

# GTN Long-Term Incentive Plan - Rules

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# GTN Long-Term Incentive Plan - Rules

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# GTN Long-Term Incentive Plan - Rules

## General Terms

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### 1 Introduction

#### 1.1 Purpose

The Plan provides eligible Participants with an opportunity to acquire an ownership interest in the Company or gain an economic exposure to the value of Shares in the Company.

#### 1.2 Commencement

The Plan commences on the date that the Company determines.

#### 1.3 Rules are binding

The Company, the Trustee (if any), each Participating Company and each Participant are bound by these rules.

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### 2 Definitions and interpretation

#### 2.1 Definitions

The following words and expressions have the following meanings unless the contrary intention appears:

**Application** means an application for Options made by a Participant under the terms of an Invitation.

**Application Form** means an application form attached to an Invitation.

**ASX** means ASX Limited or the market operated by ASX Limited as the context requires.

**Bad Leaver** means a Participant who ceases to be an employee of any Group Member in circumstances where they:

- (a) are dismissed by the Company for cause (whether or not the dismissal amounts to summary termination);
- (b) resign; or
- (c) are otherwise not a Good Leaver.

**Board** means all or some of the Directors acting as a board of the Company or a sub-committee of the Board.

**Business Day** means a day other than a Saturday, Sunday or public holiday in Sydney, Australia and New York, USA.

**Company** means GTN Limited (ACN 608 841 801).

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

**Director** means a director of the Company.

**Event** means:

- (a) a Takeover Bid is made to the holders of issued Shares in the Company;
- (b) a statement is lodged with the ASX to the effect that a person has a relevant interest in not less than 50% of the total number of voting Shares;
- (c) pursuant to an application made to the court, the court orders a meeting to be held in relation to a proposed compromise or arrangement for the purpose of or in connection with a scheme for the merger or acquisition of the Company, with or by any third party entity not being a Group Member;
- (d) the Company passes a resolution for voluntary winding up;
- (e) an order is made for the compulsory winding up of the Company; or
- (f) the Company ceases to be listed on ASX.

**Exercise Period** means, in respect of an Option, the Period during which the Option can be exercised being the period commencing on the Vesting Date (or such later date specified in an Invitation) and ending on the Expiry Date.

**Exercise Price** means the amount payable by an Option holder to exercise an Option in accordance with rule 6.1 as set out in the relevant Invitation (subject to adjustment in accordance with these rules and the Listing Rules) (for the avoidance of doubt, the Exercise Price may be zero).

**Expiry Date** means, in respect of an Option, the last date on which that Option may be exercised as set out in the Invitation.

**Good Leaver** means a Participant who ceases to be an employee of a Group Member in circumstances where they:

- (a) are dismissed by the Company without cause (including a Redundancy);
- (b) die or become Totally and Permanently Disabled; or
- (c) are determined by the Board to be treated as a Good Leaver.

**Grant Date** means, in relation to an Option, the date on which the Option is granted.

**Group** means the Company and each body corporate that is a Subsidiary of the Company.

**Group Member** means any member of the Group.

**Holding Lock** has the same meaning as in Chapter 19 of the Listing Rules.

**Invitation** means an invitation to apply for an Option under the Plan made in accordance with rule 3.2.

**Listing Rules** means the official listing rules of ASX, except to the extent of any express waiver by or confirmation from ASX.

**Market Price** means, in relation to Shares, an amount equal to the volume weighted average of the selling price of a Share recorded on the ASX over 5 ASX trading days immediately preceding the date on which the Market Price is to be calculated or, if no sale occurred during such period, the last sale price of a Share recorded on the ASX.

**Option** means, subject to the relevant Invitation, a right granted under rule 3.8 to acquire a Share (by transfer, issue or allocation) for the Exercise Price during the Exercise Period in accordance with these rules.

**Participant** means a person participating in the Plan, who must be a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor, and who has not ceased to be a Participant under rule 3.12 and includes a legal personal representative of the Participant.

**Participating Company** means the Company and each other Group Member to which the Board resolves that the Plan extends.

