

# **Medigard Employee Share Option Plan**

**Plan Rules**

**Medigard Ltd**

## **TABLE OF CONTENTS**

<b>TERMS AND CONDITIONS</b> .....	<b>4</b>
<b>1 DEFINITIONS</b> .....	<b>4</b>
<b>2 INTERPRETATION</b> .....	<b>7</b>
<b>INTRODUCTION</b> .....	<b>8</b>
<b>3 NAME OF PLAN</b> .....	<b>8</b>
<b>4 PURPOSES OF PLAN</b> .....	<b>8</b>
<b>5 COMMENCEMENT OF PLAN</b> .....	<b>8</b>
<b>ELIGIBILITY AND APPROVALS</b> .....	<b>8</b>
<b>6 ELIGIBILITY</b> .....	<b>8</b>
<b>7 APPROVALS</b> .....	<b>9</b>
<b>INVITATIONS</b> .....	<b>9</b>
<b>8 INVITATION</b> .....	<b>9</b>
8.1 BOARD MAY ISSUE INVITATIONS (QUANTITY LIMITED) .....	9
8.2 TERMS OF OFFER .....	9
8.3 EXERCISE CONDITIONS .....	9
8.4 PERFORMANCE CONDITIONS .....	9
8.5 HOW TO APPLY FOR OPTIONS .....	9
8.6 UNDERTAKING TO BE BOUND .....	10
8.7 INDEPENDENT ADVICE .....	10
<b>ISSUE OR TRANSFER OF PLAN OPTION</b> .....	<b>10</b>
<b>9 COMPANY TO ISSUE, TRANSFER OR GRANT</b> .....	<b>10</b>
9.1 ISSUE AND GRANT TO PARTICIPANT .....	10
<b>10 CERTIFICATE</b> .....	<b>10</b>
<b>11 REGISTERS OF PLAN OPTION</b> .....	<b>10</b>
<b>OPTION SPECIFIC PROVISIONS</b> .....	<b>11</b>
<b>12 EXERCISE OF AN OPTION</b> .....	<b>11</b>
12.1 MANNER OF EXERCISE .....	11
12.2 REQUIREMENTS FOR EXERCISE OF AN OPTION .....	11
12.3 BOARD MAY EXTEND EXPIRY DATE FOR OPTION .....	11
<b>13 LAPSING OF OPTIONS</b> .....	<b>11</b>
13.1 GENERAL .....	11
13.2 EXCEPTIONS .....	11
<b>ACCELERATION EVENTS AND VARIATIONS OF CAPITAL</b> .....	<b>12</b>
<b>14 ACCELERATION EVENTS</b> .....	<b>12</b>
<b>15 VARIATIONS OF CAPITAL</b> .....	<b>12</b>
15.1 BONUS ISSUES .....	12
15.2 RIGHTS ISSUES .....	12
15.3 REORGANISATION OF CAPITAL .....	12

