

Lightning Minerals Ltd
ACN 656 005 122

2023 EMPLOYEE SHARE OPTION PLAN RULES



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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Plan:

Applicable Terms means the terms of grant of Options set out in Schedule 1.

Application means an application for Options, completed, signed, and delivered to the Company, in accordance with Rules 3.5(a) and 3.6(a) (as applicable).

ASIC means the Australian Securities and Investments Commission.

ASIC Instrument means a class order, legislative instrument or individual instrument issued by ASIC, including, without limitation, ASIC Corporations (Employee Share Schemes) Instrument 2022/1021 (if applicable).

ASX means ASX Limited ACN 008 624 691, or the securities exchange conducted by that entity, as the context requires.

ASX Listing Rules means the official listing rules of the ASX and any other rules of the ASX which are applicable to the Company, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX.

Board means the directors of the Company, or a committee appointed by the Board for the purposes of the Plan.

Business Day means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria.

Certificate has the meaning given to that term in Rule 3.7.

Company means Lightning Minerals Ltd ACN 656 005 122.

Constitution means the constitution of the Company, as amended from time to time.

Control has the meaning given to it in the Corporations Act.

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

Employee means an employee, consultant, contractor or director of any Group Company.

Eligible Employee means an Employee, or another person, determined by the Board as eligible to participate in the Plan.

Exercise Price means, in relation to an Option, the amount payable by the relevant Participant upon exercise of the Option, as determined by the Board and specified in an Offer Document.

Expiry Date means, in relation to an Option, the date on which the Option will lapse if it is not exercised before then, as determined by the Board and specified in an Offer Document.

Group means the Company, any Subsidiary and any other entity declared by the Board to be a member of the group for the purposes of the Plan.

Group Company means any company or entity that is a member of the Group.

Offer has the meaning given to that term in clause 3.1(a).

Offer Document has the meaning given to it in Rule 3.3.

Official List means the official list of entities that ASX has admitted and not removed.

Option means an option to subscribe for and be allotted one Share, subject to and upon the terms and conditions set out in these Rules.

Option Terms has the meaning given to it in Rule 4.

Participant means:

- (a) an Eligible Employee; or
- (b) where an Eligible Employee has nominated a Permitted Nominee pursuant to Rule 3.6, the Permitted Nominee,

who is granted an Option under the Plan.

Performance Conditions means one or more performance-related or service-related conditions which must be satisfied before an Option vests, as determined by the Board and advised to the Participant pursuant to Rule 3.3.

Performance Period means the period in respect of which a Performance Condition is to be satisfied before an Option vests, as determined by the Board and advised to the Participant pursuant to Rule 3.3.

Permanent Disablement means the disablement of a Relevant Person with effect that, in the Board's opinion, it is likely to be permanent and will prevent the Relevant Person continuing in their employment with the Group Company that employs or engages the Relevant Person.

Permitted Nominee means, in respect of an Eligible Employee:

- (a) a Relative of the Eligible Employee;
- (b) a company whose members comprise no persons other than the Eligible Employee and/or his or her Relatives;
- (c) a company Controlled by the Eligible Employee and/or his or her Relatives; or
- (d) corporate trustee of a self-managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth)) where the Eligible Employee is a director of the trustee, and the self-managed superannuation fund is an “associate” of the Eligible Employee, as that term is defined in section 318 of the *Income Tax Assessment Act 1936* (Cth).

Plan means the Employee Share Option Plan as in force and amended from time to time.

Qualifying Reason means:

- (a) the death, Permanent Disablement, Retirement or redundancy of the Relevant Person as determined by the Board in its absolute discretion; or
- (b) any other reason with the approval of the Board.

Relative of an individual means a spouse, parent, child or sibling of that individual.

Relevant Person means:

- (a) in respect of a Participant that is an Eligible Employee, that Participant; or
- (b) in respect of a Participant that is a Permitted Nominee of an Eligible Employee, that Eligible Employee.

Retirement means the termination of a Relevant Person’s employment or engagement with a Group Company at the normal retirement age or at any other time, including early retirement, with the Group Company’s consent but excluding dismissal or resignation.

Rules means these rules of the Plan, as amended from time to time.

Security Interest means any interest, right or power that in substance secures payment or performance of any obligation, for example a mortgage, a charge, or a security interest under the *Personal Property Securities Act 2009* (Cth).

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

Subsidiary has the meaning given to it in section 9 of the Corporations Act.

Tax means all kinds of taxes, duties, imposts, deductions, charges and withholdings imposed by a government, together with interest and charges.

Tax Act means the *Income Tax Assessment Act 1997 (Cth)*.

