

# Mayfield Childcare Limited

ACN 604 970 390

Employee Share and Option Plan Rules

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# Mayfield Childcare Limited – Employee Share and Option Plan Rules

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# Employee Share and Option Plan Rules

## 1. Introduction

### 1.1 Name of Plan

The Plan is called the Mayfield Childcare Limited Employee Share and Option Plan.

### 1.2 Objects of Plan

The objects of the Plan are to:

- (a) provide Eligible Employees with an additional incentive to work to improve the performance of the Company;
- (b) attract and retain Eligible Employees essential for the continued growth and development of the Company;
- (c) promote and foster loyalty and support amongst Eligible Employees for the benefit of the Company;
- (d) enhance the relationship between the Company and Eligible Employees for the long term mutual benefit of all parties; and
- (e) provide Eligible Employees with the opportunity to acquire Shares, Options or Rights in the Company, in accordance with these Rules.

### 1.3 Commencement of Plan

The Plan commences on the date determined by the Plan Committee.

## 2. Defined terms and interpretation

### 2.1 Defined terms

In these Rules, unless the context otherwise requires:

**Accelerated Vesting Event** means:

- (a) the occurrence of a Special Circumstance in respect of a Participant; or
- (b) the Plan Committee determines under Rule 8.7 or Rule 17.4 that a Corporate Control Event constitutes an Accelerated Vesting Event.

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

- (a) the Corporations Act;
- (b) Corporations Regulations;
- (c) any other applicable securities or financial services laws;
- (d) any legislative instrument, class order, declaration, exemption or modification made by ASIC pursuant to any of the abovementioned statutes, regulations or laws, or any waiver from the Listing Rules granted by ASX, on which the Company seeks to rely or that binds the Company in making any Offer or otherwise in connection with the operation of the Plan;
- (e) the Listing Rules;
- (f) any other legislation regulating or applying to the activities of the Company; and
- (g) the Constitution.

**Application** means a duly completed application for the issue of Shares, Options or Rights made by an Eligible Employee in respect of an Offer (and to the extent applicable, in relation to any Loan Arrangement), in the form approved by the Plan Committee from time to time (which may be in electronic form and accessed via a website managed by the Company or its share registry).

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

**ASIC Class Orders** means ASIC Class Orders [CO 03/184] and [CO 14/1000].

**ASX** means ASX Limited ACN 008 624 691 or the financial market it operates as the context requires.

**Board** means all or some of the directors of the Company acting as a board or its delegate under section 198D of the Corporations Act.

**Business Day** means a day on which banks are open for general banking business in Melbourne, Victoria, excluding Saturdays or Sundays.

**Business Hours** means from 9.00am to 5.00pm on a Business Day.

**Buy-Back** means the buy-back by the Company of Rights, Options or Shares, pursuant to Rule 9.

**Capital Reconstruction** means any of the following events:

- (a) the Company issues Shares by way of capitalisation of profits or reserves;
- (b) the Company gives shareholders the right (pro-rata with existing shareholding and on terms including the payment of some consideration by the shareholders on exercising the right) to subscribe for additional Shares;
- (c) the Company subdivides or consolidates the Shares;
- (d) the Company returns issued share capital to holders of Shares;
- (e) the Company issues or cancels Shares on a pro-rata basis; or
- (f) the Company reorganises its issued capital in any other manner that is not referred to above (other than in lieu of dividends or by way of a dividend reinvestment).

**Certificate** means a certificate issued under Rule 14.3 in the form approved by the Plan Committee from time to time (either in hard copy form or electronic form) or if the Plan Committee determines that Options or Rights are uncertificated, then a statement (either in hard copy form or in the form of an electronic communication such as an email issued by the Company or its share registry) to the Participant disclosing the information in Rule 14.3.

**Company** means Mayfield Childcare Limited ACN 604 970 390.

**Constitution** means the constitution of the Company.

**Corporate Control Event** means the occurrence of one or more of the following events:

- (a) an offer is made for Shares (or shares in a Subsidiary) pursuant to a takeover bid under Chapter 6 of the Corporations Act;
- (b) a court orders a meeting of members (or a class of members) or creditors (or a class of creditors) under Part 5.1 of the Corporations Act for the purpose of considering a proposed compromise or arrangement relating to the Company (or a Subsidiary) or a compromise or arrangement proposed for the purposes of or in connection with a scheme for the reconstruction of the Company (or a Subsidiary) or its amalgamation with any other company or companies;
- (c) approval has been given by a resolution duly passed at a general meeting or by circular resolution of members of the Company (or a Subsidiary) for an acquisition that would result in a person having voting power in the Company (or a Subsidiary) of more than 50%; or
- (d) any other merger, consolidation or amalgamation involving the Company (or a Subsidiary) occurs or is proposed where either or both of the following applies:
  - (i) the merger, consolidation or arrangement results in the holders of Shares (or shares in a Subsidiary) immediately prior to the merger, consolidation or amalgamation having relevant interests, in aggregate, in 50% or less of the voting shares in the body corporate resulting from the merger, consolidation or amalgamation; or

- (ii) the Plan Committee determines that the relevant circumstances constitute a Corporate Control Event for the purposes of the Rules.

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

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

**Date of Grant** means, with respect to a Share, Option or Right, the date on which the Plan Committee grants or issues the Share, Option or Right, as the case requires, to an Eligible Employee.

**Deal or Dealing** means sale, transfer, assignment, mortgage, pledge, grant a lien over or otherwise alienate or encumber or attempted sale, transfer, assignment, mortgage, pledge, grant a lien over or other alienation or encumbrance or creation in favour of any third party any interest whatsoever.

**Director** means a director of the Company (including a non-executive director).

**Eligible Employee** means an Employee whom the Plan Committee determines is to be issued Shares, Options or Rights under the Plan.

**Employee** means:

- (a) a full-time or part-time employee of a body corporate in the Group (including any employee on parental leave, long service leave or other special leave as approved by the Plan Committee);
- (b) an individual who provides services to a body corporate in the Group whom the Plan Committee determines to be an Employee for the purposes of the Plan;
- (c) a director of a body corporate in the Group who holds a salaried employment or office in a body corporate in the Group; or
- (d) an executive Director.

**Exercise Conditions** means the performance, vesting or other conditions (if any) determined by the Plan Committee and specified in a Certificate or Offer which are, subject to these Rules, required to be satisfied, reached or met before an Option or Right can, during the Exercise Period, be exercised or which might result in forfeiture of an Option or Right.

**Exercise Period** means the period commencing on the First Exercise Date and ending on the Last Exercise Date.

**Exercise Price** means the amount (if any) payable by the holder of an Option or Right on the exercise of the Option or Right, being the amount (or manner of determining the amount) fixed at the time of the issue of the Option or Right and as determined under Rule 5.5.

**Final Acceptance Date** has the meaning given to this term in Rule 5.3(a)(iii).

**First Exercise Date** with respect to an Option or Right means the date specified in an Offer (or determined under Rule 17.5(a)).

