

# Performance Rights Terms

This document contains the terms of Performance Rights to be granted on 10 December 2014 under the Plan.

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## 1 Entitlement

- (a) Subject to term 9, each Performance Right that vests in accordance with these terms entitles the Holder to be allotted, credited as fully paid, or transferred, either from Estia or the Trustee, the number of Estia Shares calculated in accordance with the rules set out in Part A of Schedule 1 upon exercise of the Performance Right.
- (b) A Holder need not pay any exercise price upon exercise of a Performance Right.
- (c) Subject to the Listing Rules, Estia must allot, transfer or procure the transfer by the Trustee of, Estia Shares on exercise of a Performance Right in accordance with the Plan.
- (d) Any Estia Shares issued on the exercise of Performance Rights will rank pari passu with all existing Estia Shares from the date of issue and will be entitled in full to those dividends which have a record date for determining entitlements after the date of issue.

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## 2 Vesting of Performance Rights

### 2.1 Eligibility of a Performance Right to vest

A Performance Right becomes eligible to vest if the applicable performance conditions specified in these terms are satisfied or the Performance Right otherwise vests in accordance with these terms. If the applicable performance condition is not satisfied during the Performance Period and the Performance Right does not otherwise vest, the Performance Right will lapse.

### 2.2 How Performance Rights vest

A Performance Right vests:

- (a) if it becomes eligible to vest in accordance with the rules set out in Part B of Schedule 1 and Estia has notified the Holder that it has vested in accordance with these terms; or
- (b) if the Estia Board gives notice to a Holder under term 4; or
- (c) if the Estia Board so determines.

### 2.3 Automatic exercise

Unless the Board determines otherwise, if a Performance Right becomes a Vested Performance Right then it will be automatically exercised at the time and in a manner determined by the Estia Board in its absolute discretion. A Performance Right cannot be exercised in any other way.

## 2.4 When Performance Rights will lapse

Subject to term 13 and unless the Board determines otherwise, a Performance Right that is not exercised will lapse on the first to occur of:

- (a) the day a Holder ceases to be employed by the Estia Group provided this occurs prior to the end of the Performance Period, unless the Holder is a Good Leaver with respect to the Performance Right;
- (b) a time determined by the Estia Board at the time of grant of the Performance Right;
- (c) the Estia Board providing the Holder with a notice in accordance with term 11(a);
- (d) the receipt by Estia of a notice from the Holder that the Holder wishes the Performance Right to lapse; and
- (e) the Performance Right not becoming a Vested Performance Right following the applicable testing date and upon Estia providing the Holder with a notice that the applicable performance condition has not been satisfied during the Performance Period.

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## 3 Cessation of employment by Good Leavers

- (a) Subject to term 13, where a Holder ceases to be employed by the Estia Group and is a Good Leaver, a number of Performance Rights held by the Holder that have not been exercised will lapse in accordance with the formula below:

$$\text{UPR} \times \frac{\text{E}}{\text{F}}$$

Where:

**UPR** is the number of Performance Rights that have not been exercised held by the Holder at the time the Holder ceases to be employed by the Estia Group.

**E** is the number of whole months between cessation of employment with the Estia Group and the end of the Performance Period (rounded to the nearest month).

**F** is the number of months in the Performance Period (rounded to the nearest month).

- (b) Any Performance Right that does not lapse remain eligible to vest in accordance with the rules set out in Part B of Schedule 1.

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## 4 Notice to Holder

The Estia Board may give a notice to a Holder for the purposes of term 2.2(b) that a Performance Right which has not lapsed has vested if:

- (a) a takeover bid is made to the holders of Estia Shares, where the bidder obtains a relevant interest in more than 50% of Estia Shares and the takeover bid becomes or is declared unconditional;

- (b) a statement is lodged with the ASX to the effect that a person has become entitled to not less than 50% of the Estia Shares (other than as a result of an allotment approved by the Estia Board);
- (c) the Court sanctions a compromise or arrangement for the purpose of or in connection with a scheme for the reconstruction of Estia or its amalgamation with any other companies under Part 5.1 of the Corporations Act;
- (d) Estia passes a resolution for voluntary winding up; or
- (e) an order is made for the compulsory winding up of Estia.