**Plan** means the GTN Long-Term Incentive Plan, the rules of which are set out in this document.

**Redundancy** means the termination of a Participant's employment with a Group Member which, in the opinion of the Board, occurs by reason of either:

- (a) a restructure or state of affairs within the Company or a Group Member whereby the position previously being occupied by the Participant no longer exists within the Company or a Group Member; or
- (b) the Group Member that employs a Participant ceasing to be a Group Member.

**Restriction Period** means, in respect of a Share held by a Participant under the Plan, the period commencing at the date of acquisition of the Share by the Participant and ending on the earliest of:

- (a) the end date specified in the Invitation for the Option relating to that Share or if no end date was specified, the seventh anniversary of the date the Option was granted to the Participant;
- (b) the date on which the Participant is no longer an employee;
- (c) the date on which the Board in its discretion notifies the Participant that an Event has occurred; and
- (d) a date determined by the Board.

**Security Interest** means a mortgage, charge, pledge, lien or other encumbrance of any nature.

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

**Securities Trading Policy** means the Company's Securities Trading Policy announced to the ASX from time to time.

**Subsidiary** has the same meaning as in Division 6 of Part 1.2 of the Corporations Act.

**Supplementary Condition** means any term or condition (other than the rules or the Vesting Conditions) to which an Option is subject, or to which any Shares acquired on the exercise of the Option will be subject.

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

**Tax Act** means the *Income Tax Assessment Act* 1936 (Cwlth) and the *Income Tax Assessment Act* 1997 (Cwlth), as the context requires.

**Terms and Conditions of Grant** means all of:

- (a) these rules; and
- (b) the terms and conditions set out in the applicable Invitation including any Vesting Conditions and any Supplementary Conditions.

**Totally and Permanently Disabled** means, in relation to a Participant:

- (a) suffering the loss of two limbs or the sight of both eyes or the loss of one limb and the sight of one eye (where limb means the whole hand or the whole foot); or
- (b) having been absent from work through injury or illness for an initial period of six (6) consecutive months and being incapacitated to such an extent as to render the Participant unable ever to engage in work for reward of any occupation or work which he or she is reasonably capable of performing by reason of education, training or experience.

**Tranche** means a number of Options which have the same Terms and Conditions of Grant.

**Trust** means any trust established by the Company for the purposes of facilitating the delivery of Shares to Participants in accordance with the obligations of the Company under the Plan.

**Trustee** means the trustee from time to time of the Trust.

**Vested Option** means an Option in respect of which all of the Vesting Conditions have been satisfied or waived or which has otherwise vested in accordance with rule 4.

**Vesting Condition** means, in relation to an Option, a condition which must be satisfied or waived before that Option becomes vested in its holder unless the Option vests in accordance with rule 4.

**Vesting Date** means, in respect of an Option, the date on which the Vesting Conditions in relation to that Option are satisfied or waived, or such earlier date on which the Option vests in accordance with rule 4.

## 2.2 Interpretation

In these rules and any Invitation, unless the contrary intention appears:

- (a) words importing the singular include the plural and vice versa;
- (b) references to these rules, or any particular rule, means these rules, or the relevant rule, as amended from time to time;
- (c) the reference to Share in the definition of Option in rule 2.1 includes a reference to a Share resulting from an adjustment;

- (d) references to a statute or other law include regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) references to the exercise of a power or discretion include a decision not to exercise the power or discretion;
- (f) references to a “year” mean any period of 12 months;
- (g) the words “include”, “including” or “such as” are not used as, nor are they to be interpreted as words of limitation, and when introducing a list of items does not exclude a reference to other items whether of the same class or genus or not;
- (h) “Australian dollars”, “dollars”, “A\$” or “\$” is a reference to the lawful currency of Australia and “US dollars” or “US\$” is a reference to the lawful currency of the United States of America;
- (i) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (j) a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (l) if an act under this agreement to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day.

## **2.3 Heading**

Headings are for convenience only and, except where they are inserted as a means of cross-reference, do not affect the interpretation of these rules.

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# **3 Invitation, application and acceptance**

## **3.1 Eligibility**

The Board may determine the Participants who are eligible to participate in the Plan from time to time.

## **3.2 Invitation may be made**

From time to time the Company may make an Invitation to participate in the Plan to a Participant who is eligible to participate in the Plan in accordance with rule 3.1.

