Restricted Shares or Converted Shares (as the case may be) are to be applied in repaying the Amount Outstanding, the Disposal Proceeds will be applied in the following order within 90 days of the transfer, sale or Buy-Back (as the case may be):
 - (i) the expenses of the Company in arranging the sale or Buy-Back of Restricted Shares and Converted Shares under these Rules;
 - (ii) the repayment or reduction of the Amount Outstanding; and
 - (iii) subject to Rule 10.5, by paying the balance (if any) to the Participant, except where the Participant ceases employment with any Group Member and is declared by the Board to be a Bad Leaver.

10.7 Dividends and Capital Distribution

- (a) Unless the Board determines that the entire amount of any dividends payable in respect of a Participant's Converted Shares will be paid directly to the Participant, the Company will apply and each Participant irrevocably directs the Company to, on each dividend payment date, either:
 - (i) apply the entire amount of any dividends payable and/or any capital distribution payable in respect of the Participant's Converted Shares towards repayment of the Amount Outstanding; or
 - (ii) apply the After Tax Dividend Amount and/or capital distribution in respect of the Participant's Converted Shares towards repayment of the Amount Outstanding.
- (b) The Company will pay the balance of any dividends after application to the Amount Outstanding under this Rule 10.7 to the Participant.

11. Security

11.1 Security

The Company will have a lien over any Restricted Shares and Converted Shares the acquisition of which is ultimately funded using the proceeds of the Advance until the Amount Outstanding has been repaid.

11.2 Bonus or entitlement issues

If any Shares or other Securities are issued in respect of any Restricted Shares or Converted Shares as part of a bonus or entitlement issue, then those Additional Securities will also be subject to the lien in this Rule 11 as if they were Restricted Shares or Converted Shares, as the case may be (unless the Board determines otherwise).

12. Good Leaver

Where a Participant becomes a Good Leaver:

- (a) unless the Board decides otherwise, the Participant will be entitled to continue to hold all Vested Converted Shares; and
- (b) the Board may determine, the manner which the Unvested Restricted Shares and Unvested Converted Shares will be dealt with, including but not limited to:
 - (i) allowing some of the Unvested Restricted Shares or Unvested Converted Shares to continue to be held by the Participant and be subject to any Performance Conditions and/or Vesting Conditions, as the case may be;
 - (ii) undertaking a Buy-Back of some or all of the Unvested Restricted Shares or Unvested Converted Shares in accordance with Rule 17; or
 - (iii) requiring that any remaining Unvested Restricted Shares or Unvested Converted Shares be automatically surrendered by the Participant in accordance with Rule 15.

13. Bad Leaver

Where a Participant becomes a Bad Leaver, unless the Board determines otherwise:

- (a) the Participant will be entitled to hold all Vested Converted Shares; and
- (b) all Unvested Restricted Shares and Unvested Converted Shares held by the Participant will be automatically surrendered in accordance with Rule 15.

14. Forfeiture

- (a) The Board may determine if any Forfeiture Conditions apply in respect of Restricted Shares and Converted Shares.
- (b) If any of the Forfeiture Conditions set out in the Invitation is met, unless otherwise determined by the Board, all Unvested Restricted Shares, Unvested Converted Shares and Vested Converted Shares held by the Participant will be automatically surrendered by the Participant in accordance with Rule 15.
- (c) In addition to the Forfeiture Conditions (if any), where in the reasonable opinion of the Board, a Participant:

- (i) acts fraudulently or dishonestly; or
- (ii) wilfully breaches his or her duties to the Company,

then the Board may deem that all Restricted Shares and Converted Shares held by the Participant will be treated in accordance with Rule 14(b).

15. Surrender of Restricted Shares and Converted Shares

- (a) Where Restricted Shares and Converted Shares are surrendered by a Participant as a result of a Forfeiture Condition being met or otherwise pursuant to the Rules, the Participant consents to the Company treating them as forfeited Restricted Shares or Converted Shares in accordance with the forfeiture provisions in the Constitution, and any such forfeited Restricted Shares or Converted Shares may be sold to a third party.
- (b) The Company will arrange for the Participant's agent or attorney to sign any document required to deal with those Restricted Shares or Converted Shares; and
- (c) The Company will not be liable for any damages, compensation or other amounts to the Participant (including payment of any sales proceeds to the Participant) in respect of these Restricted Shares or Converted Shares.