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## **5 Constitution of Estia and Trust Deed**

Each Holder agrees to be a shareholder of Estia, to be bound by Estia's constitution and to be bound by the terms of the Trust Deed, each as in force from time to time.

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## **6 No Transfers**

Performance Rights may not be transferred.

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## **7 Restricted transactions:**

A Holder must not enter into any transaction, scheme or arrangement:

- (a) that is prohibited or restricted under Estia's securities trading policy or similar policy in place from time to time; or
- (b) which hedges or otherwise affects the Holder's economic exposure to the Performance Rights before they become Vested Performance Rights.

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## **8 Quotation of Performance Rights and Estia Shares**

- (a) Performance Rights will not be quoted on the ASX.
- (b) Estia will make application to the ASX for official quotation of Estia Shares issued on the exercise of Performance Rights, if other Estia Shares are listed at that time, as soon as practicable after the Estia Shares are issued.

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## **9 Participation in future issues**

### **9.1 Participation generally**

A Holder may only participate in new issues of securities to holders of Estia Shares if the Performance Right has been exercised, if participation is permitted by its terms and the Estia Shares in respect of the Performance Right have been allotted or transferred to the Holder before the record date for determining entitlements to the new issue.

## 9.2 Bonus issues

If Estia makes a bonus issue of shares or other securities pro rata to holders of Estia Shares (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) and no Estia Shares have been allotted or transferred to the Holder in respect of a Performance Right before the record date for determining entitlements to the bonus issue then the rights attaching to that Performance Right will be altered as follows:

- (a) the number of Estia Shares which the Holder is entitled to be provided with on exercise of the Performance Right (S) is determined by the formula:

$$S = N + (N \times R)$$

where:

**N** = The number of Estia Shares per Performance Right which the Holder is entitled to be provided with on the record date to determine entitlements to the bonus issue; and

**R** = The number of Estia Shares (including fractions) offered under the bonus issue for each Estia Share held; and

- (b) the zero exercise price per Performance Right will not be changed.

## 9.3 Rights issues

If Estia makes an offer of ordinary shares pro rata to all or substantially all holders of Estia Shares (whether or not an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) then the number of Estia Shares which the Holder is entitled to be provided with on exercise of the Performance Right will be changed in a manner determined by the Board consistent with the Listing Rules.

## 9.4 Aggregation

If Performance Rights are exercised simultaneously then the Holder may aggregate the number of Estia Shares or fractions of Estia Shares or other securities to which the Holder is entitled to be provided with under those Performance Rights. Fractions in the aggregate number only will be disregarded in determining the total entitlement to subscribe.

## 9.5 Reorganisation

In the event of any reorganisation of the issued ordinary capital of Estia before the exercise of a Performance Right, the number of Estia Shares attaching to each Performance Right will be reorganised in the manner specified below or otherwise to the extent necessary to comply with the Listing Rules applying to a reorganisation of capital at the time of the reorganisation.

If the manner is not specified then the Estia Board will determine the reorganisation. In any event, the reorganisation will not result in any additional benefits being conferred on Holders which are not conferred on shareholders of Estia (subject to the same provisions with respect to rounding of entitlements as sanctioned by the meeting of shareholders approving the reorganisation of capital) and in all other respects the terms for the exercise of Performance Right will remain unchanged.

In the case of any reorganisation of Estia's issued capital, the zero exercise price Performance Right will not be changed.

In the event of any consolidation or sub-division of shares or reduction or cancellation of capital then the reorganisation will be determined by the following formulae:

(a) Consolidation; and

(b) Subdivision:

$$S = C \times \frac{B}{A};$$

(c) Reduction of capital by return of share capital:

$$S = C;$$

(d) Reduction of capital by cancellation of ordinary shares that is either lost or not represented by available assets:

$$S = C;$$

(e) Pro rata cancellation of fully paid ordinary shares (not within (c) or (d)):

$$S = C \times \frac{B}{A};$$

where:

**A** = The total number of Estia Shares in issue before the capital reorganisation;

**B** = The total number of Estia Shares in issue after the capital reorganisation;

**C** = The number of Estia Shares which the Holder is entitled to be provided with on exercise of an Performance Right before the reorganisation;

**S** = The number of Estia Shares which the Holder is entitled to be provided with on exercise of a Performance Right after the reorganisation.