## **3.3 Content of Invitation**

An Invitation to a Participant to apply for Options may be made on such terms and conditions as the Board decides from time to time, including as to:

- (a) the number of Options for which that Participant may apply;



- (b) the Exercise Price, Exercise Period and Expiry Date;
- (c) whether the Options must be or are able to be satisfied by the payment of cash on exercise;
- (d) any Vesting Conditions;
- (e) any Supplementary Condition; and
- (f) whether any Restriction Period will apply to any Shares delivered or allocated on exercise of the Options.

### **3.4 Form of Application**

The Invitation to a Participant must be accompanied by an Application Form.

### **3.5 Participant agrees to be bound**

Each Participant is, by submitting a completed Application Form, deemed to have agreed to be a Shareholder and to be bound by:

- (a) the terms of the Invitation and Application Form;
- (b) the provisions of these rules, as amended from time to time; and
- (c) the constitution of the Company, as amended from time to time.

### **3.6 Acceptance of Application**

The Application must be in the form included with the Invitation, and may not be made on the basis that it is subject to any terms and conditions other than those specified in the Invitation. The method of acceptance of an Application must be set out in the Application Form, including:

- (a) the name or title of the person to whom the Application must be sent; and
- (b) the date and time by which the Application must be received by or on behalf of the Company.

### **3.7 When the Company must receive the Application**

For an Application to be effective, it must be duly completed and signed and received by or on behalf of the Company by the time and date specified in the Invitation, unless otherwise determined by the Company.

### **3.8 Company to grant Options**

On receipt of an Application, the Company at the discretion of the Board may grant the Options specified in the Invitation to the Participant, subject to the Terms and Conditions of Grant.

### **3.9 When Applications will not be accepted**

An Application will not be accepted if, at the date the Application would otherwise be accepted the person to whom the relevant Invitation was made:

- (a) is not a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor;

- (b) has given their Employer notice of his or her resignation (whether as an employee, consultant or contractor); or
- (c) has been given notice of termination of employment (whether as an employee, consultant or contractor) or if, in the opinion of the Board, he or she has tendered his or her resignation to avoid such dismissal.

### **3.10 Board's discretion**

The Board may determine that an Application under this rule 3 by a Participant who would otherwise be eligible to participate under these rules will not be accepted.

### **3.11 Certificate or statement**

Following the grant of Options under rule 3.8, the Company may issue to the Participant a certificate and/or other document that states or together state with respect to that grant:

- (a) the number of Options granted;
- (b) the Grant Date;
- (c) where the Options are comprised in two or more Tranches, the number of Options in each Tranche;
- (d) whether any Restriction Period will apply to Shares delivered on exercise of the Options; and
- (e) other terms and conditions (if any) as determined by the Board.

### **3.12 Cessation of membership**

A person ceases to be a Participant when all property or moneys to which the Participant is entitled under the Plan have been transferred or paid, or all rights the person has under the Plan have lapsed, in accordance with these rules.

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## **4 Vesting of Options**

### **4.1 Ordinary vesting of Options**

Unless a Participant's Option lapses or vests or lapses at an earlier date, then subject to the Terms and Conditions of Grant, the Option will become a Vested Option on the date the Vesting Conditions and any Supplementary Conditions are satisfied or waived by the Board.

### **4.2 Acceleration of vesting of Options**

- (a) Subject to the Terms and Conditions of Grant, the Board may determine that all or a portion of the unvested Options of a Participant are Vested Options, as applicable, immediately or at some future time (including following the occurrence of such further event or circumstance as the Board determines), including in the following circumstances:
  - (i) the Participant is a Good Leaver; or
  - (ii) an Event occurs.

- (b) If an Event occurs or the Board otherwise makes a determination under rule 4.2(a), the Board may reduce the Exercise Period and bring forward the Expiry Date of the relevant Options provided that the Exercise Period must be at least 60 days unless:
  - (i) a Takeover Bid has been made to the holders of issued Shares in the Company and the bidder under that Takeover Offer has lodged a compulsorily acquisition notice with ASIC in accordance with section 661B of the Corporations Act, in which case the Board may reduce the Exercise Period for the relevant Options so that it ends, and the Expiry Date occurs, on the day 10 Business Days after that compulsory acquisition notice is lodged with ASIC; and
  - (ii) an event described in paragraph (c) of the definition of Event has occurred, and the court has approved the implementation of the scheme, in which case the Board may reduce the Exercise Period for the relevant Options so that it ends, and the Expiry Date occurs, on the day that is two Business Days after the court approves the implementation of the scheme.

