

# **Enverro Employee Incentive Plan**

## **Plan Rules**

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## Table of Contents

<b>1</b>	<b>Definitions.....</b>	<b>3</b>
<b>2</b>	<b>Interpretation .....</b>	<b>9</b>
<b>3</b>	<b>Name of Plan .....</b>	<b>10</b>
<b>4</b>	<b>Purposes of Plan .....</b>	<b>10</b>
<b>5</b>	<b>Commencement of Plan.....</b>	<b>10</b>
<b>6</b>	<b>Financial assistance and security.....</b>	<b>10</b>
<b>7</b>	<b>Eligibility .....</b>	<b>10</b>
<b>8</b>	<b>Approvals.....</b>	<b>10</b>
<b>9</b>	<b>Invitation .....</b>	<b>11</b>
	9.1 Board may issue Invitations .....	11
	9.2 Terms of Offer .....	11
	9.3 Exercise Conditions .....	11
	9.4 Performance Conditions .....	12
	9.5 Vesting Conditions.....	12
	9.6 How to apply for Rights, Plan Shares or Options .....	12
	9.7 Undertaking to be bound.....	12
	9.8 Independent advice .....	12
<b>10</b>	<b>Advances .....</b>	<b>12</b>
	10.1 Company may make Advance .....	12
	10.2 Lien.....	13
<b>11</b>	<b>Company to issue, transfer or grant.....</b>	<b>13</b>
	11.1 Issue and grant to Participant .....	13
	11.2 Issue or transfer of Plan Shares to Employee Trustee .....	13
<b>12</b>	<b>Certificate.....</b>	<b>13</b>
<b>13</b>	<b>Registers of Plan Shares, Options and Rights.....</b>	<b>14</b>
<b>14</b>	<b>Exercise of an Option or Right .....</b>	<b>14</b>
	14.1 Manner of exercise .....	14
	14.2 Requirements for exercise of an Option.....	14
	14.3 Board may extend Expiry Date for Option or Right.....	14
<b>15</b>	<b>Lapsing of Options and Rights .....</b>	<b>14</b>
	15.1 General.....	14
	15.2 Exceptions.....	15
<b>16</b>	<b>Acceleration Events .....</b>	<b>15</b>
<b>17</b>	<b>Variations of capital .....</b>	<b>15</b>
	17.1 Bonus issues .....	15
	17.2 Rights issues .....	16
	17.3 Reorganisation of capital .....	16
	17.4 Limited right to participate in new issues.....	17
	17.5 Cumulative adjustments.....	17
	17.6 Fractions of Shares rounded.....	17

	17.7	Notice of adjustments .....	17
<b>18</b>		<b>Termination Event .....</b>	<b>17</b>
	18.1	Board discretion .....	17
	18.2	Buy-back mechanics .....	18
<b>19</b>		<b>Forfeiture Event .....</b>	<b>19</b>
<b>20</b>		<b>Issue Plan Shares .....</b>	<b>19</b>
<b>21</b>		<b>Plan Shares rank pari passu .....</b>	<b>19</b>
<b>22</b>		<b>Plan Shares to be quoted on the ASX .....</b>	<b>20</b>
<b>23</b>		<b>Administration of this Plan .....</b>	<b>20</b>
	23.1	Board to administer .....	20
	23.2	Board directions .....	20
	23.3	Board has unfettered discretion .....	20
	23.4	Payments net of tax .....	20
	23.5	Transaction costs .....	20
	23.6	Board's decision is final .....	21
	23.7	Adjustments to Plan in case of foreign resident Participant .....	21
	23.8	Attorney .....	21
	23.9	Data protection .....	21
	23.10	Correction of errors .....	21
<b>24</b>		<b>Plan variations .....</b>	<b>22</b>
	24.1	Board may vary .....	22
	24.2	Exception where material adverse effect .....	22
	24.3	Board must notify .....	22
<b>25</b>		<b>Terms of Employment .....</b>	<b>23</b>
	25.1	Employment not affected .....	23
	25.2	Rights and obligations under Plan not affected .....	23
	25.3	No claims .....	23
<b>26</b>		<b>Non-Australian residents .....</b>	<b>23</b>
<b>27</b>		<b>Tax withholding .....</b>	<b>23</b>
<b>28</b>		<b>No dealings .....</b>	<b>24</b>
	28.1	Plan Shares .....	24
	28.2	Options and Rights .....	24
<b>29</b>		<b>Applicable laws and Constitution .....</b>	<b>24</b>
<b>30</b>		<b>Inconsistency .....</b>	<b>24</b>
<b>31</b>		<b>Notices .....</b>	<b>25</b>
<b>32</b>		<b>Suspension or termination of this Plan .....</b>	<b>25</b>
<b>33</b>		<b>Board's determination .....</b>	<b>25</b>
<b>34</b>		<b>Severability .....</b>	<b>25</b>
<b>35</b>		<b>Governing Law .....</b>	<b>25</b>

## Terms and Conditions

### 1 Definitions

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In these Plan Rules and each Offer Document, unless the context otherwise requires:

**Acceleration Event** means any one or more of the following events:

- (a) the Board resolves to sell, transfer or dispose of all or substantially all of the Company's assets;
- (b) a Change of Control Event occurs in relation to the Company other than as a result of the Company (or its holding company) becoming Listed;
- (c) an Insolvency Event occurs in relation to the Company; or
- (d) any other event determined by the Board to be an Acceleration Event for the purposes of these Plan Rules.

**Acceptance Date** means, in relation to a Plan Share, Option or Right, the date on which the relevant Participant's application for the Plan Share, Option or Right is, or is deemed to be, accepted by the Board.

**Accounting Standards** means the applicable Australian accounting standards and practices required by the Corporations Act.

**Additional Forfeiture Event** means a Forfeiture Event referred to in paragraph (c) of the definition of "Forfeiture Event".

**Advance** means, in relation to a Loan Agreement or Nominee Participant On-Loan, the amount advanced under that Loan Agreement or Nominee Participant On-Loan.

**Amount Outstanding** means, in relation to a Loan Agreement or Nominee Participant On-Loan, at any given time, the aggregate amount of the Advance and any accrued interest payable pursuant to that Loan Agreement or Nominee Participant On-Loan which is outstanding at that time.

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

**Associate** has the meaning given by section 318 of the ITAA 36.

**ASX** means, as the context requires, ASX Limited or the securities exchange which it operates.

**Average Trading Price** means the arithmetic average of the VWAP (rounded to the nearest cent) on each day during the Price Determination Period as determined by the Board or, if no Shares are traded during that Price Determination Period, the last sale price for Shares, recorded on the ASX before the start of that Price Determination Period.

