

## **Solstice Minerals Limited – Employee Incentive Plan Rules**

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**IMPORTANT:** These Rules and any Invitation given pursuant to the Plan do not take in account a Participant's individual objectives, financial situation and needs. Participants should consider obtaining their own financial product advice from a person who is licensed by ASIC to give such advice. None of the Company, its directors, officers or employees represents that the Share price will increase following the grant of Awards or attain, maintain or exceed the exercise price (if any) of the Awards. Participants who accept an Invitation and/or choose to exercise an Award do so at their risk and may suffer financial detriment if the Share price falls.

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# 1. Definitions and interpretation

## 1.1 Definitions

The following definitions apply in these Rules unless the contrary intention appears.

**Acceptance Date** means the date on which an Invitation under the Plan that has been accepted by an Employee, is accepted by the Company.

**Applicable Law** means:

- (a) the Corporations Act;
- (b) the Listing Rules;
- (c) the Constitution;
- (d) the ITAA 1997 and the ITAA 1936;
- (e) any practice note, policy statement, regulatory guide, Class Order, declaration, guideline, policy, procedure, ruling, judicial interpretation or other guidance note made to clarify, expand or amend (a), (b) or (d) above;
- (f) any other legal requirement (including, without limitation, the rules of the general law, including common law and equity, and any judgment, order, decree, declaration or ruling of a court of competent jurisdiction or government agency binding on a person or the assets of that person) that applies to the Plan; and
- (g) any formal policy relating to dealings in Shares adopted by the Board from time to time, including the Securities Trading Policy.

**Application** means a written acceptance of an Invitation for Awards in a form approved by or acceptable to the Board.

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

**Associate** has the same meaning given to that term in section 12 of the Corporations Act.

**ASX** means the Australian Securities Exchange operated by ASX Limited (ABN 98 008 624 691).

**Award** means:

- (a) an Option; and/or
- (b) a Performance Right, as applicable.

**Bad Leaver** means, unless otherwise determined by the Board in its sole discretion, an Eligible Person, who ceases to be an Eligible Person in any of the following circumstances:

- (a) the Eligible Person resigns from their employment or office unless the resignation is in circumstances where:
  - (i) the Eligible Person continues to be employed by, or fill an office of, any other member of the Group; or
  - (ii) the Eligible Person resigns from their employment or office in connection with

a spin-off, reorganisation, restructure, takeover or other transaction (such transaction being a **Spin-Off**) and is employed by, or fills an office of:

- (A) an entity that, immediately prior to the Spin-Off, was a member of the Group; or
  - (B) an entity that was incorporated or acquired as a direct result of the Spin-Off;
- (b) the Eligible Person's employment is terminated due to poor performance;
- (c) the Eligible Person's employment is terminated, or the Eligible Person is dismissed from their office, for any of the following reasons:
- (i) the Eligible Person has committed any serious or persistent breach of the provisions of any employment or director contract entered into by the Eligible Person with any member of the Group;
  - (ii) the Eligible Person being guilty of fraudulent or dishonest conduct in the performance of the Eligible Person's duties, which in the reasonable opinion of the relevant member of the Group affects the Eligible Person's suitability for employment with that member of the Group, or brings the Eligible Person or the Group into disrepute;
  - (iii) the Eligible Person having been convicted of any criminal offence which involves fraud or dishonesty;
  - (iv) the Eligible Person having committed any wrongful or negligent act or omission which has caused any member of the Group substantial liability;
  - (v) the Eligible Person having become disqualified from managing corporations or having committed an act that may result in the Eligible Person being banned from managing a corporation under any applicable securities law; or
  - (vi) the Eligible Person having committed serious or gross misconduct, wilful disobedience or any other conduct justifying termination of employment without notice,

but, for the avoidance of doubt, does not include an Eligible Person who ceases to be an Eligible Person as a result of:

- (vii) total or permanent disablement, or an illness which persists for at least 3 months, which in either case prevents the person from carrying out their previous functions as an Eligible Person, including where an Eligible Person resigns from their employment or office as a direct result of such total or permanent disablement or illness;
- (viii) genuine redundancy; or
- (ix) death.

**Board** means the board of directors of the Company or a committee appointed by it for the purposes of these Rules.

**Business Day** means any ASX trading day that is not a Saturday, Sunday or public holiday in

Western Australia.

**Casual Employee** means an individual who is, or might reasonably be expected to be, engaged to work the number of hours that are the pro-rata equivalent of 40% or more of a comparable full-time position with a member of the Group.