**Forfeited Shares, Options or Rights** means Shares, Options or Rights the ownership of which has been or is required to be (as the case may be) forfeited under the Rules.

**Grant Conditions** means the conditions (if any) determined by the Plan Committee and specified in (or attached to) an Offer which are, subject to these Rules, required to be satisfied, reached or met before a Share will be issued or an Option or Right will be granted.

**Group** means the Company and its Subsidiaries from time to time.

**Holding Lock** means a mechanism arranged or approved by the Plan Committee and administered by the Company (including through its share registry) that prevents Shares being transferred by a Participant.

**Holding Statement** means a statement or electronic communication (including an email issued by the Company or its share registry) issued by the share registry of the Company detailing a Participant's holding of Shares.

**Issue Price** means the amount (if any) payable per Share, Option or Right by an Eligible Employee on application for Shares, Options or Rights offered under an Offer.

**Last Exercise Date** with respect to an Option or Right means, unless otherwise specified in a Certificate or Offer in respect of that Option or Right:

- (a) the date five years after the First Exercise Date; or
- (b) if a Special Circumstance arises in respect of a Participant during the period starting on the First Exercise Date and ending on the date five years after the First Exercise Date, then the date 12 months (or longer period as may be determined by the Plan Committee) after the Special Circumstance arises.

**Legal Personal Representative** means the executor of the will or an administrator of the estate of a deceased person, the trustee of the estate of a person under a legal disability or a person who holds an enduring power of attorney granted by another person.

**Listing Rules** means the listing rules of ASX or of another financial market.

**Loan Arrangement** means a loan facility between the Company (as lender) and the Participant and/or Eligible Employee (as borrower), on such terms and in such form as approved or required by the Plan Committee.

**Market Value** means the value of an Option or Right as determined by a valuation methodology approved by the Board.

**Notice of Exercise** means a duly completed notice of exercise of an Option or Right by a Participant, in the form approved by the Plan Committee from time to time (which may be in electronic form and accessed via a website managed by the Company or its share registry).

**Offer** means an invitation to an Eligible Employee to apply for the issue of Shares, Options or Rights pursuant to the Plan.

**Option** means an option issued to a Participant under the Plan to acquire, by way of issue or transfer, a Share.

**Participant** means a person who holds Shares, Options or Rights issued under the Plan and includes, if a Participant dies or becomes subject to a legal disability, the Legal Personal Representative of the Participant.

**Plan** means the Mayfield Childcare Limited Employee Share and Option Plan governed by these Rules.

**Plan Committee** means the committee which has been delegated power by the Board to administer the Plan or if there has been no delegation, the Board.

**Redundancy** means the termination or cessation of a Participant's employment or office with a body corporate in the Group as a result of redundancy, as determined by the Plan Committee.

**Restriction Period** means the period (if any) determined by the Plan Committee and specified in an Offer as the period during which Shares acquired (either directly or upon the exercise of an Option) will be Restricted Shares and held in the Plan and subject to the restrictions on disposal under Rule 19.1.

**Restricted Shares** has the meaning given to this term in Rule 19.1.

**Right** means a right issued to a Participant under the Plan to acquire by way of issue or transfer:

- (a) a Share; or
- (b) an option to acquire by way of issue or transfer a Share.

**Rules** means the rules governing the operation of the Plan set out in this document as amended from time to time.

**Security Interest** means a mortgage, charge, pledge, lien, encumbrance or other third party interest of any nature (including the registration and/or perfection of that security interest under the *Personal Property Securities Act 2009 (Cth)*).

**Shares** means fully paid ordinary shares in the capital of the Company.

**Special Circumstances** means with respect to a Participant:

- (a) Total and Permanent Disablement;
- (b) Redundancy;
- (c) the death of the Participant;
- (d) retirement at 65 years of age or older; or



- (e) any other circumstances as the Plan Committee may at any time determine (whether in relation to the Participant, a class of Participants, particular circumstances or a class of circumstances) and whether before or after the Date of Grant.

**Subsidiary** means:

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

**Tax** includes any tax, levy, impost, GST, deduction, charge, rate, contribution, duty or withholding which is assessed (or deemed to be assessed), levied, imposed or made by any government or any governmental, semi-governmental or judicial entity or authority together with any interest, penalty, fine, charge, fee or other amount assessed (or deemed to be assessed), levied, imposed or made on or in respect of any or all of the foregoing.

**Total and Permanent Disablement** means the termination or cessation of a Participant's employment with the Company or a Subsidiary as a result of total and permanent disablement, as determined by the Plan Committee.

**Vesting Conditions** means, in relation to a Share, the conditions (if any) included in the terms of the Offer under which the Share was offered, limiting the rights of the Participant holding the Share to Deal in the Share or which might result in forfeiture of the Share.

**Vesting Notice** means a notice (either in hard copy form or in the form of an electronic communication such as an email issued by the Company or its share registry) to a holder of a Share, Option or Right that, to the extent specified in the vesting notice, the Vesting Conditions or Exercise Conditions, as applicable, to the Share, Option or Right have been satisfied, or waived by the Plan Committee.

## 2.2 Interpretation

In these Rules, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of these Rules;
- (b) reference to any legislation or a provision of any legislation includes a modification or re-enactment of the legislation or a legislative provision substituted for, and all legislation and statutory instruments and regulations issued under, the legislation;
- (c) words denoting the singular include the plural and vice versa;
- (d) words denoting a gender include the other genders;
- (e) reference to any document or agreement includes reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (f) where any word or phrase is given a defined meaning in these Rules, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (g) reference to a rule or paragraph is a reference to a rule or paragraph of these Rules, or the corresponding Rule or Rules of the Plan as amended from time to time; and
- (h) where an act or thing must be done on a particular day or within a particular period, that act or thing must be done before, and that period ends at, 5.00pm Melbourne, Australia time on the relevant day.

## 2.3 Primary instruments

These Rules are to be interpreted subject to the Applicable Laws.

### 3. Principal conditions

#### 3.1 Shares, Options or Rights issued only to Employees

No Shares, Options or Rights may be issued to a person under the Plan unless the person remains an Employee as at the Date of Grant, or the Plan Committee determines otherwise.

#### 3.2 Compliance with laws

No Share, Option or Right may be issued to, or exercised by, an Eligible Employee or Participant if to do so would contravene an Applicable Law.

#### 3.3 Plan limit

Unless the Board determines otherwise, the Company must not issue Shares on acceptance of an Offer or on exercise of Options or Rights if the total number of Shares that would be issued under the acceptance or the exercise, when aggregated with the number of Shares which could be issued under each outstanding offer or grant with respect to:

(a) Shares; or

(b) Options or Rights to acquire unissued Shares,

made during the previous 3 years under the Plan or any other employee, executive or management share scheme of the Company or an associated body corporate, where the offers or grants did not need disclosure to investors under Part 6D.2 of the Corporations Act by reason of:

(c) the ASIC Class Orders; or

(d) an individual instrument made by ASIC in terms similar to the ASIC Class Orders, would exceed 5% of the total number of issued Shares at that time.