Takeover Bid has the meaning given in section 9 of the Corporations Act.

Vesting Date means the date when an Option is to vest, as determined by the Board and advised to the Participant pursuant to Rule **Error! Reference source not found.** or otherwise provided in Rules 3.9, 3.10, 4.2, 5, 6, and/or 7 (as applicable).

1.2 Interpretation

In these Rules:

- (a) headings and boldings are for convenience only and do not affect the interpretation of these Rules and, unless the context requires otherwise;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) a reference in the Plan to a Clause is a reference to a clause in a Schedule to the Plan;
- (e) the word 'includes' in any form is not a word of limitation;
- (f) other parts of speech and grammatical forms of a word or phrase defined in these Rules have a corresponding meaning;
- (g) where a consent or approval is required under these Rules, the requirement will, unless something else is clearly intended, means the prior written consent or approval;
- (h) a reference to a party to these Rules includes that party's executors, administrators, successors and permitted assigns;
- (i) the transfer by a Relevant Person from one Group Company to another does not constitute cessation of employment or engagement;
- (j) reference to any document is a reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (k) a reference to any legislation or any provision of any legislation includes:

- (i) all regulations, orders or instruments issued under the legislation or provision;
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision; and
- (l) any reference in the Plan to any enactment or the ASX Listing Rules is a reference to that enactment or those ASX Listing Rules (and to all regulations or instruments issued under them) in force at the time that an invitation or grant (as the case may be) is made under the Plan unless expressed to the contrary in the Rules determined otherwise by the Board pursuant to Rule 9.2, or required at law.

1.3 Income Tax Assessment Act

This Plan is a plan to which Subdivision 83A-C of the *Income Tax Assessment Act* 1997 (Cth) applies (subject to the conditions to that Act) except to the extent an Offer Document provides otherwise.

1.4 Corporations Act

- (a) This Plan is a plan to which Division 1A of Part 7.12 of the Corporations Act applies (subject to the conditions to that Act) except to the extent an Offer Document provides otherwise.
- (b) Any Offer made under or pursuant to this Plan is an Offer made under Subdivision C of Division 1A of Part 7.12 of the Corporations Act (subject to the conditions to that Act) except to the extent an Offer Document provides otherwise.

2. PURPOSE

The object of the Plan is to:

- (a) align the interests of Eligible Employees more closely with those of shareholders of the Company;
- (b) provide incentives to attract, retain and/or motivate Eligible Employees in the interests of the Company; and

- (c) provide Eligible Employees with the opportunity to acquire Options, and ultimately Shares (on exercise), in accordance with these Rules.

2.2 Commencement

This Plan shall take effect on and from 6 April 2023, subject to the Company obtaining the Board approval, and any shareholder approval required by the Corporations Act and the ASX Listing Rules, to its adoption.

2.3 Operation

The Plan must be operated in accordance with these Rules which bind each Group Company and each Participant.

3. GRANT OF OPTIONS AND ISSUE OF SHARES

3.1 Board to make grant of Options and/or issue of Plan Shares

- (a) The Board may, from time to time, in its absolute discretion:

- (i) grant, or offer to grant, to an Eligible Employee; or
- (ii) invite Eligible Employees to apply for a grant of,

Options upon the terms of the Plan and such additional terms and conditions, including any Performance Conditions, as the Board determines (**Offer**).

- (b) Notwithstanding Rule 3.1(a), the Board may decide:

- (i) not to proceed with a grant of Options; or
- (ii) to reject an application for Options,

that is the subject of an Offer, where an Eligible Employee does not satisfy any relevant Performance Conditions imposed by the Board (which may include that the Eligible Employee continues to be an Employee of, or otherwise retained by, the Group) at the time of the actual grant or receipt of applications for a grant of Options under the Offer.

- (c) Unless the Board determines otherwise, no payment is required for the grant of Options.

3.2 Personal Offer

Subject to Rule 3.6, an Offer is personal and is not assignable.

3.3 Information to be provided – Options

Each Offer made or to be made by the Board to an Eligible Employee pursuant to Rule 3.1(a) must specify the following information regarding Options (**Offer Document**):

- (a) name and address of the Eligible Employee to whom the Offer was made;
- (b) the date of the Offer;
- (c) the number of Options available to the Eligible Employee or the method for determining the number;
- (d) whether the Options will be subject to any Performance Conditions, and if so, details of any applicable Performance Conditions and the applicable Performance Period;
- (e) details of the applicable Vesting Date(s);
- (f) the period or periods during which Options may be exercised and the manner of exercise of the Options;
- (g) the Exercise Price payable upon exercise of an Option;
- (h) the date, time and circumstances when Options lapse and becomes unable to be exercised;
- (i) the period during which the Eligible Employee may accept the Offer, as determined by the Board (**Application Period**);
- (j) any other relevant terms and conditions to be attached to the Options or Shares acquired on exercise of Options (including for example, any restrictions on transfer of the Shares); and
- (k) such other information and documents as may be required by the Corporations Act (including, any applicable ASIC Instruments) and the ASX Listing Rules.