15.4	LIMITED RIGHT TO PARTICIPATE IN NEW ISSUES.....	13
15.5	CUMULATIVE ADJUSTMENTS.....	13
15.6	FRACTIONS OF SHARES ROUNDED.....	13
15.7	NOTICE OF ADJUSTMENTS.....	13
<b>TERMINATION EVENTS.....</b>		<b>13</b>
<b>16</b>	<b>TERMINATION EVENT.....</b>	<b>13</b>
16.1	BOARD DISCRETION.....	13
<b>ISSUE, RANKING AND QUOTATION.....</b>		<b>13</b>
<b>17</b>	<b>ISSUE SHARES.....</b>	<b>13</b>
<b>18</b>	<b>SHARES RANK PARI PASSU.....</b>	<b>14</b>
<b>19</b>	<b>SHARES TO BE QUOTED ON THE ASX.....</b>	<b>14</b>
<b>ADMINISTRATION AND VARIATION OF THIS PLAN.....</b>		<b>14</b>
<b>20</b>	<b>ADMINISTRATION OF THIS PLAN.....</b>	<b>14</b>
20.1	BOARD TO ADMINISTER.....	14
20.2	BOARD HAS UNFETTERED DISCRETION.....	14
20.3	PAYMENTS NET OF TAX.....	14
20.4	TRANSACTION COSTS.....	14
20.5	BOARD'S DECISION IS FINAL.....	14
20.6	ADJUSTMENTS TO PLAN IN CASE OF FOREIGN RESIDENT PARTICIPANT.....	15
20.7	ATTORNEY.....	15
20.8	DATA PROTECTION.....	15
20.9	CORRECTION OF ERRORS.....	15
<b>21</b>	<b>PLAN VARIATIONS.....</b>	<b>16</b>
21.1	BOARD MAY VARY.....	16
21.2	BOARD MUST NOTIFY.....	16
<b>GENERAL PROVISIONS.....</b>		<b>16</b>
<b>22</b>	<b>TERMS OF EMPLOYMENT.....</b>	<b>16</b>
22.1	EMPLOYMENT NOT AFFECTED.....	16
22.2	RIGHTS AND OBLIGATIONS UNDER PLAN NOT AFFECTED.....	16
22.3	NO CLAIMS.....	16
<b>23</b>	<b>TAX WITHHOLDING.....</b>	<b>16</b>
<b>24</b>	<b>NO DEALINGS.....</b>	<b>17</b>
24.1	OPTIONS.....	17
<b>25</b>	<b>APPLICABLE LAWS AND CONSTITUTION.....</b>	<b>17</b>
<b>26</b>	<b>INCONSISTENCY.....</b>	<b>17</b>
<b>27</b>	<b>NOTICES.....</b>	<b>17</b>
<b>28</b>	<b>SUSPENSION OR TERMINATION OF THIS PLAN.....</b>	<b>17</b>
<b>29</b>	<b>BOARD'S DETERMINATION.....</b>	<b>17</b>
<b>30</b>	<b>SEVERABILITY.....</b>	<b>18</b>
<b>31</b>	<b>GOVERNING LAW.....</b>	<b>18</b>

## **TERMS AND CONDITIONS**

### **1 Definitions**

---

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

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

the Board resolves to sell, transfer or dispose of all or substantially all of the Company's assets;

a Change of Control Event occurs in relation to the Company;

an Insolvency Event occurs in relation to the Company; or

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 Option, the date on which the relevant Participant's application for the Plan Option 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 Termination Event** means any Termination Event which the Board may determine is applicable to an Option in addition to Termination Events.

**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.

**Blackout Period** means a period when trading in Company securities is restricted by the Company's securities trading policy.

**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 Brisbane.

**Ceasing to be Employed** means ceasing to be Employed by a 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, 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):

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;

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

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, 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 Medigard Ltd ACN 090 003 044.

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

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

**Eligible Participant** means an officer of a Group Company or a person currently employed by or engaged as a contractor or consultant by a Group Company and determined by the Board to be eligible to participate in this Plan.

**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 8.3 and specified in an Offer Document.

**Exercise Price** means, in relation to an Option, the amount payable on exercise of the Option as stated in the Invitation, but not less than the price which represents a minimum of 10% premium to the VWAP of shares in the Company over the 10 days on which trades of shares in the Company were recorded prior to the Invitation to apply for the grant of Options.

**Expiry Date** means, in relation to an Option, the final date by which the Option may be exercised as specified in or determined in accordance with the Terms of Offer, as extended (if applicable) in accordance with Rule 12.3.

**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 Participant 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 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 Plan Option that is made to an Eligible Participant in accordance with Rule 8.

**Issue Price** means the amount (if any) payable for the grant of an Option as stated in the Invitation.

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

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

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

- (a) these Plan Rules;
- (b) the Terms of Offer;
- (c) the constitution of the Company;
- (d) the Eligible Participant's application for the Plan Option;
- (e) the certificate issued with respect to the Plan Option under Rule 10; and
- (f) 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 Share(s).

**Participant** means a person to whom an Option is granted, being an Eligible Participant or Nominee Participant.

**Performance Condition** means a condition prescribed by the Board as a condition that must be satisfied before an Option may be exercised, being a condition determined in accordance with Rule 8.4 and specified in an Offer Document.

**Plan** means the Employee Share Option Plan governed by these Plan Rules.

**Plan Rules** means these rules as varied from time to time in accordance with Rule 21.

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

**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 Participant of that Nominee Participant) ceases to be Employed or engaged as a contractor or consultant to a Group Company or;

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:

the Participant sells, transfers, assigns, grants a Security Interest over or otherwise deals with an 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;

the Participant (or if the Participant is a Nominee Participant, the relevant Eligible Participant of that Nominee):

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;

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);

breaches or has breached any duty (whether at law, under a contract or otherwise) owed to a Group Company; or

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

**Termination for cause** means that a Participant has ceased to be employed or engaged by the Group because the Participant 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;

breached any duty (whether at law, under a contract or otherwise) owed to a Group Company

**Terms of Offer** means, in relation to an Option, the terms determined by the Board and stated in the Invitation to apply to that Option.