### 4. Operation of the Plan

The Plan operates according to these Rules which bind the Company, any Subsidiary and each Participant.

### 5. Offers

#### 5.1 Plan Committee may make Offer

Subject to these Rules, the Plan Committee may from time to time make an Offer to an Eligible Employee.

#### 5.2 Form of Offer

An Offer must be in writing and subject to Rule 5.3, the form of the Offer and the form of the Application accepting the invitation constituted by the Offer must be as approved by the Plan Committee from time to time.

#### 5.3 Information contained in Offer

(a) Subject to Rule 5.3(b), an Offer must state:

(i) the name and address of the Eligible Employee to whom the Offer is made;

(ii) the date of the Offer;

(iii) the final date that a Participant may accept the invitation constituted by the Offer (**Final Acceptance Date**);

(iv) the maximum number of Shares, Options or Rights for which the Eligible Employee may make an Application;

- (v) the Grant Conditions (if any) attaching to the Shares, Options or Rights the subject of the Offer;
  - (vi) in respect of an Offer of Shares:
    - (A) the Vesting Conditions (if any) attaching to the Shares the subject of the Offer; and
    - (B) the Issue Price (if any) or the manner of determining the Issue Price (if any) of the Shares the subject of the Offer;
  - (vii) in respect of an Offer of Options or Rights:
    - (A) the Issue Price (if any) or the manner of determining the Issue Price (if any) of the Options or Rights the subject of the Offer;
    - (B) the First Exercise Date of the Options or Rights the subject of the Offer;
    - (C) the Last Exercise Date of the Options or Rights the subject of the Offer;
    - (D) the Exercise Price (if any) or the manner of determining the Exercise Price (if any) of the Options or Rights the subject of the Offer;
    - (E) the Exercise Conditions (if any) attaching to the Options or Rights the subject of the Offer; and
    - (F) the Vesting Conditions (if any) attaching to the Shares issued upon exercise of the Options or Rights; and
  - (viii) any other specific terms and conditions applicable to the Offer, including, to the extent applicable, any Loan Arrangements which apply in relation to, or as a condition of, the Offer.
- (b) Any failure to comply with Rule 5.3(a) will not invalidate an Offer.

#### **5.4 Number of Shares, Options or Rights**

Subject to Rule 3, the number of Shares, Options or Rights the subject of an Offer to an Eligible Employee is as determined by the Plan Committee.

#### **5.5 Loan Arrangements**

Subject to Rule 3, the Loan Arrangements, if any, will be as determined by the Plan Committee.

#### **5.6 Issue Price and Exercise Price**

The Issue Price (if any) and the Exercise Price (if any) in respect of an Option or Right (subject to any adjustment under Rule 18) is as determined by the Plan Committee.

#### **5.7 Terms**

The terms and conditions applicable to an Offer, including the Final Acceptance Date, the First Exercise Date, the Last Exercise Date, any Grant Conditions, any Vesting Conditions, any Exercise Conditions, any Loan Arrangements, are as determined by the Plan Committee (in its absolute discretion).

#### **5.8 Exercise Price and Issue Price in Australian dollars**

The Issue Price (if any) and the Exercise Price (if any) in respect of an Option or Right must be denominated and payable in Australian dollars, unless otherwise determined by the Plan Committee.

#### **5.9 Offer personal**

An Offer under the Plan is personal to the Eligible Employee to whom it is made and, accordingly, the invitation constituted by an Offer may only be accepted by, and Shares, Options or Rights may only be issued to, the Eligible Employee to whom the Offer is made.

## **6. Application for Shares, Options and Rights**

### **6.1 Acceptance of Offer**

An Eligible Employee may accept the invitation constituted by an Offer by giving to the Company an Application (and in the case of an Offer for Shares, Options or Rights that have an Issue Price, payment of the relevant amount) by the Final Acceptance Date.

### **6.2 Application for all or some of Shares, Options or Rights the subject of an Offer**

An Eligible Employee may in his or her discretion accept the invitation constituted by an Offer, in whole or in part, in multiples of 100 Shares, Options or Rights or another multiple of Shares, Options or Rights as the Plan Committee may allow for the Eligible Employee. An Eligible Employee cannot accept less than the number of Shares, Options or Rights that would constitute the minimum parcel determined by the Plan Committee.

### **6.3 Lapse of Offer**

An Offer not accepted in accordance with Rule 6.2 will lapse at 5:00pm Melbourne time on the Final Acceptance Date.

### **6.4 Withdrawal of Offer prior to acceptance**

The Plan Committee reserves the right (subject to any Applicable Law) to withdraw an Offer made to an Eligible Employee, provided that Offer has not yet been accepted in accordance with Rule 6.2.

## **7. Issue of Shares**

### **7.1 Acceptance by Eligible Employee**

By accepting an Offer for Shares in accordance with Rule 6.2, the Eligible Employee will be taken to have:

- (a) agreed to become a shareholder and be bound by the Constitution;
- (b) agreed to become a Participant bound by these Rules; and
- (c) irrevocably offered to acquire Shares:
  - (i) under, and subject to, these Rules; and
  - (ii) on and subject to the terms and conditions of the Offer.

### **7.2 Acceptance by Company**

- (a) Subject to the terms and conditions included in an Offer, the Company will register that number of Shares set out in the duly completed Application in the name of the relevant Eligible Employee. Nothing in any Offer or Application, or in these Rules, will be taken to confer on any Eligible Employee any right or title to or interest in, any Shares until the Shares are so registered.
- (b) The Company will give notice, or cause notice to be given (including via a Holding Statement), to a Participant (or any person authorised to receive such notice on the Participant's behalf), in accordance with the Listing Rules, of the registration in the Participant's name of Shares issued under the Plan, including information on the following:
  - (i) the number of Shares issued to the Participant;
  - (ii) the Date of Grant of those Shares;
  - (iii) the Vesting Conditions (if any) attaching to the Shares; and
  - (iv) any other specific terms and conditions applicable.

### **7.3 Clearance of Issue Price**

The Company is not obliged to issue Shares to the Participant until payment of the Issue Price (if any) is received by the Company in cleared funds.

### **7.4 Shares to rank equally**

Unless otherwise determined by the Plan Committee at the time of an Offer, all Shares issued pursuant to the Offer will rank equally with existing Shares on and from their Date of Grant, including in respect of all rights issues, bonus share issues and dividends which have a record date for determining entitlements on or after the Date of Grant, unless otherwise specified in a particular Offer.

### **7.5 ASX Quotation**

The Company will apply (at its expense) to the ASX for the official quotation of any Shares issued to Participants for the purposes of the Plan to the extent required by Listing Rule 2.4.

## **8. Vesting conditions**

### **8.1 Conditions**

The Plan Committee may offer Shares with such conditions relating to the Dealing or forfeiture of the Shares as determined by the Plan Committee from time to time.