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## 10 Lapse

A Holder may request that some or all of the Performance Rights held by that Holder lapse.

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## 11 Claw-back

If the Estia Board determines that a Claw-Back Event has occurred, the Estia Board may, in its absolute discretion and subject to applicable law including the Listing Rules, take any steps that it determines necessary to ensure that no unfair benefit is or has obtained by the Holder. Those steps may include any of the following:

- (a) determining that some or all of the Holder's Performance Rights should lapse and providing the Holder with notice of that determination;
- (b) a reduction in the Holder's future pay;

- (c) a repayment of the overpaid amount granted under these terms or any other overpaid remuneration that was paid to the Holder by Estia; or
- (d) another form of alteration of the Holder's remuneration.

If this term applies and the Estia Board determines, in its absolute discretion and subject to applicable law, to implement any claw-back by a reduction in the Holder's future pay, the Holder's cash salary will be reduced to the extent necessary over the period determined by the Estia Board to accommodate the amount to be clawed back under this term 11.

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## **12 Indemnity**

If a company in the Estia Group is required to pay an amount or account to an authority for Tax in relation to or as a result of a grant of a Performance Right, then:

- (a) the company may recover an amount in regard to the Tax from the Holder in such manner as the Estia Board thinks fit; and
- (b) the Holder may be required as a condition of either or both the grant, transfer, vesting or exercise of the Performance Right to do any or all of the following:
  - (i) indemnify the company in respect of the Tax;
  - (ii) make a payment to the company of an amount in respect of the Tax; or
  - (iii) enter into an arrangement with the company to secure a payment of an amount in respect of the Tax to the company including, without limitation, by providing authority that a person may procure the sale on behalf of the Holder of some or all of any Estia Shares acquired by the Holder in connection with the Performance Right and authorising the payment of the relevant amount to the company.

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## **13 Performance Rights conditional on complying with indemnity**

If the Holder fails to comply with an obligation arising under term 12 in relation to a Performance Right then any interest of the Holder in the Performance Right or any Estia Shares acquired by the Holder in connection with the vesting or exercise of the Performance Right will lapse.

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## **14 Benefits on cessation**

In all cases, the treatment of a Performance Right on cessation of employment is subject to applicable law, including in relation to the provision of termination benefits under Part 2D.2 Division 2 of the Corporations Act. Estia is not bound to exercise any discretion in connection with a Performance Right or provide any associated benefit in connection with a Holder's termination of employment to the extent that the amount of the benefit (together with all other relevant termination benefits) exceeds the amount that is permitted to be paid or given under the Corporations Act without member approval, if such relevant approval has not been obtained. Nothing in these terms requires or will be deemed to require Estia

or any related body corporate to seek the approval of their respective members to enable them to perform an action in connection with the Performance Rights.

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## 15 Advice

Estia must give notice to each Holder of any adjustment to the number of Estia Shares which the Holder is entitled to be provided with on exercise of a Performance Right in accordance with the Listing Rules.

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## 16 Notices

Notices may be given by Estia to the Holder in the manner prescribed by Estia's Constitution for the giving of notices to members of Estia and the relevant provisions of the Estia's Constitution apply with all necessary modification to notices to Holders. In addition, where the Estia Board considers it appropriate, electronic notices may be given by Estia to a Holder.

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## 17 Additional terms

- (a) All Performance Rights are granted subject to the terms of the Plan.
- (b) By applying for Performance Rights, the Holder agrees that and authorises Estia and its subsidiaries to:
  - (i) collect, use, process and transfer personal data of the Holder, including the Tax File Number of the Holder, amongst themselves; and
  - (ii) transfer personal data to any third parties, including any registry company engaged by Estia to help administer the Plan,for the purposes of implementation, administration and management of a Holder's participation in the Plan or assisting in the implementation, administration and management of the Plan more generally.