### **4.3 Retention of Options**

If a Participant ceases to be a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor for any reason and any or all of their unvested Options neither become Vested Options in accordance with rule 4.2 or lapse in accordance with rule 5, those Options will be retained by the Participant and will subsequently lapse or become Vested Options in accordance with the Rules in the same way as if the Participant remained a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor.

### **4.4 Individual not treated as ceasing to be Participant**

For the purposes of these Rules, a Participant:

- (a) is not treated as ceasing to be a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor and they will be neither a Good Leaver or a Bad Leaver unless and until the individual is no longer a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor, whether or not in the same capacity as at the time they become a Participant; and
- (b) is treated as ceasing to be a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor giving rise to their becoming either a Good Leaver or a Bad Leaver if the individual is no longer a permanent full time or part time employee of a Group Member or an individual engaged by a Group Member as a consultant or contractor because:
  - (i) the individual's employer or contracting party ceases to be a Group Member, whether or not, after the cessation, the individual remains an employee of or contractor or consultant to that employer; or

- (ii) the individual is an employee of or contractor or consultant to a business that is transferred to a person that is not a Group Member.

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## **5 Lapse of Options**

### **5.1 Ordinary lapse of Options**

Notwithstanding any other provision of these rules an Option that has not vested at an earlier date will lapse on the earlier to occur of:

- (a) the Expiry Date; or
- (b) the date the Vesting Conditions and any Supplementary Conditions applicable to an Option are no longer able to be met and they have not been waived by the Board.

### **5.2 Acceleration of lapse of Options**

Subject to rule 4 and the Terms and Conditions of Grant, unless Options have lapsed or vested at an earlier date, a Participant's Options will lapse:

- (a) on the date the Participant becomes a Bad Leaver; or
- (b) if an Event occurs and the Board determines that they are to lapse, in which case the Board may determine that:
  - (i) all or a portion of the Options are to lapse; and/or
  - (ii) the Options are to lapse immediately or at some future time (including following the occurrence of such further event or circumstance as the Board determines).

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## **6 Exercise of Options**

### **6.1 Exercise**

Subject to the Terms and Conditions of Grant, at any time during the Exercise Period a Participant may exercise any or all of their Vested Options by paying the Exercise Price to the Company in the manner directed by the Board and providing the Company with a completed exercise notice in the form determined by the Board, if any.

### **6.2 Satisfaction of exercised Options**

Within 30 days after a Vested Option is exercised in accordance with rule 6.1, the Company must, in the absolute discretion of the Board, either:

- (a) unless (b) applies, issue to the Participant, or cause to be issued or transferred to the Participant, one Share for each Vested Option exercised by the Participant (subject to any adjustment in accordance with rule 7); or
- (b) if the Invitation for the relevant Options stated that the Options could be satisfied by either the delivery of Shares or the payment of cash, either:
  - (i) issue to the Participant, or cause to be issued or transferred to the Participant, one Share for each Vested Option exercised by

the Participant (subject to any adjustment in accordance with rule 7); or

- (ii) procure the payment to the Participant of a cash amount equal to the Market Price of the Shares calculated in accordance with rule 6.2(b)(i).