### **8.2 Compliance by Participant**

Each Participant undertakes to:

- (a) only Deal in the Shares as permitted by the Vesting Conditions (if any); and
- (b) observe all Vesting Conditions attached to the Shares issued to them.

### **8.3 Refusal to register transfer**

- (a) Subject to the Listing Rules, the Company must refuse to register a paper-based transfer, and must apply or cause to be applied a Holding Lock to prevent a transfer, of any Shares to which Vesting Conditions attach (including Shares issued under a bonus issue), and the Plan Committee on behalf of the Company may take any other steps that it considers necessary or appropriate, to enforce and give effect to the disposal restrictions under the Vesting Conditions.
- (b) Each Participant irrevocably authorises the Plan Committee on behalf of the Company to apply a Holding Lock to any Shares to which Vesting Conditions attach held by that Participant.

### **8.4 Retention of Holding Statements**

Until any Vesting Conditions for a Share are satisfied and any restriction on Dealing in the Share imposed by Rule 8.1 expires, if required by the Company, the Company may retain the Holding Statements in relation to the Share and any shares issued with respect to the Share under a bonus issue. The Company will promptly deliver any Holding Statements in relation to a Share which it holds to the Participant on the satisfaction of all Vesting Conditions for the Share and expiry of any restriction on sale of the Share imposed under Rule 8.1.

### **8.5 Vesting Conditions to apply to Shares**

Any Shares that a Participant acquires in respect of Shares to which Vesting Conditions attach pursuant to a rights issue or bonus share issues by the Company will also be deemed to have the same Vesting Conditions attached.

## **8.6 Waiver**

The Plan Committee may, at its discretion, by notice to the Participant reduce or waive the Vesting Conditions attaching to Shares in whole or in part at any time and in any particular case including due to Special Circumstance or another Accelerated Vesting Event, subject to Rule 22.

## **8.7 Corporate Control Event**

If a Corporate Control Event occurs, the Plan Committee may determine that this constitutes an Accelerated Vesting Event.

## **8.8 Vesting**

If the grant or offer of Shares is subject to Vesting Conditions, the Company must give a Participant a Vesting Notice upon the Vesting Conditions relating to the Shares issued (or transferred) to the Participant having been satisfied, or waived by the Plan Committee.

## **8.9 Shares cease to be subject to Vesting Conditions**

On the earliest of:

- (a) a determination by the Plan Committee that any Vesting Conditions have been satisfied, reached or met; and
- (b) the Plan Committee making a determination to waive any applicable Vesting Conditions under Rule 8.6;

then:

- (c) the relevant Shares cease to be subject to the restrictions under this Rule 8 and the forfeiture provisions under Rule 9; and
- (d) the Plan Committee must, as soon as reasonably practicable, lift the Holding Lock in respect of the relevant Shares and must notify the holder of the Shares that the Holding Lock has been lifted.

## **8.10 Notification upon request by Participant**

The Company must, if requested, notify the holder of the Shares of the particular time when the Holding Lock was lifted under Rule 8.9.

# **9. Buy-Back**

## **9.1 Buy-Back**

Without limiting clause 10, the Company may Buy-Back Rights, Options or Shares in accordance with Rule 9.2.

## **9.2 Buy-Back procedure**

- (a) The Board may cause the Company to Buy-Back Rights, Options or Shares held by a Participant for:
  - (i) in the case of Rights or Options:
    - (A) an amount agreed with the Participant at any time where that amount does not exceed the Market Value of the Rights or Options; or
    - (B) the Market Value of the Rights or Options without the agreement of a Participant;
  - (ii) in the case of Shares acquired pursuant to the exercise of a Right or Option, the aggregate Exercise Price of the Rights or Options in respect of which the Shares were issued or transferred;
  - (iii) in the case of Shares acquired pursuant to an Offer, the Issue Price paid (if any) in respect of that Offer; or

- (iv) where there is a formal takeover offer made for at least 50% of the Shares or 50% of the Shares excluding Shares held or owned by the offeror, the Company may Buy-Back Options, Rights or Shares at the price offered by the bidder under the takeover offer, subject to any conditions the Board may determine or that the Board may agree with the bidder, including conditions relating to:
  - (A) the takeover offer becoming unconditional;
  - (B) the Company receiving an alternative proposal that is a competing proposal to the takeover offer; and
  - (C) the recommendation of the Board or an independent expert (including the withdrawal or variation of any recommendation) in relation to the takeover offer.

### **9.3 Buy-Back mechanism**

Each Participant will do all acts, matters and things which are necessary or desirable to give effect to any Buy-Back of his or her Rights, Options or Shares.

## **10. Forfeiture of Shares, Options and Rights**

### **10.1 Forfeiture of Shares to which Vesting Conditions attach and Options and Rights to which Exercise Conditions attach**

If a Participant holds any Shares to which Vesting Conditions attach or Options or Rights to which Exercise Conditions attach under this Plan, the Participant's ownership of those Shares, Options or Rights will be forfeited by the Participant (or any person claiming through the Participant) to the Company (or otherwise as directed by the Plan Committee) if:

- (a) the Vesting Conditions applicable to the Shares or the Exercise Conditions applicable to the Options or Rights have not been satisfied, reached or met in accordance with their terms or are not capable of being satisfied, reached or met (except for reason of Special Circumstances and the Plan Committee determining that in such Special Circumstances the Vesting Conditions or Exercise Conditions are to be waived or modified); or
- (b) the Plan Committee determines that a Participant:
  - (i) has been dismissed or removed from office for a reason which entitles a body corporate in the Group to dismiss the Participant without notice;
  - (ii) has been convicted on indictment of an offence against the Corporations Act in connection with the affairs of the Company or any body corporate in the Group;
  - (iii) has had a judgment entered against him or her in civil proceedings in respect of the contravention by the Participant of his or her duties at law, in equity or under statute in his or her capacity as an executive or Director of the Company or any body corporate in the Group;
  - (iv) has committed an act of fraud, defalcation or gross misconduct in relation to the affairs of that body corporate (whether or not charged with an offence);
  - (v) has breached the Company's policy (if any) on hedging of long term incentives; or
  - (vi) has done an act which brings the Group or any body corporate in the Group into disrepute; or
- (c) the Participant's employment with the Group is terminated, other than:
  - (i) where the termination of employment is due to the occurrence of a Special Circumstance; or
  - (ii) where the Plan Committee determines otherwise,
 subject to Rule 22.

## **10.2 Treatment of Forfeited Shares, Options or Rights**

- (a) As soon as reasonably practicable after Forfeited Shares, Options or Rights are transferred to the Company, the Company must:
  - (i) sell those Forfeited Shares, Options or Rights in the ordinary course of trading on the ASX;
  - (ii) Buy-Back and cancel the Forfeited Shares, Options or Rights for no consideration; or
  - (iii) deal with the Forfeited Shares, Options or Rights in any other manner determined by the Plan Committee from time to time.
- (b) For the avoidance of doubt, the Company will hold full legal and beneficial title to any Forfeited Shares, Options or Rights which are transferred to the Company pursuant to any power of attorney granted by a Participant under Rule 21 at all times until those Forfeited Shares, Options or Rights are disposed of by the Company.