**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:

the singular includes the plural and vice versa;

any gender includes the other genders;

if an expression is defined, its other grammatical forms have corresponding meanings;

"includes" means includes without limitation;

a reference to:

a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;

any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as consolidated, modified, re-enacted or replaced; and

these Plan Rules, an agreement or document includes these Plan Rules, agreement or document as amended or replaced;

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;

where time is to be calculated by reference to a day or event, that day or the day of that event is excluded;

terms which are defined in the Corporations Act bear the same meaning when used in these Plan Rules or an Offer Document; and

headings are inserted for convenience only and do not affect construction or interpretation of these Plan Rules.

## **INTRODUCTION**

### **3 Name of Plan**

---

This Plan shall be known as the 'Medigard Employee Share Option Plan'.

### **4 Purposes of Plan**

---

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

motivating and retaining existing Eligible Participants; and

attracting high quality individuals as future Eligible Participants.

### **5 Commencement of Plan**

---

This Plan takes effect immediately upon its approval by shareholders.

## **ELIGIBILITY AND APPROVALS**

### **6 Eligibility**

---

The Board may in its absolute discretion:

determine whether or not a person is an Eligible Participant who is entitled to participate in this Plan; and

vary that determination from time to time in relation to a person or class of persons.

## **7 Approvals**

---

The grant of Options 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.

## **INVITATIONS**

### **8 Invitation**

---

#### **8.1 Board may issue Invitations (Quantity limited)**

Subject to these Plan Rules, the Board may, in such form as the Board determines, issue to an Eligible Participant a written invitation to apply for Plan Options. However, an invitation may not be made when acceptance of the Invitation would result in the number of Options on issue under the Employee Plan exceeding 7% of the number of Shares in the Company.

#### **8.2 Terms of Offer**

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

the number of Plan Options for which the Eligible Participant may apply or how the number will be calculated;

if there is an Issue Price for a Plan Option, the amount or how it is calculated;

if there is an Exercise Price for an Option, the amount or how it is calculated;

the Expiry Date of an Option;

each Exercise Condition that applies to an Option and, to the extent applicable, the measurement period or date applicable to its assessment;

each Additional Termination Event (if any) that applies to a Plan Option;

subject to these Plan Rules, any other conditions that apply to Plan Options; and

that the issue of Shares, on exercise of an Option, 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.

#### **8.3 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).

#### **8.4 Performance Conditions**

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

#### **8.5 How to apply for Options**

An Eligible Participant may apply for an Option by:

duly completing (including, if the Invitation so permits and the Eligible Participant so chooses, by nominating a Nominee Participant) and signing (and, if the Eligible Participant 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);

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

complying with any other instructions in the Invitation.

#### **8.6 Undertaking to be bound**

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

#### **8.7 Independent advice**

Each Eligible Participant (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 an Option under this Plan, their exercise of an Option and their rights and obligations as a holder of Shares.

## **ISSUE OR TRANSFER OF PLAN OPTION**

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

---

#### **9.1 Issue and grant to Participant**

After receipt by the Company of:

an application (and, in applicable circumstances, a transfer form) for Plan Option in accordance with Rule 8.5; and

the Issue Price for the Plan Option (if any)

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

### **10 Certificate**

---

Subject to Rule 10, upon a person becoming a Participant, the Company will issue to the Participant a certificate setting out with respect to the grant:

the name of the Participant;

the Acceptance Date;

the Terms of Offer or a reference to the Terms of Offer being set out in the applicable Invitation; and

a statement that the Plan Options are granted subject to these Plan Rules and the terms of each applicable Offer Document.

### **11 Registers of Plan Option**

---

Options granted under this Plan must be recorded in the appropriate register of the Company.

## **OPTION SPECIFIC PROVISIONS**

### **12 Exercise of an Option**

---

#### **12.1 Manner of exercise**

When permitted to do so under this Rule 14 and each applicable Offer Document, a Participant may exercise an Option 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 certificate(s).