16. Expiry of Restricted Shares and Converted Shares

- (a) Unless otherwise determined by the Board and subject to the Listing Rules, a Restricted Share or Converted Share will "**Expire**" as at the end of its Expiry Date, if it has not Vested on or before its Expiry Date.
- (b) Immediately upon Expiry of any Converted Shares, all rights (such as voting and dividend rights) in respect of such Converted Shares will be suspended.

17. Share buy-back

17.1 Buy-Back

Subject to Applicable Law, the Company:

- (a) may at any time prior to the earlier of the Vesting or Expiry of a parcel of Restricted Shares or Converted Shares, Buy-Back those Restricted Shares or Converted Shares; and
- (b) must upon Expiry of a parcel of Restricted Shares or Converted Shares, Buy-Back those Restricted Shares or Converted Shares,

in each case, in accordance with the remainder of this Rule 17.

17.2 Buy Back Procedure

Unless otherwise stated in these Rules, the Board may cause the Company to Buy-Back a parcel of Restricted Shares or Converted Shares:

- (a) unless Rule 17.2(b) or 17.2(c) applies, for any amount agreed with the Participant at any time;
- (b) where there is a formal takeover offer made for at least 50% of the Shares, at the price or prices offered by the bidder under the takeover offer and/or as considered appropriate by the Board in its reasonable opinion in light of the offer; or

- (c) where the relevant Restricted Shares or Converted Shares have Expired, a total consideration of \$10.00.

17.3 Buy Back period

- (a) The Buy-Back of Restricted Shares or Converted Shares under Rule 17.1(a) may occur in one or more tranches within such time as determined by the Board.
- (b) The Buy-Back of Restricted Shares or Converted Shares under Rule 17.1(b) must occur in a single tranche within a reasonable time after their Expiry as determined by the Board.

17.4 Buy Back Mechanism

- (a) A Buy-Back of Restricted Shares or Converted Shares under Rule 17.2 will be implemented by the Company and the Shareholders as a selective share buy-back in accordance with Division 2 of Part 2J.1 of the Corporations Act.
- (b) Pending the buy-back under this Rule 17 of any Converted Shares, all rights (such as voting and dividend rights) in respect of such Converted Shares will be suspended.

18. Change of Control Event

18.1 What happens if there is a Change of Control Event?

Unless the Board determines otherwise, where there is a Change of Control Event instigated by a person or entity that did not Control the Company at the time a Participant's Restricted Shares were issued:

- (a) that Participant's Restricted Shares and Converted Shares will Vest where the Board determines in its sole and absolute discretion that all of the Vesting Conditions and Performance Conditions applicable to those Restricted Shares or Converted Shares have been satisfied and the Amount Outstanding has been repaid in full, but that Vesting will only occur on a pro rata basis based on the period that has elapsed from the Grant Date to the date of the Change of Control Event when compared to the period from the Grant Date to the Expiry Date of the relevant Restricted Shares and Converted Shares; and
- (b) any of that Participant's Restricted Shares and Converted Shares which the Board determines will not Vest under Rule 18.1(a) will be automatically surrendered by the Participant in accordance with Rule 15.

18.2 Notice by the Company

If the Company elects to Buy-Back or transfer the Participant's Restricted Shares or Converted Shares under Rule 18.1, the Company must notify the Participant of the details of the Buy-Back or transfer of the Restricted Shares or Converted Shares to be completed as a result of that election.

18.3 Appointed Agent

- (a) In connection with a Change of Control Event or a proposed Change of Control Event, the Participant irrevocably appoints the Company as its agent to, at any time, deal with the Restricted Shares or Converted Shares in accordance with Rule 18.1, subject to these Rules.