### 6.3 Cashless exercise of Options

- (a) At any time during the Exercise Period in respect of a Participant's Vested Options, the Participant may exercise any or all of those Options by:
  - (i) exercising them in accordance with rule 6.1; or
  - (ii) providing the Company with a completed notice which states that the Participant elects to undertake a cashless exercise of their Vested Options in accordance with this rule 6.3, in the form determined by the Board, if any ("**Cashless Exercise Notice**").
- (b) Within 30 days of a Participant providing the Company with a Cashless Exercise Notice in accordance with rule 6.3(a)(ii), the Company must, in the absolute discretion of the Board, either:
  - (i) unless (ii) applies, issue to the Participant, or cause to be issued or transferred to the Participant, the number of Shares calculated by the following formula:

*(A minus B) divided by C, where:*

*A = Number of Shares to which each Vested Option relates x Number of Vested Options exercised x Market Price per Share*

*B = Number of Shares to which each Vested Option relates x Number of Vested Options exercised x Exercise Price per Option*

*C = Market Price per Share*

- (ii) if the Invitation for the relevant Options stated that the Options could be satisfied by either the delivery of Shares or the payment of cash, either:
  - (A) issue to the Participant, or cause to be issued or transferred to the Participant, the number of Shares calculated in accordance with the formula in rule 6.3(b)(i); or
  - (B) procure the payment to the Participant of a cash amount equal to the Market Price of the Shares calculated in accordance with the formula in rule 6.3(b)(i).

### 6.4 Shares to rank pari passu

All Shares delivered on the exercise of a Participant's Options will rank pari passu in all respects with the Shares of the same class for the time being on issue except for any rights attaching to the Shares by reference to a record date prior to the date of their allotment or transfer.

## **6.5 Shares to be quoted on ASX**

If Shares of the same class as those issued on the exercise of a Participant's Options are quoted on the ASX, the Company will apply to the ASX as required by the Listing Rules for those Shares to be quoted.

## **6.6 Delivery of Shares by allocation**

- (a) The Board may determine that the Company's obligation under rule 6.2 or 6.3 to issue or transfer Shares to the Participant is instead to be read as an obligation to procure that the Trustee allocates that number of Shares held by the Trustee under the terms of the Trust to the Participant.
- (b) If the Board makes a determination under rule 6.6(a), the Participant will be entitled to receive all dividends and other payments and exercise any voting rights in respect of the Shares held in the Trust on their behalf and they will be entitled to have the Shares transferred to them on request (subject to the Company's Securities Trading Policy and any applicable laws).

## **6.7 Securities trading policy**

Notwithstanding any other provision in these rules or an Invitation, the exercise by a Participant of an Option shall be subject to the Company's securities trading policy in place from time to time.

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# **7 Adjustment of Options**

## **7.1 Bonus issue**

If the Company makes a bonus issue of Shares pro rata to members (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) and no Shares have been registered in the name of a Participant in respect of an Option held by the Participant before the record date for determining entitlements to the bonus issue, then the number of Shares to which the Option relates will be increased by the number of Shares which the Participant would have received if the Option had been exercised and Shares delivered to the Participant immediately prior to the record date for the bonus issue.

## **7.2 Sub-division, rights issue, consolidation, reduction or return**

If there is any rights issue or reorganisation, including any subdivision, consolidation, reduction or return of the issued capital of the Company, the number of Options held by a Participant, the number of Shares to which the Options relate, the Exercise Price per Option and/or the nature of the Shares to which the Options relate will be adjusted in the way (if any) specified by the Listing Rules from time to time or, if the Listing Rules do not specify any adjustment, in the manner determined by the Board acting reasonably.

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

Subject to the preceding rules, during the currency of a Participant's Options and before their exercise, the Participant is not entitled to participate in any new issue of Shares of the Company as a result of holding the Options.

## **7.4 Accumulation of adjustments**

Full effect must be given to rules 7.1 and 7.2 as and when occasions of their application arise and in such manner that the effects of the successive applications of them are cumulative, the intention being that the adjustments they progressively effect must be such as to reflect in relation to the Shares comprised in an Option the adjustments which on the occasions in question are progressively effective in relation to Shares already on issue. All adjustment calculations are to be to four decimal places.

Unless otherwise provided in these rules, a Participant has no right to change the number of Shares to which an Option relates.

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## **8 Register of Options**

Unless the Board determines otherwise, Options granted under these rules (and Shares issued, transferred or allocated to the relevant Participant on their exercise) will be registered in the appropriate register of the Company.