The Board may also include in the Offer Document such other specific terms and conditions applicable to the Offer (if any) which are not inconsistent with these Rules.

3.4 Required documents for Offer

The Company will send an Offer Document to an Eligible Employee together with:

- (a) an acceptance form;

- (b) a copy of this Plan or a summary of this Plan (in which case this Plan will be made available upon request, free of charge);
- (c) any other explanatory material which the Company wishes to distribute; and
- (d) any other documents and information required by the Corporations Act or ASX Listing Rules.

3.5 Acceptance of application - Options

- (a) To accept an Offer, an Eligible Employee must complete, sign and return the application form (in the form attached to the Offer Document or in such other form as may be approved by the Board) (**Application**), within the Application Period specified in the Offer Document.
- (b) An Eligible Employee who is granted, or who applies for a grant of, Options pursuant to an Offer is deemed to have agreed to be bound by the terms of these Rules, any additional terms specified in the terms of Offer and, upon allocation of Shares (on exercise of an Option), to have agreed to become a member of the Company (and to be bound by the constitution of the Company).
- (c) Following receipt by the Company of an Application, subject to Rule 3.1(b), the Company will grant Options to that Eligible Employee or his or her Permitted Nominee (as applicable).

3.6 Permitted Nominees

- (a) An Eligible Employee that receives an Offer Document may nominate a Permitted Nominee to receive and hold the Options on his or her behalf by:
 - (i) providing details of the Permitted Nominee on the Application; and
 - (ii) having the Permitted Nominee signed the Application and agreed to be bound by the terms of these Rules, any additional terms specified in the terms of the Offer and, upon allocation of Shares (on exercise of an Option), to become a member of the Company (and to be bound by the constitution of the Company).
- (b) The Board may, in its absolute discretion and without providing an explanation, decide whether or not a Permitted Nominee nominated by an Eligible Employee will be granted the Options.
- (c) The Board may, in its absolute discretion, require the Eligible Employee to provide further information in relation to his or her Permitted Nominee.

- (d) Where the Board decides not to grant the Options to a Permitted Nominee under an Offer, the Board will grant the Options to the Eligible Employee instead, and the Eligible Employee is deemed to have accepted the Offer personally.
- (e) Where the Board decides, in its absolute discretion, to grant the Options to an Eligible Employee's Permitted Nominee under an Offer, the Eligible Employee is deemed to have renounced its Offer in favour of the Permitted Nominee.
- (f) Where a Permitted Nominee has been nominated to receive and hold the Options and the Permitted Nominee is not a Relative of an Eligible Employee, the Eligible Employee must immediately notify as soon as he or she becomes aware of any transaction which may result in them ceasing to Control (alone or jointly with their Relatives) his or her Permitted Nominee.

3.7 Option statement or certificate

The Company will, within ten Business Days after the Participant is granted the Options, deliver to each Participant:

- (a) a statement in the form the Board decides evidencing the grant of the Options; or
- (b) if required by the Constitution or otherwise by law, a certificate evidencing the grant of the Options in accordance with the Constitution or law,

(Certificate).

3.8 Title to Options

Unless the Board determines otherwise, Options may not be registered in any name other than that of the Participant.

3.9 Prohibition against hedging

- (a) A Participant must not enter into any scheme, arrangement or agreement (including options and derivative products) under which the Participant may alter the economic benefit to be derived from Options that remain subject to these Rules, irrespective of future changes in the market price of Shares.
- (b) With respect to Options, where a Participant enters, or purports to enter, into any scheme, arrangement or agreement described in Rule 3.9(a), the Options will immediately lapse.

3.10 No Security Interest

- (a) A Participant may not create a Security Interest over any of its Options, or any interest in its Options.
- (b) Where a Participant purports to create a Security Interest over, or transfer, assign, sell, dispose of or otherwise deal with, an Option or any interest in the Option, the Option immediately lapses.

3.11 Shareholders' approval

Notwithstanding Rule 3.1(a), if and to the extent required by the ASX Listing Rules or the Corporations Act, the grant of Options under this Plan generally or to any particular Eligible Employees or his or her Permitted Nominee is subject to receipt of any necessary shareholder or other regulatory approvals under:

- (a) the Corporations Act or any other law applicable to the Company; and
- (b) if the Company is listed on the ASX, the applicable ASX Listing Rules.