**Auditor** means the auditor of the Company from time to time.

**Board** means the board of directors of the Company or, where the context requires, a committee of that board.

**Business Day** means any day other than a Saturday, Sunday or a public holiday in Sydney.

**Buy-back** means a buy-back or capital reduction of Plan Shares by the Company in accordance with the procedures set out in the Corporations Act.

**Ceasing to be Employed** means ceasing to be Employed by a Group Company and not being Employed by any other Group Company.

**Change of Control Event** means

- (a) in relation to an individual, the death of the individual or the individual becoming Incapacitated or liable to be dealt with in any way under the laws relating to mental health;
- (b) in relation to a company other than an Employee Trustee, a change in the ability of a person together with the person's associates (associate here having the meaning given for the purposes of Chapter 6 of the Corporations Act), whether held directly or indirectly and by whatever means (and whether or not enforceable at law or in equity):
  - (i) to exercise or control the right to vote attached to not less than 50% of the issued voting shares of that company or its ultimate holding company;
  - (ii) to dispose of or exercise the right of disposal over not less than 50% of the issued voting shares of that company or its ultimate holding company; and
  - (iii) to remove or appoint all or a majority of the directors of that company or its ultimate holding company;
- (c) in relation to a person in its capacity as trustee of a trust (other than an Employee Trustee), a change in the identity of the person or persons who have the power to remove or control the removal of the trustee of the trust; and
- (d) in relation to any person, an Insolvency Event occurring in relation to the person.

**Company** means Enverro Ltd ACN 009 027 178.

**Commencement Date** means the date of commencement of this Plan in accordance with Rule 5.

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

**Disposal Restrictions** means, in relation to a Plan Share, any restrictions in relation to the disposal of that Plan Share which are additional to the restrictions set out in Rule 28.1(a).

**EBITDA** means the Company's consolidated earnings before interest, tax, depreciation and amortisation as determined by the Company's Auditor in accordance with the Accounting Standards for the 12 month period immediately before the Relevant Valuation Date.

**Eligible Employee** means a person currently Employed by a Group Company and determined by the Board to be eligible to participate in this Plan.

**Employed** means employed or appointed (in the sense of holding office) by a Group Company and a relationship, holding office or an arrangement that falls within the scope of section 83A-325 of the ITAA 97.

**Employee Trust** means any trust established from time to time, for or in connection with holding Plan Shares, on behalf of Participants under this Plan.

**Employee Trust Deed** means the trust deed establishing an Employee Trust (and includes any amendments made to that deed from time to time).

**Employee Trustee** means, in relation to an Employee Trust, the trustee of that Employee Trust.

**Exercise Condition** means, in relation to an Option, a condition prescribed by the Board as having to be satisfied before the Option may be exercised, being a condition determined in accordance with Rule 9.3 and specified in an Offer Document.

**Exercise Price** means, in relation to an Option, the amount (if any) payable on exercise of the Option as stated in the Invitation.

**Expiry Date** means, in relation to an Option or Right, the final date by which the Option or Right may be exercised as specified in or determined in accordance with the Terms of Offer, as extended (if applicable) in accordance with Rule 14.3.

**Fair Value** means the Average Trading Price.

**Forfeiture Event** means:

- (a) the occurrence of a Termination Event in relation to a Participant (or if the Participant is a Nominee Participant, the relevant Eligible Employee of that Nominee Participant) at any time when a Plan Share has not become Vested;
- (b) the Expiry Date of an Option or Right has passed and the Option or Right has not been exercised;
- (c) a forfeiture event as specified in the applicable Offer Document.

**Good Leaver** means, in relation to a Participant (or if the Participant is a Nominee Participant, the relevant Eligible Employee of that Nominee Participant), the Participant or Eligible Employee (as applicable) Ceasing to be Employed by reason of:

- (a) the resignation of the Participant or Eligible Employee from Employment in circumstances where the Participant or Eligible Employee is not in breach of any material Employment obligations; or
- (b) the death of the Participant or Eligible Employee or the Participant or Eligible Employee becoming Incapacitated or liable to be dealt with in any way under the laws relating to mental health,

other than in circumstances where an event under paragraph (b)(ii) of the definition of "Termination Event" has occurred before the date of Cessation of Employment.

**Group Company** means:

- (a) the Company;
- (b) any related body corporate of the Company;
- (c) any other entity the Board determines is a Group Company.

**Incapacitated** means, in relation to a Participant (or if the Participant is a Nominee Participant, the relevant Eligible Employee of that Nominee Participant), the inability of that person, in the opinion of the Board after considering such medical and other evidence as it reasonably requests, to perform that person's duties as Employee because of his or her physical incapacity.

**Insolvency Event** means with respect to a person the happening of any of the following events:

- (a) where the person is an individual:
  - (i) the person becoming or being made bankrupt;

- (ii) a trustee in bankruptcy is appointed to the person, whether or not under an order;
- (iii) the person making an assignment of his or her estate or any part thereof for the benefit of creditors generally (or any one or more of them); or
- (iv) the person otherwise seeking relief under or otherwise taking advantage of any law for the time being in force relating to bankruptcy or insolvent debtors; or
- (b) where the person is a company:
  - (i) the person being unable to pay its debts as and when they fall due;
  - (ii) a receiver, receiver and manager, administrator or liquidator being appointed over the person's assets or undertakings or any of them;
  - (iii) an application for winding up or other process seeking orders which, if granted, would render the person an externally-administered body corporate being filed and not being withdrawn within 20 Business Days;
  - (iv) the person being or becoming the subject of an order, or a resolution being passed, for the winding up or dissolution; or
  - (v) the person:
    - (A) entering into, or resolving to enter into, a deed of company arrangement or an arrangement, composition or compromise with, or assignment for the benefit of, its creditors generally or any class of creditors; or
    - (B) being the subject of proceedings commenced to sanction such a deed of company arrangement or arrangement, composition or compromise,

other than for the purposes of a bona fide scheme of solvent reconstruction or amalgamation.

**Invitation** means an invitation to apply for a Right, Plan Share or Option that is made to an Eligible Employee in accordance with Rule 9.

**Issue Price** means the amount (if any) payable for the issue or transfer of a Plan Share or grant of an Option or Right as stated in the Invitation.

**ITAA 36** means *Income Tax Assessment Act 1936* (Cth)

**ITAA 97** means *Income Tax Assessment Act 1997* (Cth).

**Listed** means listed for quotation on the official list of ASX.

**Listing Rules** means the official listing rules of the ASX.

**Loan Agreement** means an agreement between the Company and an Eligible Employee evidencing an advance of money by the Company to assist with the issuance of Plan Shares, Options or Rights, or the exercise of Options, in the form approved by the Board from time to time.

**Loan Share** means a Plan Share acquired whether in part or in whole using an Advance made under a Loan Agreement. A Plan Share remains a Loan Share until such time as the total Amount Outstanding under the Loan Agreement has been repaid in full.