## **10.3 Participant to have no rights to proceeds**

Unless determined by the Plan Committee in its absolute discretion, a Participant will have no rights to the proceeds from any Forfeited Shares, Options or Rights dealt with under Rule 10.2 and releases and holds harmless the Company, each Subsidiary and the Board from and indemnifies the Company, each Subsidiary, and the Board against any claim in respect thereof and from any claim that might otherwise arise from the forfeiture of a Right, Option, Share or other entitlement of the Participant under the Plan.

## **10.4 Effect of forfeiture**

For the avoidance of doubt, no consideration or compensation will be payable to a Participant for or in relation to the forfeiture by the Participant of ownership of Shares, Options or Rights held under the Plan.

## **10.5 Conditions on forfeiture**

In making any determination as to the forfeiture or otherwise of the ownership of Shares, Options, Rights or other entitlements under Rule 9 the Plan Committee may:

- (a) impose any conditions that it thinks fit; and
- (b) determine that a Participant will be required to forfeit all or a specified number of the Shares, Options or Rights held by the Participant or other entitlements arising from those Shares, Options or Rights under the Plan.

## **11. Voting rights and dividends**

- (a) Unless otherwise resolved by the Plan Committee when it makes an Offer, and subject to the terms of issue of the relevant Shares, a Participant may exercise (whether in person or by proxy) any voting rights attaching to the Shares registered in the Participant's name which were the subject of the Offer.
- (b) The Plan Committee may determine, at the time of an Offer of Shares to a Participant, whether the Participant is entitled to all dividends declared or paid on Shares which are subject to any Vesting Conditions (including whether any such dividends are to be held in escrow until the Shares are fully vested).

## **12. Bonus issues**

Unless otherwise resolved by the Plan Committee when it makes an Offer, a Participant who holds the Shares issued pursuant to the Offer has the same entitlement as any other shareholder in the Company to participate in any bonus issue, provided however, if the Shares held by the Participant are subject to any Vesting Conditions or any restrictions on sale imposed under Rule 8.1, any shares issued to a Participant under the bonus issue will be subject to these Rules as if those shares were Shares issued under the Offer made to the Participant.



## 13. Capital Reconstructions

In the event of a Capital Reconstruction, subject to any provision in the Listing Rules, the Plan Committee may adjust any or all of the number of Shares issued pursuant to the Offer to a Participant as the Plan Committee deems appropriate.

## 14. Issue of Options or Rights

### 14.1 Acceptance by Eligible Employee

By accepting an Offer for Options or Rights in accordance with Rule 6.2, the Eligible Employee will be taken to have:

- (a) agreed to become a Participant bound by these Rules; and
- (b) irrevocably offered to acquire Options (and Shares upon the exercise of Options) or Rights (and Shares or options to subscribe for Shares upon the exercise of Rights):
  - (i) under, and subject to, these Rules; and
  - (ii) on and subject to the terms and conditions of the Offer.

### 14.2 Acceptance by Company

Unless provided for otherwise in an Offer, the Company will be deemed to have accepted an Eligible Employee's Application in respect of an Offer for Options or Rights on the issue to the Eligible Employee of the Options or Rights the subject of the Application, and the notification to the Eligible Employee of the Date of Grant of those Options or Rights (including via the issue of an Option or Right Certificate). Nothing in any Offer or Application, or in these Rules, will be taken to confer on any Eligible Employee any right or title to or interest in, any Options or Rights until such issue occurs and notice is provided.

### 14.3 Certificates

The Company must give a Participant one or more Certificates stating (or which, if applicable, attach a separate document stating):

- (a) the number of Options or Rights issued to the Participant;
- (b) the Issue Price (if any) of those Options or Rights;
- (c) the Exercise Price (if any) of those Options or Rights;
- (d) the Date of Grant of those Options or Rights;
- (e) the First Exercise Date of the Options or Rights;
- (f) the Last Exercise Date of the Options or Rights;
- (g) the Exercise Conditions (if any) attaching to the Options or Rights;
- (h) if the underlying Shares over which the Option or Right is exercisable are to be Restricted Shares under Rule 19.1, details of the restriction;
- (i) any other specific terms and conditions applicable; and
- (j) if upon exercise of a Right the Participant is granted an Option, the terms and conditions of such Option (including but not limited to the terms set out in paragraphs (a) to (i) as they relate to the Option).

### 14.4 Consideration for Options and Rights

If Options or Rights are issued with a zero Issue Price, the Options or Rights will be issued for consideration comprising the services that are expected to be provided by an Eligible Employee to or for the benefit of the Group and no further monetary or other consideration will be payable in respect of the issue of an Option.

## **14.5 Entitlement to underlying Shares and options**

- (a) Subject to these Rules, each Option confers on its holder the entitlement to subscribe for and be issued or transferred (as the Company determines in its absolute discretion) one Share at the Exercise Price (if any).
- (b) Subject to these Rules, each Right confers on its holder the entitlement to subscribe for and be issued or transferred (as the Company determines in its absolute discretion):
  - (i) one Share; or
  - (ii) one option to subscribe for one Share, at the Exercise Price (if any).

## **14.6 Interest in Shares**

A Participant has no right or interest in a Share the subject of an Option or Right held by the Participant unless and until the Share is issued or transferred to that Participant pursuant to the exercise of an Option or Right under these Rules and does not have any rights to dividends, rights to vote or rights to the capital of the Company as a result of holding an Option or Right. Subject to the Corporations Act and the Constitution, Participants will not, as holders of Options or Rights, have any right to attend or vote at general meetings of holders of Shares.

## **15. Exercise of Options and Rights**

### **15.1 Exercise during Exercise Period**

Subject to Rules 3.2, 15.2, 15.3, 15.4 and 22, an Option or Right may be exercised at any time during the Exercise Period for that Option or Right.

### **15.2 Exercise before Exercise Period**

An Option or Right may be exercised before the Exercise Period if permitted under Rule 17.5 or 18.6.

### **15.3 First Exercise Date**

The Certificate or Offer will specify the First Exercise Date in respect of an Option or Right. The exercise of an Option or Right after the First Exercise Date is subject to any Exercise Conditions under Rule 15.4.

### **15.4 Exercise Conditions**

Subject to Rule 15.5, if the Certificate or Offer in respect of an Option or Right specifies any Exercise Conditions, the Option or Right may not be exercised unless and until those Exercise Conditions have been satisfied, reached or met.

### **15.5 Waiver of Exercise Conditions**

The Plan Committee may, at its discretion, by notice to the Participant reduce or waive the Exercise Conditions attaching to Options or Rights in whole or in part at any time and in any particular case including due to Special Circumstance or another Accelerated Vesting Event.