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## 18 Definitions and interpretation

### 18.1 Definitions

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

**ASX** means ASX Limited (ABN 98 008 624 691) or the market conducted by it, as the context requires.

**Claw-Back Event** means any of the following:

- (a) the Holder engages or has engaged in fraud, dishonesty or gross misconduct or in any behaviour that may impact on the Estia Group's reputation or long-term financial soundness;
- (b) the financial results that led to the Performance Rights being granted are subsequently shown to be materially misstated;
- (c) the Holder materially breaches their obligations to any member of the Estia Group; or

- (d) an event occurs that results in Estia being required or entitled under law to reclaim remuneration from a Holder; or
- (e) there is a significant and unintended deterioration in the financial performance of the Estia Group or any member of the Estia Group resulting directly or indirectly from an act or omission of the Holder.

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

**Estia** means Estia Private Limited (ABN 47 080 890 259).

**Estia Board** means all or some of the directors of Estia acting as a board or a committee or authorised delegate of those directors.

**Estia Group** means Estia and each body corporate that is a subsidiary of Estia under Division 6 of Part 1.2 of the Corporations Act.

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

**Good Leaver** means, in respect of a Performance Right held by a Holder who ceases to be employed by the Estia Group, where the Estia Board determines that the Holder of the Performance Right ceased to be employed by the Estia Group other than for cause.

**Holder** means the holder of a Performance Right.

**Listing Rules** means the Listing Rules of ASX.

**Performance Period** means the period commencing 8 December 2014 and ending 30 June 2017.

**Performance Right** means a right granted under the Plan to acquire Estia Shares.

**Plan** means the Estia Private Limited Performance Rights Plan.

**Tax** means any tax, levy, impost, charge or duty (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them.

**Trust Deed** means the deed by which any trust established by Estia to assist in the administration of the Plan is constituted.

**Trustee** means the trustee from time to time of any trust established by Estia to assist in the administration of the Plan.

**Vested Performance Right** means a Performance Right that has vested in accordance with term 2.2.

## 18.2 Interpretation

In these terms unless the contrary intention appears:

- (a) the singular includes the plural and vice versa;
- (b) reference to a rule, a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and



- (c) a reference to a person includes a reference to the person's legal personal representatives, executors, administrators and successors, a firm or a body corporate.

### **18.3 Headings**

Headings are inserted for convenience and do not affect the interpretation of these terms.

# SCHEDULE 1

## Part A

### 1 Mechanism for calculating the number of Estia Shares to be provided on exercise of a Performance Right

Each Performance Right that vests in accordance with these terms entitles the Holder to be allotted, credited as fully paid, or transferred one Estia Share upon exercise of the Performance Right.

## Part B

### 1 Performance Conditions

A Performance Right is subject to time based conditions or performance conditions that need to be satisfied for the Performance Right to be eligible to become a Vested Performance Right.

For 50% of the Performance Rights granted ("**Tranche 1**"), the performance condition will be a relative TSR performance condition that is tested by calculating the TSR of Estia and each entity comprising the S&P/ASX 200 Index as at 8 December 2014 ("**First Comparator Group**") over the Performance Period and ranking Estia's TSR performance against the TSR performance of the entities in the First Comparator Group ("**Tranche 1 Performance Condition**").

For the remaining 50% of the Performance Rights granted ("**Tranche 2**"), the performance condition will be a relative TSR performance condition tested by calculating the TSR of Estia and each entity comprising the S&P/ASX Healthcare Index as at 8 December 2014 ("**Second Comparator Group**") over the Performance Period and ranking Estia's TSR performance against the TSR performance of the entities in the Second Comparator Group ("**Tranche 2 Performance Condition**").

The entities comprising the Comparator Groups are listed in Section 5 of this Part B.

If the ordinary stock of a member of either of the Comparator Groups is not quoted at the end of the Performance Period, (for example if the member has been delisted for any reason), then it will be excluded from calculations of the Tranche 1 Performance Condition or Tranche 2 Performance Condition (as applicable).