**Multiple** means a multiple chosen by the Board on the recommendation of the Auditor having regard to implied multiples applicable to shares sold in companies that are not Listed and which operate in the same industry as the Company.

**Nominee Participant** means an Associate of an Eligible Employee who the Eligible Employee nominates as the entity to which it wishes a Plan Share to be issued or an Option or Right to be granted, and who the Board approves.

**Nominee Participant On-Loan** has the meaning given in Rule 10.1(b)(iii).

**Offer Document** means, in relation to a Right, Plan Share or Option:

- (a) these Plan Rules;
- (b) the Terms of Offer;
- (c) any Loan Agreement granted in respect of a Right, Plan Share or Option;
- (d) any Employee Trust Deed;
- (e) the constitution of the Company;
- (f) the Eligible Employee's application for the Right, Plan Share or Option;
- (g) the certificate issued with respect to the Right, Plan Share or Option under Rule 12; and
- (h) any other document determined by the Board to be an Offer Document for the purposes of these Plan Rules.

**Option** means an option granted under this Plan to acquire, by subscription, one or more Plan Share(s).

**Participant** means a person to whom a Plan Share is issued, or an Option or Right granted, being an Eligible Employee or Nominee Participant.

**Performance Condition** means a condition prescribed by the Board as a condition that must be satisfied before a Right may be exercised, being a condition determined in accordance with Rule 9.4 and specified in an Offer Document.

**Plan** means the senior employee incentive plan governed by these Plan Rules.

**Plan Rules** means these rules as varied from time to time in accordance with Rule 24.

**Plan Share** means each Share (of any class determined by the Board from time to time) that:

- (a) a relevant Participant is entitled to acquire or acquires; or
- (b) is held by an Employee Trustee for that relevant Participant,

as the context requires, whether on exercise of an Option or Right or as a result of a direct issue by the Company or transfer in accordance with these Plan Rules and each applicable Offer Document.

**Price Determination Period** for the purposes of determining Fair Value, means the period commencing 30 days before the Relevant Valuation Date and ending on the Relevant Valuation Date.

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**Relevant Period** means, unless the Board determines a shorter period, 6 months from the date the Company becomes aware of the Termination Event or Forfeiture Event (as applicable).



**Relevant Valuation Date** means:

- (a) in relation to the forfeiture of Plan Share, Option or Right in accordance with Rule 16, the date of the Acceleration Event;
- (b) in relation to a Buy-back of Plan Shares in accordance with Rule 18.1(b)(i), the date the Company resolves to exercise its Buy-back option in accordance with Rule 18.2.

**Right** means each right under this Plan to acquire a Plan Share upon the right being exercised.

**Security Interest** means:

- (a) a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set off or any other security agreement or arrangement in favour of any person; and
- (b) without limiting paragraph (a) of this definition, a "security interest" as defined in the PPSA.

**Share** means a share in the capital the Company.

**Share Benefit** means any Shares or other securities received by the Participant in its capacity as holder of the Shares.

**Termination Event** means, in relation to a Participant, the happening of any one or more of the following events:

- (a) the Participant (or if the Participant is a Nominee Participant, the relevant Eligible Employee of that Nominee Participant) Ceases to be Employed; or
- (b) any of one or more of the following events as the Board determines without the necessity for any notice or demand or intervention by the Company and notwithstanding any failure, delay or waiver of any previous right:
  - (i) the Participant sells, transfers, assigns, grants a Security Interest over or otherwise deals with a Right, Plan Share or Option in breach of these Plan Rules or any Offer Document, or has in the reasonable opinion of the Board undertaken any steps with the intention of doing or causing of any of those things, except with the prior written consent of the Board;
  - (ii) the Participant (or if the Participant is a Nominee Participant, the relevant Eligible Employee of that Nominee):
    - (A) acts or has acted (whether by commission or omission) fraudulently or dishonestly in relation to a Group Company or in a way which brings the Group Company into disrepute;
    - (B) is convicted of a criminal offence (other than a minor motor traffic offence or other trivial offence which does not impact on that person's good fame and character or the ability of that person to perform his or her duties);
    - (C) breaches or has breached any duty (whether at law, under a contract or otherwise) owed to a Group Company; or
    - (D) defaults in the due and punctual payment of any amount due pursuant to, or otherwise breaches or defaults in the observance or performance of any other express obligation under, a Loan Agreement to which it is a party; or

- (iii) any Change of Control Event occurs in respect of the Participant (or if the Participant is a Nominee Participant, the relevant Eligible Employee of that Nominee Participant), except with the prior written consent of the Board.

**Terms of Offer** means, in relation to a Right, Plan Share or Option, the terms determined by the Board and stated in the Invitation to apply to that Right, Plan Share or Option.

**Vested** means in relation to a Plan Share, the Vesting Conditions for that Plan Share having been satisfied (or waived by the Board), in accordance with these Plan Rules and any other applicable Offer Document.

**Vesting Condition** means, in relation to a Plan Share, a condition prescribed by the Board as having to be satisfied (or waived by the Board) before the Participant can exercise certain rights or entitlements in respect of that Plan Share as specified in these Plan Rules or any other applicable Offer Document, being a condition determined in accordance with Rule 9.5 and specified in an Offer Document.

**VWAP** means the daily volume weighted average market prices of all Shares sold on ASX's trading platform, but excluding, at the discretion of the Board, such transactions which are not in the ordinary course of trading on ASX, such as special crossings, crossings prior to the commencement of the open session state, portfolio special crossings, equity combinations, crossings during overnight trading, overseas trades, trades pursuant to the exercise of options over Shares, and any other trades that the Board determines should be excluded on the basis that the trades are not fairly reflective of genuine supply and demand.

## **2 Interpretation**

In these Plan Rules and each Offer Document, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if an expression is defined, its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;
- (e) a reference to:
  - (i) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (ii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as consolidated, modified, re-enacted or replaced; and
  - (iii) these Plan Rules, an agreement or document includes these Plan Rules, agreement or document as amended or replaced;
- (f) if the date on or by which any act must be done is not a Business Day, the act must be done on or by the next Business Day;
- (g) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded;

- (h) terms which are defined in the Corporations Act bear the same meaning when used in these Plan Rules or an Offer Document; and
- (i) headings are inserted for convenience only and do not affect construction or interpretation of these Plan Rules.

## **Introduction**

### **3 Name of Plan**

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This Plan shall be known as the 'Enverro Employee Incentive Plan'.

### **4 Purposes of Plan**

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The purpose of this Plan is to enable Eligible Employees (either themselves or by their Nominee Participants) to acquire Rights, Plan Shares or Options to enable them to participate in income distributions and/or capital growth of the Company for purposes including:

- (a) motivating and retaining existing Eligible Employees; and
- (b) attracting high quality individuals as future Eligible Employees.