3.12 Overriding restrictions on grant and exercise

Notwithstanding anything else in these Rules or in the terms of any Option, an Option may not be offered, granted or exercise if to do so:

- (a) would contravene the Corporations Act or the ASX Listing Rules (as applicable); or
- (b) would contravene the local laws of, or the rules or requirements of any regulatory or statutory body in, a Participant's country of resident or in the opinion of the Board compliance with those local laws, rules or requirements would be impractical or result in any unnecessary or unreasonable expense in the circumstances.

4. TERMS OF OPTIONS

4.1 Applicable Terms

An Option:

- (a) must be granted on the Applicable Terms; and
- (b) may be granted on such other additional terms, conditions or restrictions, not being inconsistent with these Rules or the Applicable Terms, as the Board determines either generally or in relation to particular Option,

(Option Terms).

4.2 Vesting of Options

- (a) Where an Option granted under this Plan is subject to a Performance Condition or Performance Conditions:
 - (i) the Option will not vest, and will not become exercisable, unless each Performance Condition applicable to the Option (if any) have been satisfied, or waived by the Board in its absolute discretion, within the relevant Performance Period; and
 - (ii) as soon as reasonably practicable after the end of the relevant Performance Period, the Board will determine whether and to what extent any Performance Condition has been satisfied or waived.
- (b) The Board may, in its absolute discretion, determine that an Option vests and becomes exercisable prior to the date specified by the Board in the Offer Document.

4.3 Alternate satisfaction of Options

Notwithstanding any other provisions in this Plan, the Board may determine that, upon exercise of a vested Option, the Participant will receive a cash payment in full satisfaction of the Shares that would otherwise be allocated on exercise of that Option (after deduction of any amount required by law to be withheld).

4.4 Nature of rights attached the Option

- (a) A Participant does not have a legal or beneficial interest in any Shares by virtue of acquiring or holding an Option. A Participant's rights under the Options are purely contractual and personal. In particular, a Participant is not entitled to participate in or receive any dividend or other shareholder benefits until its Options have vested and been exercised and Shares have been allocated to the Participant as a result of the exercise of those Options.
- (b) An Option does not confer on its holder any right or entitlement to:
 - (i) receive notice of, or to vote or attend at, a meeting of the shareholders of the Company;
 - (ii) receive any dividends declared by the Company;
 - (iii) receive any return of capital, whether in winding up or upon a reduction of capital of the Company or otherwise; nor
 - (iv) participate in the surplus profits or assets of the Company upon within up of the Company,

unless and until the Option is exercised and the holder of the Option holds Shares as a result of the exercise.

4.5 Inconsistency

To the extent of any inconsistency between the Option Terms and these Rules, these Rules prevail.

5. CESSATION OF EMPLOYMENT

5.1 Unvested Options

- (a) An unvested Option held by a Participant lapses immediately upon the Relevant Person ceasing to be an Employee of the Group for any reason, unless as otherwise determined by the Board in accordance with Rule 5.1(b).
- (b) Notwithstanding Rule 5.1(a), the Board may, in its discretion:
 - (i) determine the treatment of the unvested Options held by a Participant;
 - (ii) without limiting the generality of Rule 5.1(b)(i), all or some of those unvested Options are not to lapse under Rule 5.1(a) and/or are to vest, where the Relevant Person ceases to be an Employee of the Group due to a Qualifying Reason.
- (c) The Board will give written notice to each Participant of the number of Options that vest pursuant to this Rule 5.1.

5.2 Forfeiture of Shares allocated on vesting of Options

The Board may, at its absolute discretion, determine that a Participant will forfeit its interest in any Shares that are allocated to the Participant on vesting or exercising of Options if before the issuance of the Shares so allocated, the Relevant Person:

- (a) is dismissed for cause;
- (b) resigns from his or her office as an Employee; or
- (c) is terminated in circumstances that, in the opinion of the Board, involve a failure by the Relevant Person to meet performance objectives in connection with his or her employment or engagement with the relevant Group Company.

5.3 When a person ceases to be an Employee

For the purposes of this Plan, a Relevant Person does not cease to be an Employee of the Group until such time as the Relevant Person is no longer an Employee (as relevant) of any Group Company.