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

A Participant may only exercise an Option:

on or before its Expiry Date; and

provided:

the Option has not lapsed in accordance with Rule 13; and

all Exercise Conditions or Performance Conditions have been satisfied (or waived by the Board) or the Participant has become entitled to exercise the Option under Rule 14.

Options may not be exercised within a Blackout Period

An exercise of Options must consist of all the Options held by the Participant which are able to be exercised or the number of Options for which the total exercise price payable is at least \$10,000.

#### **12.3 Board may extend Expiry Date for Option**

The Board may, with or without condition, and subject to compliance with the Listing Rules to the extent applicable, resolve to extend the Expiry Date for an Option.

### **13 Lapsing of Options**

---

#### **13.1 General**

Unless the Board resolves otherwise, an Option 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 lapses in accordance with these Plan Rules or the terms of any other applicable Offer Document; or
- (c) subject to Rule 13.2, the date a Termination Event occurs.

#### **13.2 Exceptions**

Rule 13.1(c) does not apply to an Option to the extent that:

an Offer Document permits the Option to continue following the occurrence of a particular Termination Event; or

subject to compliance with the Listing Rules to the extent applicable the Board waives the operation of Rule 13.1(c),

however, in all other respects Rule 13.1 continues to apply.

## ACCELERATION EVENTS AND VARIATIONS OF CAPITAL

### 14 Acceleration Events

---

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

### 15 Variations of capital

---

#### 15.1 Bonus issues

If, before 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):

the Participant is entitled upon the Option becoming exercised to an issue of Shares (in this Rule 15.1 called **Additional Shares**) in addition to the Share(s) to which the Participant is otherwise entitled;

the number of Additional Shares that the Participant is entitled to acquire under Rule 0 is the number (disregarding fractions) of Shares that would have been issued to the Participant in such bonus issue had the Option already been exercised at the date for determining entitlements under the bonus issue; and

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.

#### 15.2 Rights issues

In accordance with Listing Rule 6.22.2, if there is a pro rata issue (except a bonus issue) to the holders of the underlying securities, the Exercise Price of an Option may be reduced according to the following formula:

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

Where:

O' = the new Exercise Price of the Option.

O = the old Exercise Price of the Option.

E = the number of underlying securities into which one Option is exercisable.

P = the volume weighted average market price per security of the underlying securities, calculated over the 5 trading days ending on the day before the ex rights date or ex entitlements date.

S = the subscription price for a security under the pro rata issue.

D = the dividend due but not yet paid on the existing underlying securities (except those to be issued under the pro rata issue)

N = the number of securities with rights or entitlements that must be held to receive a right to one new security

#### 15.3 Reorganisation of capital

If before an Option issued under the Plan is exercised the issued capital of the Company is reconstructed (including by consolidation or subdivision, or by a reduction or return of

capital), the number of Options or the exercise price of the options or both shall be reconstructed and the rights of the Participant are to be changed in a manner consistent with the Corporations Act and the ASX Listing Rules applying to a reorganisation of capital at the time of the reconstruction..

**15.4 Limited right to participate in new issues**

An 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.

**15.5 Cumulative adjustments**

The terms of this Rule 15 relating to bonus issues, rights issues and reorganisations may be applied on more than one occasion such that their effects may be cumulative.

**15.6 Fractions of Shares rounded**

If application (or cumulative successive applications, where applicable) of any of the provisions of this Rule 15 to a Participant's Options results, by reference to the total number of Plan Options 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).

**15.7 Notice of adjustments**

Whenever rights relating to a Plan Option are adjusted in accordance with this Rule 15, the Company must give notice of the adjustment to each affected Participant and to the ASX.

## **TERMINATION EVENTS**

### **16 Termination Event**

---

**16.1 Board discretion**

Except as expressly provided otherwise in an applicable Offer Document, and subject to this Rule 16, if a Termination Event occurs in respect of a Participant:

where the Participant ceases to be an Eligible Participant other than by termination for cause:

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 three months of the date the Participant ceased to be Employed or engaged (or within such extended period as the Board authorises in writing); and

in circumstances other than where the Participant ceases to be an Eligible Participant as a result of termination for cause, the Company may:

in relation to Options held by the Participant, resolve that those Options are immediately cancelled.

## **ISSUE, RANKING AND QUOTATION**

### **17 Issue Shares**

---

If an Option is properly exercised (resulting in an entitlement to 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 Share to which the Participant is entitled upon such acceptance or exercise.