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## **9 Restrictions**

### **9.1 Restrictions on dealing with Options**

A Participant must not:

- (a) sell, assign, transfer or otherwise deal with, or grant a Security Interest over; or
- (b) enter into any arrangement for the purpose of hedging, or otherwise affecting their economic exposure to,

their Options. If the Participant does so, the relevant Options will lapse immediately unless the Board in its absolute discretion approves the dealing or the transfer or transmission is effected by force of law on death or legal incapacity to the Participant's legal personal representative.

### **9.2 Shares subject to Restriction Period**

Rules 9.3 to 9.7 will apply to any Shares delivered or allocated to a Participant under rule 6.2 or 6.3 on exercise of Options if the Invitation for those Options stated that a Restriction Period would apply to Shares delivered or allocated on the exercise of those Options.

### **9.3 Enforcement of Restriction Period**

- (a) The Company is entitled to make, or procure the making of, such arrangements as it considers necessary to enforce any Restriction Period on Participants dealing with Shares, and Participants must agree to such arrangements and must not take any action or permit another person to take any action to remove the arrangements.
- (b) Without limiting rule 9.3(a), and subject to the Listing Rules, the Company may procure that a Holding Lock be put on those Shares while a Restriction Period applies.

#### **9.4 Release of Shares from the Plan**

After the expiration of the Restriction Period a Participant must hold his or her Shares outside the Plan and the Company must remove any transfer restriction imposed in accordance with rule 10.3.

#### **9.5 Removing Holding Locks**

Without limiting rule 9.4, when a Share is no longer subject to a Restriction Period, the Company must, as soon as reasonably practicable, procure that any Holding Lock on that Share is removed.

#### **9.6 Request for withdrawal of Shares**

A Participant may submit a request for the Board to waive the Restriction Period in relation to Shares and the Board may approve or reject such request in its absolute discretion or on such conditions as the Board determines.

#### **9.7 Restrictions on dealing with Shares**

By applying for and being granted Options under these rules, each Participant undertakes the Participant will not dispose any of the Shares they are delivered or allocated on exercise of their Options in breach of the Company's Securities Trading Policy.

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### **10 Administration of Plan**

#### **10.1 Board to administer Plan**

The Plan is to be administered by the Board in accordance with these rules. The Board may make further provisions for the operation of the Plan which are consistent with these rules.

#### **10.2 Board powers and discretions**

Any power or discretion which is conferred on the Board by these rules must be exercised by the Board in the interests or for the benefit of the Company, and the Board is not, in exercising any power or discretion, under any fiduciary or other obligation to any other person.

#### **10.3 Delegation of Board powers and discretions**

Any power or discretion which is conferred on the Board by these rules including the power to invite employees to participate in the Plan and to determine the terms and conditions of a Participant's Option may be delegated by the Board to:

- (a) a committee consisting of such directors, other officers or employees of the Company, or any combination of such persons as the Board thinks fit;
- (b) a related body corporate of the Company; or
- (c) a third party,

for such periods and on such conditions as the Board thinks fit. The Company or the Board at all times retains the absolute discretion to override any exercise of a power or discretion by its delegate.



## **10.4 Documents**

The Company may from time to time require a person invited to participate in the Plan or a Participant to complete and return such other documents as may be required by law to be completed by that person or Participant, or such other documents which the Company considers should, for legal, taxation or administrative reasons, be completed by that person or Participant.

## **10.5 Board decision - final and conclusive**

Subject to rule 10.3, the decision of the Board as to the interpretation, effect or application of these rules and all calculations and determination made by the Board under these rules are final, conclusive and binding in the absence of manifest error.

## **10.6 Suspension of Plan**

The Board may from time to time suspend the operation of the Plan and may at any time cancel the Plan. The suspension or cancellation of the Plan must not prejudice the existing rights (if any) of Participants.

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# **11 Amendment of the Plan**

## **11.1 Board may amend**

Subject to rules 11.2 and 11.3, the Board may at any time by written instrument, amend all or any of the provisions of these rules, including this rule 11.