6. FRAUD, DISHONESTY OR MATERIAL MISSTATEMENT

6.1 Action of Participant

Where, in the opinion of the Board, a Participant or former Participant (or, where the Participant is a Permitted Nominee of an Eligible Employee, the Eligible Employee):

- (a) acts fraudulently or dishonestly; or
- (b) is in breach of his or her obligations to the Group; or
- (c) is convicted of a criminal offence or is guilty of any other wilful or recklessly indifferent conduct which, in the opinion of the Board, may injure or tend to injure the reputation and/or the business or operations of a Group Company; or
- (d) is knowingly involved in a material misstatement of financial statements;

then the Board may determine that:

- (e) the Performance Conditions and/or Performance Period applying to the Options should be reset or altered (as the case may be);
- (f) all or any Options of the Participant that have not vested or have vested but not been exercised, shall lapse;
- (g) the offer of all or any Options, shall lapse;
- (h) all or any Shares held by the Participant following exercise of Options are forfeited; and/or
- (i) where Shares that have been allocated to the Participant upon exercise of Options have been sold, that the Participant repay all or part of the net proceeds of such a sale to the Company.

6.2 Actions of others

Where, in the opinion of the Board, an Option vests, or may vest, as a result of the fraud, dishonesty, breach of obligations or knowing material misstatement of financial statements by an Employee other than the Participant and, in the opinion of the Board, the Option would not otherwise have vested, the Board may determine that

the Option has not vested and may, subject to applicable laws, determine any treatment in relation to the Option (including resetting Performance Conditions, deeming Shares to be forfeited and/or new Options be granted) to ensure that no unfair benefit is obtained by a Participant as a result of the actions of another person.

7. CHANGE OF CONTROL - OPTIONS

7.1 Takeover bid or scheme of arrangement

(a) If an Event occurs prior to the vesting of an Option, then the Board may, in its absolute discretion, determine whether:

- (i) some or all unvested Options vest or lapse (whether subject to conditions or not); or
- (ii) some or all of the unvested Options remain subject to the applicable Performance Conditions (or substitute Conditions),

having regard to any matter the Board considers relevant, including, without limitation, the circumstances of the Event, the extent to which the applicable Conditions have been satisfied and/or the proportion of the Period that has elapsed at that time.

(c) An **Event** occurs where:

- (i) a Takeover Bid is made for the Company and the Board resolves to recommend the bid; or
- (ii) a Takeover Bid is made for the Company and the bid is declared unconditional at a time prior to the bidder being entitled to 50% of the issued shares in the Company; or
- (iii) a court convenes a meeting of shareholders to be held to vote on a proposed scheme of arrangement pursuant to which control of the majority of the shares in the Company may change; or
- (iv) any transaction or event is proposed that, in the opinion of the Board, may result in a person becoming entitled to exercise control over the Company.

7.2 Acquisition of shares in another Company

If a company (**Acquiring Company**) obtains control of the Company and the Company, the Acquiring Company and the Participant agree, a Participant may be provided with securities in the Acquiring Company or its parent or its subsidiary in substitution for Options, on substantially the same terms and subject to substantially

the same conditions as the Options, but with appropriate adjustments to the number and kind of securities the subject of the Options.

7.3 Notification of vesting

The Board will give written notice to each Participant of the extent to which Options vest pursuant to this Rule 7.

8. THE CORPORATIONS ACT, LISTING RULES AND OTHER LAWS

8.1 Application

- (a) These Rules and the Eligible Employee's entitlements under the Plan are subject to:
 - (i) the ASX Listing Rules, for so long as the Company is listed on the ASX; and
 - (ii) the Constitution, the Corporations Act or any other applicable laws or regulations, including but not limited to ASIC Instruments.
- (b) Notwithstanding any other Rule, every provision set out in an exemption from, or modification to, the provisions of the Corporations Act granted from time to time by ASIC, ASIC Instruments or the ASX Listing Rules (as applicable) in respect of the Plan that is required to be included in these Rules in order for the exemption or modification to have effect is deemed to be contained in these Rules. To the extent that any provision deemed by this Rule to be contained in these Rules is inconsistent with any other provision in these Rules, the deemed provision will prevail.

8.2 Plan Limits

Notwithstanding any other Rules, no Option may be offered under the Plan if to do so would contravene the Corporations Act, the ASX Listing Rules or ASIC Instruments from time to time relating to employee share schemes.