### **5 Commencement of Plan**

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This Plan takes effect immediately upon its adoption by the Board.

### **6 Financial assistance and security**

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The Company may, with any necessary approvals required under the Corporations Act (or any other law applicable to the Company):

- (a) financially assist a Participant (including by making an Advance to an Eligible Employee) to be issued Plan Shares, Option or Rights or to exercise Options or Rights pursuant to these Plan Rules; or
- (b) take security over Plan Shares issued pursuant to these Plan Rules.

## **Eligibility and approvals**

### **7 Eligibility**

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The Board may in its absolute discretion:

- (a) determine whether or not a person is an Eligible Employee who is entitled to participate in this Plan; and
- (b) vary that determination from time to time in relation to a person or class of persons.

### **8 Approvals**

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The issue of Plan Shares or the grant of Options or Rights under this Plan is subject to receipt of any necessary shareholder approvals, or other approvals, under the Corporations Act (or any other law applicable to the Company), the Listing Rules (if applicable) and the Company's constitution.

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## **Invitations and Advances**

### **9 Invitation**

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#### **9.1 Board may issue Invitations**

- (a) Subject to these Plan Rules, the Board may, in such form as the Board determines, issue to an Eligible Employee a written invitation to apply for Plan Shares, Options or Rights (or any combination of those things).
- (b) A Right issued under these Plan Rules must not be issued on terms that it is subject to an exercise price being paid upon its exercise.

#### **9.2 Terms of Offer**

The Board may determine in its absolute discretion, and must state in the Invitation:

- (a) the number of Plan Shares, Options and Rights for which the Eligible Employee may apply or how the number will be calculated;
- (b) if there is an Issue Price for a Plan Share or grant of an Option or Right, the amount or how it is calculated;
- (c) if there is an Exercise Price for an Option, the amount or how it is calculated;
- (d) the Expiry Date of an Option or Right;
- (e) each Exercise Condition that applies to an Option and, to the extent applicable, the measurement period or date applicable to its assessment;
- (f) each Performance Condition that applies to a Right and to the extent applicable, the measurement period or date applicable to its assessment;
- (g) each Additional Forfeiture Event that applies to a Plan Share, Option or Right;
- (h) if Plan Shares are being issued and an Employee Trust exists, whether those Plan Shares are to be issued:
  - (i) directly to the Participant; or
  - (ii) to the Employee Trustee to be held on trust for the Participant;
- (i) any Disposal Restrictions applicable to Plan Shares;
- (j) the terms of any Advance or other financial assistance to be provided to the Eligible Employee;
- (k) subject to these Plan Rules, any other conditions that apply to Rights, Plan Shares or Options; and
- (l) that the issue of Plan Shares, whether on exercise of an Option or a Right or as a result of a direct issue in accordance with these Plan Rules and the applicable Offer Documents, is subject to the Company obtaining all necessary approvals under the Corporations Act (or any other law applicable to the Company), the Listing Rules (if applicable) and the Company's constitution.

#### **9.3 Exercise Conditions**

The Board may, as part of the Terms of Offer in relation to Options, determine that the Options are subject to Exercise Conditions. The Invitation must specify the nature of those Exercise Conditions and that those Options may not be exercised unless those Exercise Conditions are satisfied (or waived by the Board).

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**9.4 Performance Conditions**

The Board may, as part of the Terms of Offer in relation to Rights, determine that the Rights are subject to Performance Conditions. The Invitation must specify the nature of those Performance Conditions and that the Rights may not be exercised until those Performance Conditions are satisfied (or waived by the Board).

**9.5 Vesting Conditions**

The Board may, as part of the Terms of Offer in relation to directly issued Plan Shares or Plan Shares issued pursuant to exercised Options or Rights, determine that the Plan Shares are subject to Vesting Conditions. The Invitation must specify the nature of those Vesting Conditions, the rights or entitlements in respect of the Plan Shares that cannot be exercised until the Plan Shares become Vested and that the Plan Shares do not become Vested unless those Vesting Conditions are satisfied (or waived by the Board).

**9.6 How to apply for Rights, Plan Shares or Options**

An Eligible Employee may apply for a Right, Plan Share or Option by:

- (a) duly completing (including, if the Invitation so permits and the Eligible Employee so chooses, by nominating a Nominee Participant) and signing (and, if the Eligible Employee has nominated a Nominee Participant, having the Nominee Participant co-sign) an application in the form provided by the Company (and, in applicable circumstances, a transfer form);
- (b) sending the completed and signed application (and, in applicable circumstances, transfer form) to the person designated by the Board, so that that person receives it by the time and date stated in the Invitation (unless the Board determines otherwise); and
- (c) complying with any other instructions in the Invitation.

**9.7 Undertaking to be bound**

By applying for a Right, Plan Share or Option, an Eligible Employee (and, if applicable, his or her Nominee Participant) agrees, as the context permits, to be bound by each Offer Document, to subscribe for the Plan Shares and to be bound by the constitution of the Company.

**9.8 Independent advice**

Each Eligible Employee (and, if applicable, his or her Nominee Participant) should obtain their own independent advice on the financial, tax and other consequences to them of or relating to, as the context requires, their actual or proposed participation in this Plan, their acquisition of a Right, Plan Share or Option under this Plan, their exercise of an Option, the Vesting of a Plan Share or a Right and their rights and obligations as a holder of Plan Shares.

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**10 Advances****10.1 Company may make Advance**

- (a) The Company may, with any necessary approvals required under the Corporations Act (or any other law applicable to the Company), make an Advance to an Eligible Employee to assist the Eligible Employee (or where he or she is not the Participant, the Nominee Participant) to pay the Issue Price of a Plan Share, Option or Right or Exercise Price of an Option (as the case may be).
- (b) The Loan Agreement for an Advance must:

- (i) be in writing;
  - (ii) state the terms and conditions of the Advance; and
  - (iii) where the Eligible Employee is not the Participant, include a requirement that the Eligible Employee on-lends the Advance to the Nominee Participant on the same terms (with only the necessary changes having been made) as the Loan Agreement (**Nominee Participant On-Loan**).
- (c) Upon acceptance of the Advance, the Eligible Employee shall be bound by the terms of the Loan Agreement and the Participant (either directly as Eligible Employee or indirectly as Nominee Participant under an Nominee Participant On-Loan) will be taken to have irrevocably directed the Company to apply the Advance to the payment of the Issue Price of the applicable Options, Rights or Plan Shares or the Exercise Price of the applicable Options.

## **10.2 Lien**

The Company shall have a lien over any Plan Shares the acquisition of which is ultimately funded using the proceeds of an Advance, whether acquired directly or indirectly and including upon the exercise of Options or Rights, until the total Amount Outstanding under the Loan Agreement has been repaid.