- (b) Without limiting Rule 18.3(a), the Company may receive and/or hold the Change of Control Event consideration on behalf of the Participant and cause the buyer to be registered as the holder of the relevant Restricted Shares or Converted Shares. After the buyer's name has been registered as the transferee of the Restricted Shares or Converted Shares in accordance with this Rule, the validity of this transfer and any associated documentation may not be questioned by the Participant or any other person.

18.4 Obligations of Participant

The Participant must promptly do all things required by the Company to give effect to any disposal of Restricted Shares or Converted Shares under this Rule 18.

18.5 No warranties to be given

Each Participant and Eligible Person will not be obliged to give any representation, warranty, indemnity or other protective covenant to the buyer under a Change of Control Event not given by the holders of Shares.

19. Reorganisation Event and Flip-Up

- (a) Subject to this Rule 19, the Plan continues to apply in full force and effect despite any Reorganisation Event.
- (b) Subject to Rule 19(c), if any Reorganisation Event occurs, the Company will procure that the terms of the Plan and the number of Restricted Shares or Converted Shares issued to any Participant are varied as determined by the Board to the extent necessary to comply with the Listing Rules applying to a reorganisation of capital at the time of the relevant Reorganisation Event.
- (c) The Company may not return capital to holders of Restricted Securities.
- (d) Each Participant and Eligible Person agrees to any such variations to the Plan.
- (e) The Board and a Group Member may at any time implement a Flip-Up, provided that:
 - (i) the Flip-Up and the employee share plan proposed by the Group Member to supersede the Plan (**New Employee Share Plan**) do not materially prejudice any right held by any Participant, or create or make more onerous any obligation of any Participant, under this Plan; and
 - (ii) the Flip-Up and the New Employee Share Plan are not contrary to the interests of the Participants as a whole.
- (f) Each Participant and Eligible Person agrees to any such Flip-Up and is bound by the New Employee Share Plan.

20. Trust

In addition to or as an alternative to holding shares in a holding lock, the Board may determine that the Converted Shares to be issued to a Participant in accordance with Rule 9.5(d) should be held in the name of a trustee on trust for the benefit of Participants. If the Board so determines:

- (a) it may appoint, remove and replace the trustee;

- (b) it may determine the terms and conditions of the trust, which may be on any terms and conditions that are not inconsistent with these Rules; and
- (c) rather than Converted Shares being issued to a Participant in accordance with Rule 9.5(d), the Board may:
 - (i) procure that the trustee of the trust allocates the Converted Shares to the Participant, and holds the Converted Shares for the benefit of the Participant on the terms and conditions of the trust, until the Converted Shares are delivered to the Participant; and
 - (ii) procure the delivery of the Converted Shares to the Participant at the Board's discretion.

21. Listing Rules

- (a) The Company will apply to ASX for official quotation of any Converted Shares acquired under the Plan in accordance with the requirements of the Listing Rules. The Company may use a holding lock (or any other mechanism that it deems appropriate), to enforce the terms and conditions of the Converted Shares.
- (b) The provisions of the Listing Rules apply to the Plan and to the extent that any of the Offer Documents are inconsistent, the Listing Rules apply.

22. Rights attaching to Restricted Shares and Converted Shares

22.1 Rights attaching to a Restricted Share

A Restricted Share:

- (a) has the same rights as those attaching to Shares except that until its conversion in accordance with these Rules, it does not confer any:
 - (i) right to vote, except as otherwise required by law;
 - (ii) entitlement to a dividend, whether fixed or at the discretion of the Board;
 - (iii) right to a return of capital, whether in a winding up, upon a reduction of capital or otherwise;
 - (iv) right to participate in the surplus profit or assets of the entity upon a winding up; and
 - (v) right to participate in new issues of securities such as bonus issues or entitlement issues; and
- (b) automatically converts into a Converted Share in accordance with Rule 9.5(d) upon the Performance Conditions applying to it having been satisfied in accordance with their terms or waived in accordance with Rule 9.5(g).

22.2 Shares to rank equally

Subject to Rule 22.3(b), any Converted Shares allotted or issued by the Company to a Participant under the Plan will rank equally with all existing Shares on and from the date of allotment or issue, including in respect of all rights and bonus issues.