9. ADMINISTRATION OF PLAN

9.1 Amendment of the Rules

- (a) Subject to this Rule 9.1, ASX Listing Rules and the law:
 - (i) the Board may, at any time, amend, add to, vary, omit from or substitute any of these Rules; and

- (ii) any change made pursuant to this Rule 9.1 may be given such retrospective effect as is specified in the written instrument or resolution by which the change is made.
- (b) Subject to Rule 9.1(b), the consent of a Participant is required for any change to the Rules or Option Terms which prejudicially affects the rights of the Participant in relation to the Options.
- (c) Notwithstanding Rule 9.1(b), the Board may change the Rules and/or the Option Terms without the written the Participant's consent:
 - (i) for the purpose of complying with or conforming to present or future State or Commonwealth legislation (including, without limitation, the Corporations Act and ASIC Instruments) and the ASX Listing Rules (as applicable);
 - (ii) to correct any manifest error or mistake; or
 - (iii) to take into consideration possible adverse Tax implications for the Company or Participants arising from, amongst others, adverse rulings from the Commissioner of Taxation, changes to tax legislation (including an official announcement by the Commonwealth of Australia) and/or changes in the interpretation of tax legislation by a court or tribunal of competent jurisdiction.
- (d) As soon as reasonably practicable after making any amendment under this Rule 9.1, the Company must provide written notification to any Participant who is affected by the amendment.

9.2 Board powers

The Board has absolute and unfettered discretion in exercising any power or discretion concerning the Plan and may:

- (a) delegate to any person for the period and on the terms it decides, the exercise of any of its powers or discretions under the Plan;
- (b) decide on appropriate procedures for administering the Plan consistent with these Rules, including the application forms and any other forms and notices to be issued under the Plan;
- (c) resolve conclusively all questions of fact or interpretation concerning the Plan and these Rules and any dispute of any kind that arises under the Plan;

- (d) waive any provision of the Plan (including this Rule 9.2), or any term or condition (including a Condition or other restriction) relating to the Options or Shares (to be issued on exercise of Options);
- (e) determine to suspend or cease operation of the Plan at any time and take any actions required to effect the winding up of the Plan;
- (f) act or refrain from acting at its discretion under these Rules or concerning the Plan or the Options or Shares held under the Plan; and
- (g) waive any breach of a provision of the Plan.

9.3 No fiduciary capacity

The Board may exercise any power or discretion conferred on it by these Rules in the interest or for the benefit of the Company, and in so doing the Board is not required to act in the interests or another person or as requested by another person and will not be under any fiduciary obligation to another person.

9.4 Costs

- (a) The Company must pay all the expenses, costs and charges incurred in operating the Plan.
- (b) The Company is not responsible for any duties or Taxes which may become payable in connection with the grant of Options, the issue and allotment of Shares on exercise of Options or any other dealing with Options or Shares.

9.5 Enforcement

These Rules, any determination of the Board made pursuant to the Rules, and the terms of any Options granted under the Plan, will be deemed to form a contract between the Company and the Participant.

9.6 Participants bound

Participants issued with Options under this Plan are bound by this Plan and by the Constitution of the Company.

9.7 Notices

- (a) A notice or other communication under or concerning the Plan is validly given:
 - (i) by the Company to an Eligible Employee or Participant (as the case may be), if delivered physically or electronically to the addressee or sent by prepaid post to his or her last known residential address, or

sent to him or her physically or by email at his or her place of work or posted on an internet or intranet site maintained by or for the Company and accessible by the Eligible Employee or Participant (as the case may be); and

- (ii) by an Eligible Employee or Participant (as the case may be) to the Company if delivered or sent by prepaid post addressed to the company secretary at the Company's registered office (unless the Board specifies another address for a particular purpose).
- (b) Any notice required to be given to a Permitted Nominee is validly given if it is provided to the relevant Eligible Employee in accordance with Rule 9.7(a)(i).
- (c) A notice or other communication sent:
 - (i) to the Company must be actually received by the Company by the date or within the period specified in these Rules or pursuant to Rule 3.3 of the Plan in order to be effective; and
 - (ii) by the Company to an Eligible Employee or Participant (as the case may be) will be treated as being received immediately following the time it was sent or, where it is sent by post, it will be treated as received 48 hours after it was posted.

9.8 Terms of employment not affected

- (a) The rights and obligations of an Eligible Employee under the terms of his or her office, employment or contract with the Group are not affected by his or her participation in the Plan.
- (b) Participation in the Plan will only be offered to an Eligible Employee at the discretion of the Board. There is no guarantee of future offers being made under the Plan.
- (c) These Rules do not form part of, and will not be incorporated into, any contract of an Eligible Employee.

9.9 Non-residents of Australia

- (a) The Board may, at any time, amend, add to, vary, omit from or substitute any of these Rules to ensure compliance with the requirements of, or impact of, any law or regulation in any jurisdiction outside of Australia. This Rule 9.9 applies notwithstanding anything in this Plan.