# **Issue or transfer of Plan Shares, Options or Rights**

## **11 Company to issue, transfer or grant**

### **11.1 Issue and grant to Participant**

After receipt by the Company of:

- (a) an application (and, in applicable circumstances, a transfer form) for Plan Shares, Options or Rights in accordance with Rule 9.6; and
- (b) the Issue Price for the Plan Shares, Options or Rights (including pursuant to Rule 10.1(c))

the Company may, at its discretion (including as to whether or not it approves of the identity of a Nominee Participant), issue those Plan Shares or grant those Options or Rights subject to these Plan Rules and the terms of each applicable Offer Document.

### **11.2 Issue or transfer of Plan Shares to Employee Trustee**

- (a) As part of the Terms of Offer, the Board may determine that any Plan Shares issued or transferred to a Participant are to be held by an Employee Trustee for the benefit of that Participant on and subject to the terms of the Employee Trust Deed and all other applicable Offer Documents.
- (b) Subject to Rule 11.2(c), if the Company determines to direct an Employee Trustee to issue Rights to a Participant, the Company must also issue or cause the transfer of a corresponding number of Plan Shares to the Employee Trustee.

## **12 Certificate**

- (a) Subject to Rule 12(b), upon a person becoming a Participant, the Company will issue to the Participant a certificate setting out with respect to the issue, transfer or grant, as applicable:



- (i) the name of the Participant;
  - (ii) the Acceptance Date;
  - (iii) the Terms of Offer or a reference to the Terms of Offer being set out in the applicable Invitation; and
  - (iv) a statement that the Plan Shares, Options or Rights are granted subject to these Plan Rules and the terms of each applicable Offer Document.
- (b) The Company need not comply with Rule 12(a) if the issue, transfer or grant relates to Plan Shares issued to a Participant where the relevant Plan Shares are held, or to be held, by an Employee Trustee for the Participant in accordance with any Offer Document, and the Trustee issues a certificate under the terms of the Employee Trust Deed.

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## **13 Registers of Plan Shares, Options and Rights**

Plan Shares issued and Options and Rights granted under this Plan must be recorded in the appropriate register of the Company or Employee Trustee (as the case may be).

## **Option and Right specific provisions**

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### **14 Exercise of an Option or Right**

#### **14.1 Manner of exercise**

When permitted to do so under this Rule 14 and each applicable Offer Document, a Participant may exercise an Option or Right in the manner required by the Company, and where applicable, by paying the Exercise Price to or as directed by the Company and delivering to the Company the Participant's Option or Right certificate(s).

#### **14.2 Requirements for exercise of an Option**

A Participant may only exercise an Option or Right:

- (a) on or before its Expiry Date; and
- (b) provided:
  - (i) the Option or Right has not lapsed in accordance with Rule 15; and
  - (ii) all Exercise Conditions or Performance Conditions have been satisfied (or waived by the Board) or the Participant has become entitled to exercise the Option or Right under Rule 16.

#### **14.3 Board may extend Expiry Date for Option or Right**

The Board may, with or without condition, resolve to extend the Expiry Date for an Option or Right.

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## **15 Lapsing of Options and Rights**

### **15.1 General**

Unless the Board resolves otherwise, an Option or Right which has not been validly exercised lapses on and may not be exercised after the earlier of:

- (a) its Expiry Date;



- (b) any prior date on which the Option or Right lapses in accordance with these Plan Rules or the terms of any other applicable Offer Document; or
- (c) subject to Rule 15.2, the date a Termination Event occurs.

## **15.2 Exceptions**

Rule 15.1(c) does not apply to an Option or Right to the extent that:

- (a) an Offer Document permits the Option or Right to continue following the occurrence of a particular Termination Event; or
  - (b) the Board waives the operation of Rule 15.1(c),
- however, in all other respects Rule 15.1 continues to apply.

# **Acceleration Events and Variations of capital**

## **16 Acceleration Events**

Except as expressly provided otherwise in an applicable Offer Document, if an Acceleration Event occurs, the Board may determine that:

- (a) where a Plan Share is not Vested, it has become immediately Vested;
- (b) where the Exercise Conditions for an Option have not been satisfied (or waived by the Board), the Exercise Conditions cease to apply and the Option may be exercised within one month after the occurrence of the Acceleration Event (or within such extended period as the Board authorises in writing);
- (c) where the Performance Conditions for a Right have not been satisfied (or waived by the Board), the Performance Conditions cease to apply and the holder of the Right may elect in writing that the Right may be exercised at any time within one month after the occurrence of the Acceleration Event (or within such extended period as the Board authorises in writing); or
- (d) or any combination of Rules 16(a) to (c) above.

## **17 Variations of capital**

### **17.1 Bonus issues**

If, before a Plan Share subject to Vesting Conditions becomes Vested or an Option becomes exercised the Company makes a bonus issue of ordinary Shares to all holders of ordinary Shares to whom such an offer would be lawful (other than in place of dividends or by way of dividend reinvestment):

- (a) the Participant is entitled upon the Plan Share becoming Vested or the Option becoming exercised to an issue of Shares (in this Rule 17.1 called **Additional Shares**) in addition to the Plan Share(s) to which the Participant is otherwise entitled;
- (b) the number of Additional Shares that the Participant is entitled to acquire under Rule 17.1(a) is the number (disregarding fractions) of Shares that would have been issued to the Participant in such bonus issue had the Plan Share already Vested or the Option already been exercised at the date for determining entitlements under the bonus issue; and
- (c) the Additional Shares must be issued credited as fully paid and rank equally with all other Shares in the same class issued as a result of the bonus issue.

This clause 17.1 will not apply in relation to a Plan Share if, under the terms of the bonus issue of ordinary Shares, that Plan Share is already entitled to the ordinary Share.