## **18 Shares rank pari passu**

---

All 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 Shares were issued to the Participant.

## **19 Shares to be quoted on the ASX**

---

If Shares of the same class as 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 Shares to be quoted.

# **ADMINISTRATION AND VARIATION OF THIS PLAN**

## **20 Administration of this Plan**

---

### **20.1 Board to administer**

This Plan will be administered by the Board. The Board will (subject to compliance with the Listing Rules to the extent applicable), have power to:

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;

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

resolve conclusively all questions of fact, construction, interpretation or ambiguity in connection with the terms or operation of this Plan or any Offer Document.

### **20.2 Board has unfettered discretion**

Except as expressly provided otherwise in these Plan Rules or any other Offer Document, subject to compliance with the Listing Rules to the extent applicable, 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.

### **20.3 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.

### **20.4 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 Shares or Options by Participants under this Plan.

### **20.5 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.

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

If, in relation to an Option, the Participant is not a resident of Australia, these Plan Rules apply to the 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.

**20.7 Attorney**

Each Eligible Participant and Participant, in consideration of grant of 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 20.7(a) and releases and indemnifies each director and the Company from and against any liability whatsoever arising from the exercise of any such power.

**20.8 Data protection**

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

administering and maintaining Eligible Participant records;

providing information to future purchasers of the Company or the business in which the Eligible Participant (or if the Participant is a Nominee Participant, the relevant Eligible Participant of that Nominee Participant) is Employed or engaged; or

transferring information about the Eligible Participant or Participant to a country or territory outside Australia.

**20.9 Correction of errors**

In the event that any error or mistake has been made:

in relation to the number of Shares or Options the subject of:

an Invitation under Rule 8; or

any certificate or statement regarding Options issued under Rule 10, or

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 Participant, without the need to obtain consent from that Eligible Participant, and, where appropriate, may issue an amended Invitation, certificate, statement or notice.

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

## **21 Plan variations**

---

### **21.1 Board may vary**

Subject to Rule 21, the Board may by resolution vary (meaning, for the purposes of this Rule 21, vary, add to, revoke, substitute or replace) any term of these Plan Rules (other than this Rule 21) or any other Offer Document applicable to a Participant, 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.

### **21.2 Board must notify**

As soon as reasonably practicable after making a variation under this Rule 21, the Board must, by written notice, inform the ASX and each Eligible Participant affected by the variation of the nature and extent of the variation.

## **GENERAL PROVISIONS**

## **22 Terms of Employment**

---

### **22.1 Employment not affected**

These Plan Rules do not:

form part of any contract of Employment or any arrangement in respect of any contract, between any Eligible Participant and a Group Company; or

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 Participant under the terms of his or her Employment.

### **22.2 Rights and obligations under Plan not affected**

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

### **22.3 No claims**

No Eligible Participant, 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 Participant's Employment.

## **23 Tax withholding**

---

(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 Shares or grant of any Options, 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,
- iii. 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 23(a) applies, the relevant Group Company may make arrangements for payment or reimbursement of the amounts referred to in Rule 23(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 exercise of Options (even if the applicable Exercise Conditions or Performance Conditions have not been satisfied) and the sale of the resulting 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

## **24 No dealings**

---

### **24.1 Options**

Except where permitted by the terms of an applicable Offer Document, no Option 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.

## **25 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.

## **26 Inconsistency**

---

If there is any inconsistency between:

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

to the extent applicable, this Plan and the Listing Rules, the Listing Rules will prevail to the extent of the inconsistency.

## **27 Notices**

---

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.

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 Participant known to the Company.

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

---

- (a) The Board may, at any time:
  - i. suspend the issuing of Shares or granting of Options under this Plan and
  - ii. subject to Rule 28(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 an Option granted to that Participant, before the date of termination, the Board may not terminate this Plan unless it has received the prior written consent of that Participant.

## **29 Board's determination**

---

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 Participant as it considers appropriate.

### **30 Severability**

---

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.

### **31 Governing Law**

---

These Plan Rules are governed by and are to be construed in accordance with the laws applicable in Queensland and the Commonwealth of Australia.

The Company, each Eligible Participant and each Participant irrevocably and unconditionally submits to the non exclusive jurisdiction of the courts of Queensland 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.