### **15.6 Vesting**

If the grant or offer of an Option or Right is subject to Exercise Conditions, the Company must give a Participant a Vesting Notice upon the Exercise Conditions relating to the Option or Right granted or issued to the Participant having been satisfied, or waived by the Plan Committee.

### **15.7 Exercise of Options and Rights**

Subject to these Rules, Options and Rights which have not lapsed may be exercised by the Participant giving to the Company:

- (a) a Notice of Exercise signed by the Participant;

- (b) the Certificate for those Options or Rights; and
- (c) if there is an Exercise Price for the Options or Rights, payment in the amount of the number of Options or Rights being exercised by the Participant multiplied by the Exercise Price (in cleared funds),

but no Participant shall be able to exercise an Option or Right that remains subject to Exercise Conditions that have not been satisfied, reached or met, or else waived under Rule 15.5.

#### **15.8 Participant agrees to be bound**

By exercising an Option or a Right which confers a right to acquire Shares, a Participant will be taken to have agreed to become a shareholder and be bound by the Constitution.

#### **15.9 Issue of Shares**

Subject to these Rules, on the exercise of an Option or a Right which confers a right to acquire Shares, the Company must:

- (a) procure the transfer of a Share; or
- (b) issue and allot a Share,

as soon as reasonably practicable (subject to Rule 15.11) to the Participant.

#### **15.10 Issue of Options**

Subject to these Rules, on the exercise of a Right which confers a right to acquire Options, the Company must issue and allot an Option as soon as reasonably practicable to the Participant (subject to receipt by the Company of payment of the Issue Price (if any) in cleared funds).

#### **15.11 Clearance of Exercise Price**

The Company is not obliged to issue or to procure the transfer of Shares on exercise of Options or Rights until payment of the Exercise Price (if any) has been received by the Company in cleared funds from the Participant.

#### **15.12 Exercise all or some Options or Rights**

- (a) A Participant may only exercise Options and Rights in multiples of 100 or another multiple as the Plan Committee determines unless the Participant exercises all Options or Rights covered by a Certificate able to be exercised by him or her at that time.
- (b) The exercise by a Participant of only some of the Options or Rights held by the Participant does not affect the Participant's right to exercise at a later date other Options or Rights held by the Participant that have not lapsed (whether those other Options or Rights have the same First Exercise Date or otherwise).

#### **15.13 Replacement Certificate**

If a Participant submits a Notice of Exercise in respect of only part of the Options or Rights covered by a Certificate, the Company must issue a Certificate stating the remaining number of Options or Rights held by the Participant.

#### **15.14 Shares rank equally**

Unless otherwise determined by the Plan Committee at the time of an Offer, Shares issued on the exercise of Options or Rights rank equally with all existing Shares on and from the date of issue in respect of all rights issues, bonus share issues and dividends which have a record date for determining entitlements on or after the date of issue of those Shares.

## 16. Lapse of Options and Rights

### 16.1 Lapse of Options and Rights

Unless otherwise specified in the Exercise Conditions or determined otherwise by the Plan Committee an Option or Right lapses on the earlier of:

- (a) the Last Exercise Date;
- (b) a determination of the Plan Committee that the Option or Right should lapse because the Participant, in the Plan Committee's opinion:
  - (i) has been dismissed or removed from office for a reason which entitles a body corporate in the Group to dismiss the Participant without notice;
  - (ii) has committed an act of fraud, defalcation or gross misconduct in relation to the affairs of that body corporate (whether or not charged with an offence);
  - (iii) has done an act which brings the Group or any body corporate in the Group into disrepute;
  - (iv) has been convicted on indictment of an offence against the Corporations Act in connection with the affairs of the Company or any body corporate in the Group;
  - (v) has had a judgement entered against him or her in civil proceedings in respect of the contravention by the Participant of his or her duties at law, in equity or under statute in his or her capacity as an executive or Director of the Company or any body corporate in the Group;
  - (vi) has breached the Company's policy (if any) on hedging of long term incentives; or
  - (vii) has dealt with the Options or Rights in breach of the Rules; or
- (c) the date of termination of employment of the Participant with the Group, other than:
  - (i) where the termination of employment is due to the occurrence of a Special Circumstance; or
  - (ii) where the Plan Committee determines otherwise,subject to Rule 22.

### 16.2 Entitlements and rights cease

If a Participant fails for any reason to exercise all the Options or Rights registered in the Participant's name before the occurrence of a circumstance set out in Rule 16.1, those Options or Rights that the Participant:

- (a) would have been entitled to exercise and that have not been exercised; and
- (b) may have had a right or entitlement to have vested in the Participant,

lapse and all rights of a Participant under the Plan in respect of those Options and Rights cease.

## 17. Dealings with Options and Rights

### 17.1 Options and Rights personal

Except where Options or Rights have been transferred under Rule 17.3, Options and Rights held by a Participant are personal to the Participant and may not be exercised by another person.

### 17.2 No unauthorised disposal

Except as permitted under Rule 17.3, a Participant must not dispose of or grant a Security Interest over or otherwise engage in any Dealing with an Option or Right or any interest in an Option or Right, and the Security Interest or disposal or dealing is not recognised in any manner by the Company.

### **17.3 Permitted transfer of Options and Rights and Accelerated Vesting Events**

The Plan Committee may determine that Options or Rights may be transferred by an instrument of transfer, in the following circumstances:

- (a) a transfer constituting the necessary transfer documents following an acceptance of an offer made under an off-market bid relating to Options or Rights;
- (b) a transfer to a bidder on the sale of the Options or Rights under Division 3 of Part 6A.1 of the Corporations Act;
- (c) a transfer to a 100% holder on the sale of the Options or Rights under Division 2 of Part 6A.2 of the Corporations Act;
- (d) a transfer under Part 6A.3 of the Corporations Act to a person entitled to acquire the Options or Rights under section 661A or 664A of the Corporations Act; or
- (e) a transfer approved by the Plan Committee in those circumstances as may be determined by the Plan Committee.

The Plan Committee must notify Participants if a circumstance set out in this Rule 17.3 occurs and the Plan Committee authorises transfer of Options or Rights pursuant to this Rule.

### **17.4 Corporate Control Event**

If a Corporate Control Event occurs, the Plan Committee may determine that this constitutes an Accelerated Vesting Event.

### **17.5 First Exercise Date brought forward**

If an Accelerated Vesting Event occurs or is expected to occur while a Participant is employed with the Group, the Plan Committee may, at its discretion:

- (a) bring forward the First Exercise Date of all Options or Rights held by the Participant to a date determined by the Plan Committee; and
- (b) waive or vary any Exercise Conditions in regard to an Option or Right held by the Participant in accordance with Rule 15.5,

subject to Rule 22.

### **17.6 Notice to Participants of change**

If the Plan Committee determines to alter the First Exercise Date and Exercise Conditions under Rule 17.5, the Company:

- (a) must within 14 days of the alteration give notice to each Participant affected by the Accelerated Vesting Event in respect of any Options or Rights held by the Participant; and
- (b) may have to issue a replacement Certificate for the Options or Rights.