- (b) This Rule 9.9 applies in relation to any Participant who holds Options under the Plan from time to time and who is resident or may become resident in any jurisdiction outside Australia.
- (c) Any different rules that may apply must be notified to each affected Participant in writing.
- (d) For the purposes of clarification, any different rules that are adopted under Rule 9.9(a) may have an adverse impact upon the Participant. However, any different rules that may apply must comply, to the extent legal and practicable, with the basic principles of the Plan.

9.10 Personal information

Each Eligible Employee and Permitted Nominee consents to the Company or its agents (and each of their related parties) collecting, holding and using personal information (including an Eligible Employee's or Permitted Nominee's tax file number) that the Eligible Employee or Permitted Nominee (as applicable) provides in the application to participate in the Plan or otherwise provides to the Company or its agents (and each of their related parties) as part of their employment, in order to carry out the administration and operation of the Plan in accordance with these Rules, including providing relevant information to:

- (a) the Plan manager or another entity that manages or administers the Plan on behalf of the Company;
- (b) any broker or external service provider, including a tax or financial adviser;
- (c) the trustee of any employee trust;
- (d) any Government department or body; and
- (e) any other person or body as required or authorised by law.

9.11 Miscellaneous

- (a) The Participant does not have any rights under this Plan to compensation or damages in consequence of the exercise by the Company of any right, power or discretion which results in the Participant ceasing to have title to the Options or Shares (issued on exercise of Options).
- (b) Except as otherwise expressly provided in these Rules, the Board has absolute and unfettered discretion to act or refrain from acting under or in connection with the terms of the Plan and in the exercise of any power or discretion under these Rules.

9.12 Severance

Any provision of these Rules which is prohibited or unenforceable in any jurisdiction will be ineffective in that jurisdiction to the extent of the prohibition or unenforceability. This will not invalidate the remaining provisions of these Rules nor affect the validity or enforceability of the provision in any other jurisdiction.

9.13 Governing Law

The rules and conditions of this Plan are governed by the laws of Victoria and the Commonwealth of Australia.

9.14 No representation as to share price

- (a) None of the Company, its directors, officers or employees represents that the Company's share price will attain, maintain or exceed the Exercise Price. A Participant who chooses to exercise any Option does so at his own risk in that he may suffer financial detriment if the Company's share price falls.
- (b) Each Eligible Employee acknowledges that:
 - (i) any advice given by the Company in relation to the Options or the Shares does not take into account an Eligible Employee's objectives, financial situation and needs; and
 - (ii) each Eligible Employee should consider obtaining their own financial product advice from a person who is licensed by ASIC to give such advice.

9.15 Advice

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

9.16 Error in allocation

If any Option is provided under this Plan in error or by mistake to a person (Mistaken Recipient) who is not the intended recipient, the Mistaken Recipient shall have no right or interest, and shall be taken never to have had any right or interest, in that Option and any such Options will immediately lapse or be forfeited.

10. TAXATION

10.1 No liability

Neither the Group Companies nor any of their directors, officers, employees, representatives, advisers or agents:

- (a) take any responsibility or assume any liability for the tax liabilities of Participants as a consequence of their participation in the Plan or the grant of any Option; or
- (b) represent or warrant that the Plan will have any particular tax or financial consequences or that the Participant will gain any Tax or financial advantage by participating in the Plan.

10.2 Tax reimbursement

The Board may, at the time of an Offer, provide that the Eligible Employee is required to reimburse the Company in the event that any Group Company is obliged to account for Tax in connection with, or as a result of, the grant or transfer of the Options to the Eligible Employee or his or her Permitted Nominee.

11. NON-EXCLUSIVITY

11.1 Non-exclusivity

This Plan will not be deemed to be the exclusive method of providing incentive compensation to Eligible Employees, nor will it preclude any Group Company from authorising or approving other forms of incentive compensation for Employees of any Group Company.

11.2 Relationship to other equity plans

Participation in this Plan will not affect or be affected by any participation in any other employee equity plan operated by any Group Company, except as specifically provided in the terms of that other plan.

12. SUSPENSION OR TERMINATION OF THE PLAN

The Board may suspend or terminate the Plan at any time, in which case the Company shall not make any further grants of Options under the Plan during the suspended or terminated period, provided however that this Plan shall terminate 10 years from the date this Plan was first approved by the Board or the Shareholders (whichever occurs earlier). Notwithstanding the foregoing, during that period or after termination, the Board shall otherwise continue to administer the Plan in accordance with these Rules until all Options on issue have vested or lapsed.