## **17.2 Rights issues**

If, before an Option is exercised:

- (a) the Company makes any pro rata offer of ordinary Shares to all holders of ordinary Shares to whom such an offer would be lawful by way of rights issue; and
- (b) the price at which each such Share is offered is less than the market price determined in accordance with "P" below,

the Exercise Price of the Option (where there is an Exercise Price) will be reduced according to the following formula:

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

Where:

- O' is the new Exercise Price of the Option
- O is the old Exercise Price of the Option
- E is the number of Plan Shares into which the Option is exercisable
- P is the market price for an ordinary Share determined by the Company's Auditor immediately prior to the ex-rights or ex-entitlements date
- S is the subscription price for an ordinary Share under the pro rata issue
- D is the dividend due but not yet paid on the Shares of the same class as the Plan Shares (except those to be issued under the pro rata issue)
- N is the number of ordinary Shares with rights or entitlements that must be held to receive a right to one new ordinary Share

## **17.3 Reorganisation of capital**

If, before an Option or Right is exercised, there is a reorganisation of the ordinary capital of the Company, including a consolidation, sub-division, return of capital or other reorganisation:

- (a) in a consolidation of capital – the number of Plan Shares to which the Participant is entitled on exercise of the Option or Right must be consolidated in the same ratio as the ordinary capital and the Exercise Price of the Option (where there is an Exercise Price) must be amended in inverse proportion to that ratio;
- (b) in a sub-division of capital – the number of Plan Shares to which the Participant is entitled on exercise of the Option or Right must be sub-divided in the same ratio as the ordinary capital and the Exercise Price of the Option (where there is an Exercise Price) must be amended in inverse proportion to that ratio;
- (c) in a return of capital – the number of Plan Shares to which the Participant is entitled on exercise of the Option or Right must remain the same and the Exercise Price of the Option (where there is an Exercise Price) must be reduced by the same amount as the amount returned in relation to each ordinary Share; and

- (d) in any other case – the number of Plan Shares to which the Participant is entitled on exercise of the Option or Right or the Exercise Price of the Option (where there is an Exercise Price), or both, must be reorganised so that the Participant will not receive a benefit that the holders of ordinary Shares do not receive. This rule does not prevent rounding of the number of Plan Shares to be received on exercise of the Option or Right if the rounding occurs in accordance with Rule 17.6.

#### **17.4 Limited right to participate in new issues**

Subject to the preceding Plan Rules a Plan Share, Right or Option does not entitle a Participant to participate in any new issues of securities of the Company, unless under the Listing Rules the Company is under an obligation to allow the Participant to participate in the new issue of securities. For the purposes of this clause 17.4, the Company will be taken to be under an obligation to allow the Participant to participate in the new issue of securities if that is required for the purpose of the new issue being a pro-rata issue under the Listing Rules.

#### **17.5 Cumulative adjustments**

The terms of this Rule 17 relating to bonus issues, rights issues and reorganisations may be applied on more than one occasion such that their effects may be cumulative.

#### **17.6 Fractions of Shares rounded**

If application (or cumulative successive applications, where applicable) of any of the provisions of this Rule 17 to a Participant's Plan Shares, Options or Rights results, by reference to the total number of Plan Shares, Options or Rights that are affected, in a number of Shares that includes a fraction, the Board must round up or down the fraction to the nearest whole number (with 0.5 being rounded up).

#### **17.7 Notice of adjustments**

Whenever rights relating to Plan Shares, Options or Rights are adjusted in accordance with this Rule 17, the Company must give notice of the adjustment to each affected Participant and to the ASX.

## **Termination Events**

### **18 Termination Event**

#### **18.1 Board discretion**

Except as expressly provided otherwise in an applicable Offer Document, and subject to this Rule 18, if a Termination Event occurs in respect of a Participant:

- (a) where the Participant is a Good Leaver:
- (i) in relation to Plan Shares held by the Participant that are not Vested and Share Benefits held by the Participant, the Company may undertake a Buy-back of those Plan Shares and Share Benefits in accordance with Rule 18.2 at their Fair Value on the Relevant Valuation Date and subject to any applicable Offer Document must pay the proceeds to the Participant;
  - (ii) in relation to Options held by the Participant where the Exercise Conditions for an Option have not been satisfied (or waived by the Board), the Board may determine that the Exercise Conditions cease to

- apply and the Option may be exercised within one month of the date the Participant ceased to be Employed (or within such extended period as the Board authorises in writing); and
- (iii) where the Performance Conditions for a Right have not been satisfied (or waived by the Board), the Board may determine that the Performance Conditions cease to apply and the holder of the Right may elect in writing that the Right may be exercised at any time within one month of the date the Participant ceased to be Employed (or within such extended period as the Board authorises in writing); or
- (b) in circumstances other than where the Participant is a Good Leaver, the Company may, at any time within the Relevant Period, do any one or more of the following:
- (i) in relation to Plan Shares held by the Participant that are not Vested and Share Benefits held by the Participant, undertake a Buy-back of those Plan Shares and Share Benefits in accordance with Rule 18.2 at their Fair Value on the Relevant Valuation Date and subject to any applicable Offer Document must pay the proceeds to the Participant; and
  - (ii) in relation to Options or Rights held by the Participant, resolve that those Options are immediately cancelled.

## **18.2 Buy-back mechanics**

For the purposes of Rule 18.1(b)(i):

- (a) upon the happening of the relevant Termination Event, the Participant is deemed to have immediately granted a Buy-back option to the Company pursuant to which the Company will be entitled during the Relevant Period, subject to complying with the Corporations Act, to the extent applicable the Listing Rules and the constitution of the Company, to give notice in writing to the Participant which is an offer to Buy-back all of the Plan Shares and Share Benefits held by the Participant at the price specified in Rule 18.1(b)(i). The Participant must accept the offer and transfer to the Company all of the Plan Shares and Share Benefits held by the Participant;
- (b) the Participant irrevocably and for valuable consideration appoints each director nominated by the Board (**Nominated Proxy**) as the attorney of and proxy for the Participant to take all such steps and do and execute all the acts, deeds and things which are necessary to allow the Company to exercise the Buy-back option in accordance with Rule 18.2(a) including:
  - (i) vote in favour of a resolution of the members of the Company in relation to the Buy-back of the Plan Shares and Share Benefits at a meeting of the members of the Company;
  - (ii) sign a document setting out the resolution described in Rule 18.2(b)(i);
  - (iii) consent to the resolution described in Rule 18.2(b)(i) in a manner other than as set out above; and
  - (iv) consent to a meeting of members of the Company in relation to the resolution described in Rule 18.2(b)(i) being held on short notice;
- (c) the voting rights given to the Nominated Proxy under this Rule 18.2(b) include rights in relation to all the methods by which votes may be cast in accordance

with the Corporations Act, to the extent applicable the Listing Rules and the constitution of the Company including by show of hands, poll, voice, ballot, acclamation, election, postal ballot or circular resolution;

- (d) if for any reason the Nominated Proxy is unable to exercise any of its rights under Rule 18.2(b), the Board may vary these Plan Rules to ensure that the Nominated Proxy may exercise the rights set out in Rule 18.2(b);
- (e) the Participant undertakes not to take any action, engage in any conduct or exercise any rights which would prevent the Nominated Proxy from exercising their rights under Rule 18.2(b); and
- (f) where there is an Amount Outstanding under any Loan Agreement relating to the Plan Shares, or where the Company has provided any other financial accommodation which has not been repaid, the Company may apply the proceeds of any Buy-back to repayment of the Amount Outstanding or other financial accommodation.