## **18. Participation rights, bonus issues, rights issues, reorganisations of capital and winding up in respect of Options and Rights**

### **18.1 Application of this Rule**

This Rule 18 applies to Participants who hold Options or Rights that they have not yet exercised, provided the Options or Rights have not lapsed in accordance with the Rules.

### **18.2 New issues**

- (a) Participants holding Options or Rights are not entitled to participate in any new issue to existing holders of securities in the Company unless:
  - (i) they have become entitled to exercise their Options or Rights under the Plan; and
  - (ii) they do so before the record date for the determination of entitlements to the new issue of securities and participate as a result of being holders of Shares.

- (b) The Company must give Participants, in accordance with the Listing Rules, notice of any new issue of securities before the record date for determining entitlements to the new issue.

### **18.3 Bonus issues**

If the Company makes (whether before or during the Exercise Period) a bonus issue of Shares or other securities to existing holders of Shares (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) and no Share has been issued or transferred in respect of an Option or Right before the record date for determining entitlements to the bonus issue, then the number of underlying Shares over which the Option or Right is exercisable is increased by the number of Shares which the Participant would have received if the Participant had exercised the Option or Right prior to such record date.

### **18.4 Pro-rata issues**

If the Company makes (whether before or during the Exercise Period) a pro-rata issue of Shares (except a bonus issue) to existing holders of Shares (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) and no Share has been issued or transferred in respect of an Option or Right before the record date for determining entitlements to the issue, the Exercise Price (if any) of the Option or Right is reduced in accordance with the Listing Rules.

### **18.5 Reorganisation of capital**

If there is a reorganisation of capital of the Company (whether before or during the Exercise Period) then the rights of a Participant (including the number of Options or Rights to which each Participant is entitled and the Exercise Price, if any) are amended in accordance with the Listing Rules or as would be required by the Listing Rules if the Company was subject to the Listing Rules at the time of the reorganisation.

### **18.6 Winding up**

If (whether before or during the Exercise Period) a resolution for a members' voluntary winding up of the Company is proposed (other than for the purpose of a reconstruction or amalgamation) the Plan Committee may, in its absolute discretion, give written notice to Participants of the proposed resolution. Subject to the Exercise Conditions, the Participants may, during the period referred to in the notice, exercise their Options or Rights if the Last Exercise Date for the Options or Rights has not expired.

### **18.7 Fractions of Shares**

For the purposes of this Rule 18, if Options or Rights are exercised simultaneously, then the Participant may aggregate the number of Shares or fractions of Shares for which the Participant is entitled to subscribe. Fractions in the aggregate number only will be disregarded in determining the total entitlement of a Participant.

### **18.8 Calculations and adjustments**

Any calculations or adjustments which are required to be made under this Rule 18 will be made by the Plan Committee and, in the absence of manifest error, are final and conclusive and binding on the Company and the Participant.

### **18.9 Notice of change**

The Company must within a reasonable period give to each Participant notice of any change under Rule 18 to the Exercise Price (if any) of any Options or Rights held by the Participant or to the number of Shares which the Participant is entitled to subscribe for on exercise of an Option or Right.

## **19. Restriction on disposal of Shares acquired pursuant to exercise of Options or Rights**

### **19.1 Restricted Shares**

The Shares acquired under this Plan pursuant to exercise of Options or Rights may be subject to restriction on disposal under this Rule 19 (**Restricted Shares**).

### **19.2 No disposal whilst Shares in Plan**

The Holding Statement may specify any period during which Shares will be Restricted Shares (**Restriction Period**). A holder of Restricted Shares must not dispose of or engage in any Dealing with any of those Restricted Shares or any interest in those Restricted Shares while those Restricted Shares are held in the Plan and subject to these Rules.

### **19.3 Waiver**

The Plan Committee may, at its discretion, by notice to the Participant reduce or waive the period in which Restricted Shares are subject to restriction on disposal under this Rule 19.

### **19.4 Refusal to register transfer**

- (a) Subject to the Listing Rules, the Company must refuse to register a paper-based transfer, and must apply or cause to be applied a Holding Lock to prevent a transfer, of any Restricted Shares, and the Plan Committee on behalf of the Company may take any other steps that it considers necessary or appropriate, to enforce and give effect to the disposal restrictions under this Rule 19.
- (b) Each Participant irrevocably authorises the Plan Committee on behalf of the Company to apply a Holding Lock to any Restricted Shares held by that Participant.

### **19.5 Withdrawal of Restricted Shares**

A holder of Restricted Shares may at any time, by serving on the Company a written withdrawal notice in a form approved by the Plan Committee, apply to withdraw from the Plan a portion of or all Restricted Shares held by the holder. The Plan Committee may determine in its discretion whether to grant a request made under this Rule 19.5.

### **19.6 Cease to be in Plan**

On the earliest of:

- (a) the expiry of any applicable Restriction Period;
- (b) the acceptance by the Plan Committee of a request under Rule 19.5; and
- (c) the Plan Committee making a determination to release some or all of the Restricted Shares under Rule 19.3,

then:

- (d) the relevant Restricted Shares cease to be held in the Plan and subject to these Rules;
- (e) the relevant Restricted Shares cease to be subject to the restrictions under this Rule 19; and
- (f) the Plan Committee must, as soon as reasonably practicable, lift the Holding Lock in respect of the relevant Shares and must notify the holder of the Shares that the Holding Lock has been lifted.

### **19.7 Notification upon request by Participant**

The Company must, if requested, notify the holder of the Shares of the particular time when the Holding Lock was lifted under Rule 19.6.

## 20. Quotation of Shares, Options or Rights

### 20.1 No Quotation of Options or Rights

The Company will not seek official quotation of any Options or Rights.

### 20.2 Quotation of Shares

The Company must to the extent required by Listing Rule 2.4 apply to ASX for quotation of Shares issued:

- (a) following the acceptance of an Offer of Shares; or
- (b) on exercise of Options or Rights,

if Shares of the Company are officially quoted by ASX at that time.

## 21. Power of Attorney

### 21.1 Appointment of Attorney

At all times while a Participant holds Shares, Options or Rights in respect of which a Vesting Condition or Exercise Condition, as applicable, has not been satisfied, reached or met, the relevant Participant irrevocably appoints the Company and any person nominated from time to time by the Company (each an **Attorney**) severally, as the Participant's attorney, to:

- (a) do all acts, matters and things which the Attorney considers necessary or desirable to give effect to these Rules, including all acts, matters and things to be done to effect a Buy-Back, in order that any Shares, Options or Rights may be registered in the name of the Participant or to give effect to the powers of sale or forfeiture referred to in these Rules including acquiring or disposing of the Shares, Options or Rights;
- (b) execute any documents to give effect to these Rules, including execute in the name of the Participant an instrument or instruments of transfers of the Shares or make any alteration or addition whatsoever which the Attorney may think fit; and
- (c) exercise all of the powers of the Participant in relation to acquisition, sale or disposal (including forfeiture under Rule 9) of the Participant's Shares, Options or Rights.