22.3 Dividends

- (a) Subject to Rule 22.3(b), a Participant will be entitled to any dividends declared and distributed by the Company on any Converted Shares which at the record date are standing to the account of the Participant.
- (b) Where the Participant's Converted Shares are Restricted Securities and the Participant is in breach of a Restriction Deed or a provision of the Constitution restricting a Disposal of those Converted Shares, the Participant will not be entitled to any dividend or distribution, or to exercise any voting rights in respect of those Converted Shares for as long as the breach continues.

23. Administration of the Plan

- (a) The Plan will be administered by the Board in accordance with each Applicable Law and these Rules. Where there is a conflict between these Rules and any Applicable Law, the Plan must be administered in accordance with the Applicable Law, to the extent of the inconsistency.
- (b) The Board may make rules, clauses and regulations for the operation of the Plan which are consistent with these Rules.
- (c) Subject to Rule 9.5(i), any power or discretion which is conferred on the Board by these Rules may be exercised by the Board in its absolute discretion and in the interests or for the benefit of the Company, and the Board is not, in exercising any such power or discretion, under any fiduciary or other obligation to any other person. The Board may exercise its powers and discretions under these Rules for the benefit of a particular Participant or group of Participants to the exclusion of other Participants or groups of Participants.
- (d) Any power or discretion which is conferred on the Board by these Rules may be delegated by the Board for such period and upon such conditions as the Board may determine to:
 - (i) a committee consisting of such Directors as the Board determines; or
 - (ii) any one or more persons selected by the Board.
- (e) Every exercise of discretion by the Board (or its delegate) and every decision of the Board as to the interpretation, effect or application of these Rules is final, conclusive, and binding.

24. No Employment Contract

24.1 Employee share plan does not impact on employment relationship

- (a) The Plan does not form any part of any contract of employment, consultancy or directorship between a Group Member and an Eligible Person. Restricted Shares or Converted Shares granted under the Plan are not granted in lieu of or in substitution for salary or wages, or as compensation for reduced salary or wages.
- (b) Nothing in the Plan:
 - (i) confers on an Eligible Person any right to continue as an employee, contractor or director of a Group Member;

- (ii) affects the rights which a Group Member or any other person may have to terminate the employment, consultancy or office of an Eligible Person; or
- (iii) may be used to increase any compensation or damages in any action brought against a Group Member or any other person in connection with the termination of employment or consultancy or removal from office of an Eligible Person.

25. Amendment of these Rules

25.1 Amendments

- (a) Subject to Rule 25.2, the Company may at any time, by written instrument or by resolution of the Board, amend all or any of the provisions of these Rules.
- (b) The Board may determine that any amendment to these Rules or the terms of Restricted Shares or Converted Shares issued to a Participant under the Plan be given retrospective effect.
- (c) Amendment of these Rules or the terms and conditions upon which Restricted Shares or Converted Shares are issued to a Participant under the Plan, determined by the Board will be of immediate effect unless otherwise determined by the Board.
- (d) As soon as reasonably practicable after making any amendment to these Rules or the terms and conditions of Restricted Shares or Converted Shares issued to a Participant under the Plan, the Board will give notice of the amendment to any Participant affected by the amendment. Failure by the Board to notify a Participant of any amendment will not invalidate the amendment as it applies to that Participant.

25.2 No reduction of rights

No amendment of the provisions of these Rules is to reduce the rights of any Participant in respect of Restricted Shares or Converted Shares acquired under the Plan prior to the date of the amendment, other than:

- (a) an amendment introduced primarily:
 - (i) for the purpose of complying with or conforming to present or future State, Territory or Commonwealth legislation governing or regulating the maintenance or operation of the Plan or like plans;
 - (ii) to correct any manifest error or mistake; or
 - (iii) to enable the Company to comply with Applicable Law, any other Australian laws, applicable foreign laws, or a requirement, policy or practice of ASIC or other foreign or Australian regulatory body,
- (b) an amendment agreed in writing by a Participant.