## **19 Forfeiture Event**

Except as expressly provided otherwise in an applicable Offer Document, if a Forfeiture Event occurs in respect of a Participant, the Company may, at the Participant's election or in its own discretion, at any time within the Relevant Period, do any one or more of the following:

- (a) in relation to Plan Shares held by the Participant that are not Vested and Share Benefits held by the Participant, resolve that those Plan Shares and Share Benefits are immediately forfeited;
- (b) in relation to Options or Rights held by the Participant, resolve that those Options are immediately cancelled.

## **Issue, ranking and quotation**

### **20 Issue Plan Shares**

If:

- (a) an Invitation for the issue of Plan Shares is accepted; or
- (b) an Option or Right is properly exercised (resulting in an entitlement to Plan Shares),

in accordance with the applicable Offer Documents, the Company must within such period as is stated in or required by the Offer Documents (or failing that, within 10 Business Days), issue to the Participant each Plan Share to which the Participant is entitled upon such acceptance or exercise.

### **21 Plan Shares rank pari passu**

All Plan Shares issued under this Plan will rank pari passu in all respects with the Shares of the same class for the time being on issue, except for any rights or entitlements already existing by reference to a record date before the Plan Shares were issued to the Participant.

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## **22 Plan Shares to be quoted on the ASX**

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If Shares of the same class as Plan Shares issued under this Plan are quoted on the ASX, the Company will apply to the ASX within the period applicable under the Listing Rules, if any, for the Plan Shares to be quoted.

## **Administration and variation of this Plan**

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### **23 Administration of this Plan**

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#### **23.1 Board to administer**

This Plan will be administered by the Board. The Board will have power to:

- (a) delegate to any person (or persons) for such period and on such terms as it sees fit, the exercise of any of its powers or discretions under this Plan;
- (b) determine appropriate procedures for administration of this Plan consistent with these Plan Rules, including approving the form and content of forms and notices to be issued under this Plan; and
- (c) resolve conclusively all questions of fact, construction, interpretation or ambiguity in connection with the terms or operation of this Plan or any Offer Document.

#### **23.2 Board directions**

The Board may give written directions to an Employee Trustee in relation to any matter contemplated by these Plan Rules or any other Offer Document, in the form prescribed by the Employee Trust Deed, or where no form is prescribed, in such form as the Board determines, including in relation to:

- (a) the subscription for or acquisition of Plan Shares;
- (b) the holding of Plan Shares (including forfeited Plan Shares), for the benefit of a Participant or Participants; and
- (c) the transfer Plan Shares to a third party,

and the Trustee must act in accordance with such directions to the extent required by the terms of the Employee Trust Deed.

#### **23.3 Board has unfettered discretion**

Except as expressly provided otherwise in these Plan Rules or any other Offer Document, the Board has absolute and unfettered discretion (without needing to obtain consent from any person) in the exercise of any of its rights, powers or discretions under each Offer Document and to act or refrain from acting under any Offer Document or in connection with this Plan.

#### **23.4 Payments net of tax**

If, when the Board makes or is deemed to make a payment to a Participant or in any other circumstances, it is obliged to deduct or withhold any amount of tax or other government levy or impost, the payment to the Participant is to be made net of the deduction or withholding.

#### **23.5 Transaction costs**

The Company may but is not required to bear all brokerage, commission or other transaction costs payable in relation to the acquisition of Plan Shares, Rights or Options by Participants or an Employee Trustee under this Plan.



**23.6 Board's decision is final**

If there is any dispute or disagreement as to the interpretation of these Plan Rules or as to any right, obligation under or in relation to any Offer Document, the decision of the Board is final and binding on all persons in the absence of manifest error.

**23.7 Adjustments to Plan in case of foreign resident Participant**

If, in relation to a Right, Plan Share or Option, the Participant is not a resident of Australia, these Plan Rules apply to the Right, Plan Share or Option subject to whatever alterations or additions the Board may determine, having regard to any securities, exchange control or taxation laws or regulations applicable in the place of residence of the Participant or any other matter that the Board considers directly or indirectly relevant.

**23.8 Attorney**

Each Eligible Employee and Participant, in consideration of the issue of Plan Shares or grant of Rights or Options under this Plan:

- (a) shall be deemed irrevocably to appoint each director of the Board as its attorney to jointly with any other director, from time to time, complete and execute all documents, and to do all acts or things on behalf of and in the name of the Participant, which may be necessary or expedient for the purpose of giving effect to these Plan Rules; and
- (b) if requested by the Board, must ratify and confirm any act or thing done pursuant to the power conferred by Rule 23.8(a) and releases and indemnifies each director and the Company from and against any liability whatsoever arising from the exercise of any such power.

**23.9 Data protection**

By applying for Rights, Plan Shares or Options, each Eligible Employee and Participant consents to the holding and processing of personal data provided by the Eligible Employee or Participant to the Company for all purposes relating to the operation of this Plan. These purposes include:

- (a) administering and maintaining Eligible Employee or Participant records;
- (b) providing information to future purchasers of the Company or the business in which the Participant (or if the Participant is a Nominee Participant, the relevant Eligible Employee of that Nominee Participant) is Employed; or
- (c) transferring information about the Eligible Employee or Participant to a country or territory outside Australia.

**23.10 Correction of errors**

- (a) In the event that any error or mistake has been made:
  - (i) in relation to the number of Rights, Plan Shares or Options the subject of:
    - (A) an Invitation under Rule 9; or
    - (B) any certificate or statement regarding Rights, Plan Shares or Options issued under Rule 12, or
  - (ii) in any notice given by the Board in relation to a Performance Condition, Exercise Condition or Vesting Condition,



that Invitation, certificate, statement or notice, as the case may be, shall be null and void and of no legal effect to the extent of any such error or mistake and the Board may correct such error or mistake by notice to each affected Eligible Employee and Participant, without the need to obtain consent from that Eligible Employee or Participant, and, where appropriate, may issue an amended Invitation, certificate, statement or notice.

- (b) The Board must notify each affected Eligible Employee or Participant within a reasonable period after discovering and correcting the error or mistake.

## **24 Plan variations**

### **24.1 Board may vary**

Subject to Rule 24.2, the Board may by resolution:

- (a) vary (meaning, for the purposes of this Rule 24, vary, add to, revoke, substitute or replace) any term of these Plan Rules (other than this Rule 24) or any other Offer Document applicable to a Participant (other than the terms of an Employee Trust); or
- (b) permit an Employee Trustee to vary the terms of an Employee Trust, subject to receipt of any necessary shareholder or other approval required under the Corporations Act (and any law applicable to the Company), to the extent applicable the Listing Rules and the Company's constitution.