## **11.2 No reduction of existing rights**

Any amendment to the provisions of these rules must not materially reduce the rights of any Participant as they existed before the date of the amendment, unless the amendment is introduced primarily:

- (a) for the purpose of complying with or conforming to present or future State, Territory or Commonwealth legislation governing or regulating the maintenance or operation of the Plan or like plans;
- (b) to correct any manifest error or mistake;
- (c) to enable contributions or other amounts paid by a Group Member to the Plan to qualify as income tax deductions for that member or another Group Member;
- (d) to enable the Trustee or any Group Member to reduce the amount of fringe benefits tax under the *Fringe Benefits Tax Assessment Act* 1986 (Cwlth), the amount of tax under the Tax Acts, or the amount of any other tax or impost that would otherwise be payable by the Trustee or the Group Member in relation to the Plan;
- (e) for the purpose of enabling the Participants generally (but not necessarily each Participant) to receive a more favourable taxation treatment in respect of their participation in the Plan;
- (f) to enable the Plan or any Group Member to comply with the Corporations Act, the Listing Rules or its constitution; or

- (g) to enable the Company to undertake a Reorganisation provided the holder of an Option receives the benefits that one or more holders of Shares will receive under the Reorganisation but does not receive a benefit such a holder of Shares will not receive under the Reorganisation.

### **11.3 Retrospective amendment possible**

Subject to rule 11.2, any amendment made under rule 11.1 may be given retrospective effect as specified in the written instrument by which the amendment is made.

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## **12 Termination of the Plan**

The Plan terminates and is to be wound up (as provided below) on the occurrence of any of the following events:

- (a) if an order is made or an effective resolution is passed for the winding up of the Company other than for the purpose of amalgamation or reconstruction; or
- (b) if the Board determines that the Plan is to be wound up.

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## **13 Miscellaneous provisions**

### **13.1 Rights of Participants**

Nothing in these rules:

- (a) confers on any person any expectation to become a Participant;
- (b) confers on any Participant the right to be invited to apply for, to be offered or to receive any Option;
- (c) confers on any Participant the right to continue as an employee of or contractor or consultant to any Group Member;
- (d) affects any rights which any Group Member may have to terminate the employment of any employee or terminate the relevant contract with any contractor or consultant; or
- (e) may be used to increase damages in any action brought against any Group Member in respect of any termination of employment or termination of the relevant contract with any contractor or consultant.

No person, whether a Participant or otherwise, has any claim, right or interest in respect of the Plan or other property of the Plan, whether against the Company, the Trustee or any other person, as a consequence of termination of the employee's employment or termination of the contract or consultants relevant contract or appointment or otherwise, except under and in accordance with these rules.

### **13.2 Instructions by Participants**

For the purposes of these rules, the Company, the Trustee, the Board and any Group Member is entitled to regard any notice, direction or other communication given or purported to be given by or on behalf of a Participant (or a legal personal

representative of a Participant) as valid, whether given orally or in writing. Any notice, direction or other communication given or purported to be given by or on behalf of a Participant (or a legal personal representative of a Participant) or any other person under these rules to the Company, the Trustee or the relevant Group Member is duly given only if actually received by the Company, Trustee or relevant Group Member (as the case may be).

### **13.3 Notices**

Any notice, certificate, consent, approval, waiver or other communications given by the Board, the Company, the Trustee or the Group Member is deemed to have been duly given if:

- (a) sent by electronic mail or delivered by hand; or
- (b) sent by ordinary prepaid mail,

and is deemed to have been served:

- (c) if sent by electronic mail or delivered by hand, at the time of sending or delivery; or
- (d) if posted, three Business Days (or, if posted to a Participant's address outside Australia, seven Business Days) after the date of posting.

Delivery, transmission and postage is to the address of any Participant as indicated on the Application Form, any other address as the Board, the Trustee or any Participant may notify to the other or in the case of a Participant who is an employee, the address of the place of business at which the Participant performs the whole or substantially the whole of the duties of his or her office or employment.

### **13.4 Governing law**

These rules are governed by the laws in force in New South Wales and are construed and take effect in accordance with those laws.

### **13.5 Payments net of tax**

If, when the Board makes or is deemed to make a payment to a Participant under these rules (including a payment in the form of Shares), the Board 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.

### **13.6 Service of process**

The Company irrevocably appoints the Commissioner of Business Oversight of the State of California, or the Commissioner's successor in office, to be its attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against it, or its successor, executor, or administrator which arises under the Corporate Securities Law of 1968 or any rule or order thereunder.