SCHEDULE 1

Each Option entitles the holder to subscribe for one (1) ordinary share (**Share**) in the Company, subject to and upon the following terms and conditions:

- (a) **Entitlement:** Each Option entitles the holder to subscribe for one Share upon exercise of the Option.
- (b) **Expiry Date:** Each Option will expire at 5.00pm (Melbourne time) on the expiry date as set out in the relevant offer document for the Option (**Expiry Date**).
- (c) **Exercise Price:** Each Option will have the relevant exercise price as set out in the relevant offer document for the Option (**Exercise Price**).
- (d) **Vesting, exercise period and lapsing:** Subject to the terms of the offer document for the relevant Option (including any performance conditions and vesting conditions set out therein (**Performance Conditions**)):
 - (i) each Option vests on the vesting date as set out in the offer document for that Option (**Vesting Date**);
 - (ii) each vested Option may be exercised at any time after the Vesting Date for the Option and prior to 5pm (Melbourne time) on the Expiry Date;
 - (iii) each unvested Option is not exercisable prior to the Vesting Date;
 - (iv) each unexercised Option (whether vested or unvested) will lapse automatically and immediately after the earlier of:
 - (A) 5pm on its Expiry Date; or
 - (B) failure to satisfy the Performance Conditions attached or applicable to that Option (if any), unless otherwise waived by the Board in its absolute discretion.
- (e) **Exercise Notice and payment:** Options may be exercised by notice in writing to the Company (**Exercise Notice**) together with payment to the Company of the Exercise Price for each Option being exercised. Any Exercise Notice for an Option received by the Company will be deemed to be a notice of the exercise of that Option as at the date of receipt. Cheques paid in connection with the exercise of Options must be in Australian currency, made payable to the company and crossed "Not Negotiable".
- (f) **Shares issued on exercise:** Shares issued on exercise of Options will rank equally in all respects with then existing fully paid ordinary shares in the Company.

- (g) **Quotation of Shares:** Provided that the Company is quoted on the official list of ASX Limited at the time, application will be made by the Company to ASX Limited for quotation of the Shares issued pursuant to the exercise of the Options.
- (h) **Timing of issue of Shares:** Within 5 business days after the receipt of an Exercise Notice the Company will allot and issue the Shares pursuant to the exercise of the Options. The Company makes no representation that the Shares will be freely tradeable upon issue and the holder acknowledges that the Shares may be subject to the on-sale restrictions contained in ss 706 and 707 of the *Corporations Act 2001* (Cth). In these circumstances, the holder agrees not to trade the Shares for so long as the Shares are subject to such restrictions.
- (i) **Shareholder and regulatory approvals:**
- (i) Notwithstanding any other provision of these terms and conditions, exercise of Options into Shares will be subject to the Company obtaining all required (if any) Shareholder and regulatory approvals for the purpose of issuing Shares to the holder.
- (ii) If exercise of the Options would result in any person being in contravention of section 606 of the *Corporations Act 2001* (Cth) then the exercise of each Option that would cause the contravention will be deferred until such time or times that the exercise would not result in a contravention of section 606 of the *Corporations Act 2001* (Cth).
- (iii) Holders must give notification to the Company in writing if they consider that the exercise of the Options may result in the contravention of section 606 of the *Corporations Act 2001* (Cth), failing which the Company will be entitled to assume that the exercise of the Options will not result in any person being in contravention of section 606 of the *Corporations Act 2001* (Cth).
- (j) **Participation in new issues:** There are no participation rights or entitlements inherent in the Options and holders will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Options. However, the Company will ensure that for the purposes of determining entitlements to any such issue, the record date will be at least four business days after the issue is announced. This is intended to give the holders of Options the opportunity to exercise their Options prior to the announced record date for determining entitlements to participate in any such issue.
- (k) **Adjustment for bonus issues of Shares:** If the Company makes a bonus issue of Shares or other securities to existing Shareholders (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment):

- (i) the number of Shares which must be issued on the exercise of an Option will be increased by the number of Shares which the holder would have received if the holder had exercised the Option before the record date for the bonus issue; and
 - (ii) no change will be made to the Exercise Price.
- (l) **Adjustment for rights issue:** If the Company makes an issue of Shares pro rata to existing Shareholders there will be no adjustment to the Exercise Price.
- (m) **Adjustments for reorganisation:** If there is any reconstruction of the issued share capital of the Company, the rights of the holders of Options may be varied to comply with the ASX Listing Rules which apply to the reconstruction at the time of the reconstructions.
- (n) **Quotation of Options:** The Company will not apply for quotation of the Options to ASX Limited.
- (o) **Transferability:** the Options are not transferable.
- (p) **Alternate satisfaction of Options:** Subject to the terms and conditions set out in the offer document for an Option, the Board may determine that, upon exercise of that Option, the Participant will receive a cash payment in full satisfaction of the Shares that would otherwise be allocated on exercise of that Option (after deduction of any amount required by law to be withheld).