### **24.2 Exception where material adverse effect**

The Board may not cause or permit any variation contemplated by Rule 24.1 if the variation would have a material adverse effect on the rights or obligations of a Participant in respect of a Plan Share issued or an Option or Right granted to that Participant, or of an Eligible Employee or Nominee Participant under a Loan Agreement entered into, before the date of the variation, unless:

- (a) the variation is introduced primarily:
- (i) for the purpose of complying with any law that affects this Plan;
  - (ii) to correct a manifest error;
  - (iii) to address possible adverse tax implications for Eligible Employees, Participants or the Company, arising from:
    - (A) a ruling of any relevant taxation authority;
    - (B) a change to tax legislation (including an official announcement by any relevant taxation authority); or
    - (C) the interpretation or a change in interpretation of tax legislation by a court of competent jurisdiction or by any relevant taxation authority; or
- (b) it has received the prior written consent of that Participant or Eligible Employee.

### **24.3 Board must notify**

As soon as reasonably practicable after making a variation under this Rule 24, the Board must, by written notice, inform the ASX and each Participant and Eligible Employee affected by the variation of the nature and extent of the variation.

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## General provisions

### 25 Terms of Employment

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#### 25.1 Employment not affected

These Plan Rules do not:

- (a) form part of any contract of Employment or any arrangement in respect of any such contract, between any Eligible Employee and a Group Company; or
- (b) constitute a related condition or collateral arrangement to any such contract or arrangement,

and participation in this Plan does not in any way affect the rights and obligations of the Eligible Employee under the terms of his or her Employment.

#### 25.2 Rights and obligations under Plan not affected

The terms of Employment of an Eligible Employee with a Group Company do not in any way affect the rights and obligations of that person under this Plan.

#### 25.3 No claims

No Eligible Employee, Nominee Participant or other person has any right to compensation or damages from any Group Company in respect of any loss of future rights under this Plan, as a consequence of termination of an Eligible Employee's Employment.

### 26 Non-Australian residents

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- (a) The Board may adopt additional rules of the Plan that will apply to an issue of any Plan Shares or grant of any Options or Rights that is made to an Eligible Employee or Nominee Participant who is a resident in a jurisdiction other than Australia, subject to whatever alterations or additions the Board may determine having regard to any securities, exchange control, taxation or other laws and regulations or any other matter that the Board considers directly or indirectly relevant.
- (b) If an Invitation (**USA Invitation**) is issued under this Plan to a Participant who is a resident or citizen of the United States of America (**USA**) or the USA Invitation is otherwise subject to USA federal or state laws, then Appendix A applies to such USA Invitation to the extent applicable.

### 27 Tax withholding

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- (a) If any Group Company is obliged, or reasonably believes it may have an obligation, as a result of or in connection with the issue of any Plan Shares or grant of any Options or Rights, to account for:
  - (i) income tax or employment taxes under any wage, withholding or other arrangements; or
  - (ii) any other tax, social security contributions or levy or charge of a similar nature,then the relevant Group Company is entitled to be reimbursed by the Participant for the amount or amounts so paid or payable.

- (b) Where Rule 27(a) applies, the relevant Group Company may make arrangements for payment or reimbursement of the amounts referred to in Rule 27(a). Those arrangements may include, without limitation:
- (i) the provision by the Participant of sufficient funds to reimburse the Group Company for the amount (by salary deduction, reduction of any amount owed by the Group Company to the Participant or otherwise);
  - (ii) the sale on behalf of the Participant of Plan Shares for payment or reimbursement of these amounts, as well as the costs of any such sale;
  - (iii) the exercise of Options or Rights (even if the applicable Exercise Conditions or Performance Conditions have not been satisfied) and the sale of the resulting Plan Shares for payment and reimbursement of these amounts, as well as the Exercise Price (if any) and any other costs of any such exercise and sale; or
  - (iv) a reduction in any amount payable to the Participant in lieu of an allocation of Plan Shares under this Plan.

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## **28 No dealings**

### **28.1 Plan Shares**

Except where permitted by the terms of an applicable Offer Document, no Plan Share issued to a Participant may be transferred, disposed of, assigned, become the subject of a Security Interest or be otherwise dealt with by the Participant:

- (a) if it is subject to Vesting Conditions, until it has become Vested;
- (b) if it is subject to Disposal Restrictions, in breach of any Disposal Restrictions; or
- (c) if it is a Loan Share, until such time as the total Amount Outstanding under the relevant Loan Agreement has been repaid in full,

except with the prior written consent of the Board and only then in accordance with the constitution of the Company.

### **28.2 Options and Rights**

Except where permitted by the terms of an applicable Offer Document, no Option or Right held by a Participant may be transferred, disposed of, assigned, become the subject of a Security Interest or be otherwise dealt with by the Participant, except with written consent of the Board.

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## **29 Applicable laws and Constitution**

These Plan Rules and the terms of each Offer Document are subject to all applicable laws, including the Corporations Act and, to the extent applicable, the Listing Rules, and the Company's constitution in force from time to time.

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## **30 Inconsistency**

If there is any inconsistency between:

- (a) the provisions or terms of one Offer Document and the terms of any other Offer Document, the terms of the document listed first in the definition of 'Offer Document' will prevail to the extent of the inconsistency; or

- (b) to the extent applicable, this Plan and the Listing Rules, the Listing Rules will prevail to the extent of the inconsistency.

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### **31 Notices**

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- (a) Notices may be given by the Company to Participants in the manner permitted by the Corporations Act for the giving of notices to holders of Shares and the relevant provisions of the Corporations Act apply (with only the necessary changes having been made) to notices given to Participants.
- (b) Service of all documents required by this Plan shall be deemed to be affected if the Company sends the document by registered post to the last address of the Eligible Employee or Participant (as the case may be) known to the Company.

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### **32 Suspension or termination of this Plan**

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- (a) The Board may, at any time:
  - (i) suspend the issuing of Plan Shares or granting of Options or Rights under this Plan and
  - (ii) subject to Rule 32(b), terminate this Plan.
- (b) If termination of this Plan would have a material adverse effect on the rights or obligations of a Participant in respect of Plan Share issued or Option or Right granted to that Participant, or of an Eligible Employee under a Loan Agreement entered into, before the date of termination, the Board may not terminate this Plan unless it has received the prior written consent of that Participant or Eligible Employee.

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### **33 Board's determination**

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Where the Board makes a determination under these Plan Rules it does so in its absolute discretion and, for the avoidance of doubt, the Board may apply different terms and conditions to each respective Eligible Employee as it considers appropriate.

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### **34 Severability**

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If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Plan, but the rest of this Plan is not affected.

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### **35 Governing Law**

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- (a) These Plan Rules are governed by and are to be construed in accordance with the laws applicable in New South Wales and the Commonwealth of Australia.
- (b) The Company, each Eligible Employee and each Participant irrevocably and unconditionally submits to the non exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

## **Annexure A     Additional Terms of USA Invitations**