### 21.2 Ratification of Actions

The Participant will confirm and ratify everything which an Attorney may do pursuant to any power set out in Rule 21.1 and no person dealing with the Attorney shall be bound or concerned to enquire as to the occasion for or the regularity of the exercise of any such power.

### 21.3 Indemnity

The Participant will indemnify and keep indemnified the Attorney against all losses, liabilities, costs, expenses, proceedings, claims, actions, demands, and damages in consequence of or arising out of the exercise by the Attorney of any of the powers granted under this Rule 21.

## 22. Shareholder approval may be required

To the extent that the exercise of the Plan Committee's discretion under Rule 8.6, 10.1(c), 15.5, 17.5 or 19.3, or any other amendment to the terms of a Participant's Offer under the Rules would trigger the requirement for shareholder approval under section 200B of the Corporations Act, the Company agrees to use reasonable endeavours to seek shareholder approval for the benefit under section 200E of the Corporations Act at the next Annual General Meeting of the Company.

*Explanatory note: Section 200B of the Corporations Act deals with retirement benefits given to a person who holds (or has held any time in the last 3 years before his or her retirement) the office or position of a managerial or executive office in the Company or a related body corporate.*



## **23. Administration**

The Plan is administered by the Plan Committee.

### **23.1 Powers of the Plan Committee**

The Plan Committee has power to:

- (a) exercise all powers and discretions vested in it under these Rules;
- (b) determine appropriate procedures and make regulations and guidelines for the administration and operation of the Plan which are not inconsistent with these Rules;
- (c) resolve conclusively all questions of fact or interpretation arising in connection with the Plan;
- (d) terminate or suspend the operation of the Plan at any time, provided that the termination or suspension does not adversely affect or prejudice the rights of Participants holding Shares, Options or Rights at that time or contravene any Applicable Law;
- (e) delegate those functions and powers it considers appropriate, for the efficient administration of the Plan, to any person or persons whom the Plan Committee reasonably believes to be capable of performing those functions and exercising those powers;
- (f) take and rely on independent professional or expert advice in or in relation to the exercise of any of their powers or discretions under these Rules;
- (g) appoint a trustee to acquire and hold Shares, Options or Rights (including unvested Shares, Options or Rights) on behalf of Participants or otherwise for the purposes of the Plan;
- (h) administer the Plan in accordance with these Rules as and to the extent provided in these Rules; and
- (i) make regulations for the operation of the Plan consistent with these Rules.

### **23.2 Exercise of powers or discretion**

Any power or discretion which is conferred on the Plan Committee or Board by these Rules may be exercised by the Plan Committee or Board in the interests or for the benefit of the Company, and the Plan Committee or Board is not, in exercising that power or discretion, under any fiduciary or other obligation to another person, including a Participant.

### **23.3 Determinations**

Where these Rules provide for a determination, decision, approval or opinion of the Plan Committee or Board, that determination, decision, approval or opinion may be made or given by the Plan Committee or Board (as applicable) in its absolute discretion. In the absence of manifest error, any determination, decision, approval or opinion of the Plan Committee or Board as to the interpretation, effect or application of the Rules will be final.

### **23.4 Expenses and costs**

Subject to these Rules, the Company and its Subsidiaries must pay all expenses, costs and charges incurred in the administration of the Plan in the amounts and proportions as they shall agree.

### **23.5 Plan Committee not liable**

No member of the Plan Committee shall be liable for anything done, or omitted to be done by him or by any other member of the Committee in connection with the Plan, except for his own wilful misconduct or as expressly provided by law.

## 24. Amendment to Rules

### 24.1 Plan Committee or Board may amend Rules

Subject to the Listing Rules, the Plan Committee or Board may, in its absolute discretion, at any time amend any of these Rules, or waive or modify the application of any of these Rules in relation to any Participant. Any amendment may be given such retrospective effect as the Plan Committee or Board may determine from time to time.

### 24.2 Waiver or amendment

The Company will not be taken to have waived any provision of, or any right, or entitlement under these Rules, or agreed to any amendment of the Rules, unless it does so expressly in writing and provided further that any waiver or amendments of these Rules is carried out in accordance with the Listing Rules.

### 24.3 Consent of Participants

If an amendment to be made under Rule 24.1 would adversely affect the rights of Participants in respect of any Shares, Options or Rights then held by them, the Plan Committee or Board must obtain the consent of Participants who between them hold not less than 75% of the total number of those Shares, Options or Rights held by all those Participants before making the amendment.

### 24.4 Eligible Employees outside Australia

The Plan Committee or Board may make any additions, variations or modifications to the Rules, in relation to the implementation of the Plan and the specific application of the Rules, to Eligible Employees residing outside Australia.

## 25. Rights of Participants

### 25.1 No conferred rights

These Rules:

- (a) do not confer on any Participant any right or entitlement if that right or entitlement could only be provided with approval of the Company's shareholders;
- (b) do not confer on an Employee the right to receive any Offer, Shares, Options or Rights;
- (c) do not confer on a Participant the right to continue as an Employee;
- (d) do not affect any rights which the Company or a Subsidiary may have to terminate the employment of a Participant; and
- (e) may not be used to increase damages in an action brought against the Company or a Subsidiary in respect of that termination.

## 26. No representation as to Tax consequences

Neither the Company nor any adviser to the Company, Plan Committee or the Board:

- (a) represents or warrants that the Plan will have any particular taxation or financial consequences or that any Eligible Employee or Participant will gain any taxation or financial advantage by participating in the Plan; and
- (b) are liable for any Taxes imposed upon or duties assessed against a Participant as a consequence of the Participant's participation in the Plan, the receipt by the Participant of Shares, Options or Rights offered under the Plan or other Dealing in the Shares, Options or Rights by the Participant.

## 27. Notices

### 27.1 Service of notices

A notice, demand, consent, approval or communication under the Rules (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post, email or facsimile to the recipient's address for Notices specified in Rule 27.3, as varied by any Notice given by the recipient to the sender.

### 27.2 Effective on receipt

A Notice given in accordance with Rule 27.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, two Business Days after the date of posting (or seven Business Days after the date of posting if posted to or from a place outside Australia);
- (c) if sent by email, when sent by the sender unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee; or
- (d) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

### 27.3 Address

The address of the Eligible Employee and the Company for the purposes of giving a Notice is:

- (a) in the case of the Company, at the address of its registered office from time to time, which at the date of this Plan is c/o Drew Robinson Pty Ltd, Level 3, 210 Albert Road, South Melbourne, Victoria 3205; and
- (b) in the case of the Eligible Employee, the address of the Eligible Employee as specified in the employment records of the Company.

## 28. Governing law

These Rules and the rights and obligations of Participants under the Plan are governed by the law of Victoria, Australia, and each Participant irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria, Australia.

## 29. Advice

Eligible Employees and Participants should obtain their own independent advice at their own expense on the financial, taxation and other consequences to them of or relating to participation in the Plan.