The table below sets out the percentage of a Holder's Tranche 1 and Tranche 2 Performance Rights that will vest depending on Estia's performance against the Tranche 1 Performance Condition and Tranche 2 Performance Condition over the Performance Period:

Estia's TSR percentile ranking in the relevant Comparator Group*	% of Performance Rights in the relevant Tranche that will vest**	Estia's TSR percentile ranking in relevant Comparator Group	% of Performance Rights in the relevant Tranche that will vest
		62nd	74%
75 <sup>th</sup> and above	100%	61st	72%
74 <sup>th</sup>	98%	60th	70%
73rd	96%	59th	68%
72nd	94%	58th	66%
71st	92%	57th	64%
70th	90%	56th	62%

Estia's TSR percentile ranking in the relevant Comparator Group*	% of Performance Rights in the relevant Tranche that will vest**	Estia's TSR percentile ranking in relevant Comparator Group	% of Performance Rights in the relevant Tranche that will vest
69th	88%	55th	60%
68th	86%	54th	58%
67th	84%	53rd	56%
66th	82%	52nd	54%
65th	80%	51st	52%
64th	78%	50th	50%
63rd	76%	Below 50 <sup>th</sup>	Nil

\* Estia's TSR percentile ranking will be rounded up to the nearest whole number, with fractions ending in 0.5 being rounded up.

\*\* The number of Performance Rights will be rounded up to the nearest whole number, with fractions ending in 0.5 being rounded up.

## 2. Vesting

Following the end of the Performance Period, the Estia Board must, as soon as reasonably practicable, test the Tranche 1 Performance Condition and the Tranche 2 Performance Condition and determine how many Performance Rights (if any) are eligible to vest. The Estia Board's determination will be final, conclusive and binding. Any Performance Rights which do not vest will lapse as provided for under term 2.4. There will be no re-testing of Performance Rights at a later date.

## 3. Notification

- (a) Subject to the restrictions in Section 3(b) of this Part B, as soon as reasonably practicable after the Estia Board has determined how many Performance Rights (if any) are eligible to vest, the Estia Board must notify the Holders of the Performance Rights of the number of the Performance Rights that they hold which vest (if any).
- (b) The Estia Board must not provide the notice referred to in Section 3(a) of this Part B to Holders of Performance Right at a time when the Holder of the Performance Right is prevented from dealing in Estia Shares under Estia's securities trading policy. If the first time that the Estia Board is reasonably able to provide the notice referred to in Section 3(a) of this Part B is during a period when the Holder is prevented from dealing in Estia Shares under Estia's securities trading policy, then the Estia Board must provide the notice referred to in Section 3(a) of this Part B to the Holder as soon as reasonably practicable after the first time after that time the Holder is able to deal with Estia Shares under Estia's securities trading policy.
- (c) Nothing in this Section 3 of this Part B will be taken to incorporate any of the restrictions on dealing contained in Estia's securities trading policy into the terms.

## 4. Definitions

**Comparator Groups** means the First Comparator Group and the Second Comparator Group.

**First Comparator Group** has the meaning given to it in Section 1 of this Part B.

**Performance Period** means the period commencing on 8 December 2014 and ending on 30 June 2017.

**Second Comparator Group** has the meaning given to it in Section 1 of this Part B.

**TSR** means the total securityholder return of the relevant company over the Performance Period, expressed as a compound annual rate of return, and comprising:

- (a) the change in the per security value of the relevant company over the Performance Period determined as set out below; and
- (b) the value of all dividends and other securityholder benefits paid or otherwise made available to securityholders in the relevant company during the Performance Period determined on the basis that:
  - (i) the dividends and other securityholder benefits are reinvested in securities in the relevant company at the closing price of the securities on the date the dividend or securityholder benefit was paid or otherwise made available to securityholders of the company; and
  - (ii) franking credits are disregarded.

For the purposes of determining the change in the per security value of the relevant company, the value of securities on the start date and end date of the Performance Period will be based on the volume weighted average price of the securities ("**VWAP**") over the 20 ASX trading days up to and including the relevant date. The VWAP on the end date of the Performance Period will be adjusted for any stock splits that occur during the Performance Period.

## **5. List of Companies in each Comparator Group**

### **(a) First Comparator Group**

S&P/ASX 200 as at 8 December 2014.

### **(b) Second Comparator Group**

S&P/ASX Healthcare Index as at 8 December 2014.