26. Expenses

Unless otherwise determined by the Board at its absolute discretion, the Company is not responsible for any duties, taxes, brokerage or incidental expenses which may become payable in connection with the issue of Restricted Shares or Converted Shares or any other dealing with the Restricted Shares or Converted Shares in accordance with the Plan.

27. Attorney and Agent

27.1 Appointment of Attorney

Each Participant (**Appointor**) hereby authorises and irrevocably appoints each of the Directors (**Attorneys**) severally as their agent and attorney with power to do all things necessary, expedient or desirable in the name of and on behalf of the Appointor to give effect to the Rules, including and without limitation:

- (a) signing and delivering share transfer forms;
- (b) signing and delivering all documents and doing all acts necessary, expedient or desirable to effect and complete the transactions contemplated by the Rules and all documents that are contemplated by or reasonably ancillary or incidental to any such document, including a sale or Buy-Back of Restricted Shares or Converted Shares in accordance with Rules 15, 17 and 30(b);
- (c) exercising any rights attaching to the Restricted Shares or Converted Shares, including voting rights, rights to appoint a proxy or representative, rights to attend and speak at a meeting of members of the Company and agreeing to such meetings being called on short notice;
- (d) observing and complying with these Rules, including complying with a Buy-Back notice;
- (e) implementing a Flip-Up and entering into a New Employee Share Plan;
- (f) accounting for the proceeds of the sale of Restricted Shares dealt with under Rules 15, 17 and 30(b); and
- (g) giving directions to the Company under these Rules.

27.2 Further acts

The Appointor declares that all acts and things done by each Attorney in exercising rights and powers under this Rule 27 will be as good and valid as if they had been done by the Appointor and agrees to:

- (a) ratify and confirm whatever the Attorney does, or causes to be done, in lawfully exercising their rights and powers under this Rule 27;
- (b) indemnify each Attorney against all claims, demands, costs, charges, expenses, outgoing, losses and liabilities arising in any way in connection with the lawful exercise of their rights and powers under this Rule 27; and
- (c) deliver to the Attorneys on demand any power of attorney, instrument of transfer or other instruments as an Attorney may require for the purposes of this Rule 27.

27.3 Irrevocable

The Appointor declares that the rights and powers granted to the Attorneys under this Rule 27 are given for valuable consideration and are irrevocable.

28. ASIC Relief

Notwithstanding any other provisions of the Plan, every covenant or other provision set out in an exemption or modification granted from time to time by ASIC in respect of the Plan or which applies to the Plan pursuant to ASIC's power to exempt and modify the Corporations

Act, and that is required to be included in the Plan in order for that exemption or modification to have full effect, is deemed to be contained in the Plan. To the extent that any covenant or other provision deemed by this Rule to be contained in the Plan is inconsistent with any other provision in the Plan, the deemed covenant or other provision will prevail.

29. Notices

Any notice to Participants may be given in such manner as the Board determines.

30. Termination, Suspension or Reinstatement of the Plan

- (a) The Board may resolve at any time to terminate, suspend or reinstate the operation of the Plan.
- (b) If the Plan is suspended or terminated, the Company will Buy-Back the Restricted Shares and Converted Shares then held by Participants, unless the Company is not in a position to Buy-Back the Restricted Shares or Converted Shares, in which case the Board will decide how Restricted Shares or Converted Shares then held by or on behalf of Participants under the Plan are to be dealt with.

31. Governing Law and Jurisdiction

These Rules and the Plan are governed by and will be construed and take effect in accordance with the laws of New South Wales.

32. Order of precedence

To the extent of any inconsistency between the terms and conditions of the Rules, the Loan Agreement, the Invitation and the Application Form, the inconsistency is to be resolved by preferring the terms and conditions of each document in the following order:

- (a) the Rules;
- (b) the Loan Agreement;
- (c) the Invitation; and
- (d) the Application Form.

33. Contravention of Laws

No act may be done or determination made in accordance with these Rules where to do so would be a breach of any Applicable Laws or the Constitution and where any such act is done or determination made it will be considered void and, to the extent possible, be unwound.