**Change of Control Event** means:

- (a) a person (together with its Associates), who does not as at the date of adoption of the Plan by the Board have such a Relevant Interest, obtaining a Relevant Interest in sufficient Shares to give it or them the ability, in a general meeting, to replace all or a majority of the Board;
- (b) where a Takeover Bid is made to acquire more than 50% of the Issued Capital (or such lesser number of Shares that when combined with the Shares that the bidder (together with its Associates) already owns will amount to more than 50% of the Issued Capital);
- (c) a person becomes bound or entitled to acquire Shares under section 414 of the Corporations Act (upon a scheme of arrangement being approved by Shareholders), Chapter 6A of the Corporations Act, or section 444GA of the Corporations Act;
- (d) a Court orders a meeting to be held in relation to, or members of the Company approve, a compromise or arrangement for the purposes of or in connection with a scheme for the reconstruction of the Company or its amalgamation with any other company or companies (other than a scheme that does not involve a change in the ultimate beneficial ownership of the Company) which will, upon becoming effective, result in any person (either alone or with its Associates) owning more than 50% of the Issued Capital, where such a person (either alone or with its Associates) does not as at the date of adoption of the Plan by the Board own more than 50% of the Issued Capital;
- (e) the Company passes a resolution for the voluntary winding up of the Company;
- (f) an order is made for the compulsory winding up of the Company; or
- (g) the sale of all or substantially all of the business and assets of the Group,

but, for the avoidance of doubt, does not include any internal reorganisation of the structure, business and/or assets of the Group.

**Class Order** means a class order published by ASIC.

**Clawback Event** means any of the following:

- (a) the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) engages or has engaged in fraud, dishonesty, gross misconduct or in any behaviour that may impact on the Group's reputation or long term financial position;
- (b) the financial results that led to the Awards being granted are subsequently shown to be materially misstated;
- (c) the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) materially breaches their obligations to any member of the Group;
- (d) an event occurs that results in a member of the Group being required or entitled under

law to reclaim remuneration from a Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant); or

- (e) a significant and unintended deterioration in the financial performance of the Group or any member of the Group resulting directly or indirectly from an act or omission of the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant).

**Company** means Solstice Minerals Limited (ACN 150 154 162).

**Constitution** means the constitution of the Company.

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

**Deal** means to:

- (a) transfer, assign, encumber or otherwise dispose of all or any part of the rights or obligations attaching to an Award or other security, or to attempt to do any of those things; or
- (b) hedge or take any action designed to limit the economic risk associated with holding an Award,

(and **Dealing** shall be construed accordingly).

**Eligible Contractor** means:

- (a) an individual with whom a member of the Group has entered into a contract for the provision of services under which the individual performs work for a member of the Group; or
- (b) a company with whom a member of the Group has entered into a contract for the provision of services under which an individual, who is a director of the company or their spouse, performs work for a member of the Group,

where the individual who performs the work under or in relation to the contract is, or might reasonably be expected to be, engaged to work the number of hours that are the pro rata equivalent of 40% or more of a comparable full-time position with the member of the Group.

**Eligible Person** means a person who is:

- (a) an Employee;
- (b) an Eligible Contractor;
- (c) a Casual Employee; or
- (d) a person who has entered into an arrangement that will result in the person becoming an Employee, Eligible Contractor or Casual Employee,

and has been determined by the Board to be eligible to participate in the Plan from time to time.

**Employee** means a person who is a full or part-time employee (including an executive director of a member of the Group, or such other person as the Board determines (on the basis that there is an exception available under section 708 of the Corporations Act such that disclosure is not required to be made to such person)).

**Exercise Price** means the amount payable on exercise of an Award (which may be nil).

**Expiry Date** means the date on which an Award lapses, being the date specified in an Invitation as the Expiry Date or fixed by a method of calculation set out in an Invitation.

**Good Leaver** means an Eligible Person who ceases to be an Eligible Person and is not a Bad Leaver.

**Grant Date** means the date determined by the Board as the date on which an Award is granted.

**Group** means the Company and:

- (a) any related body corporate of the Company as defined in section 50 of the Corporations Act;
- (b) any company that has voting power in the Company of not less than 20%;
- (c) any company in respect of which the Company has voting power of not less than 20%, in each case from time to time.

**Invitation** means a written invitation to an Eligible Person, or their Nominated Party as contemplated by clause 4.3, to participate in the Plan.

**Issued Capital** means the aggregate number of issued Shares from time to time.

**ITAA 1936** means the *Income Tax Assessment Act 1936* (Cth).

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

**Listing Rules** means the Listing Rules of ASX (including any terms of any waivers given under those rules) as they apply to the Company from time to time.

**Market Value** means, at any given date, the volume weighted average price per Share traded on the ASX over the 5 trading days immediately preceding that given date.

**Nominated Party** means, in respect of an Eligible Person:

- (a) an immediate family member of that Eligible Person;
- (b) a company whose members comprise no persons other than that Eligible Person or immediate family members of that Eligible Person; and
- (c) a corporate trustee of a self-managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) where the Eligible Person is a director of the trustee; and
- (d) any other person the Board agrees can act as a nominee of the Eligible Person for the purposes of this Plan (on the basis that there is an exception available under section 708 of the Corporations Act such that disclosure is not required to be made to the nominee).

**Option** means an entitlement granted under the Plan to acquire a Share, subject to satisfaction of any Vesting Conditions and/or other conditions specified in the Plan or in the Invitation (including exercise of the option). For the avoidance of doubt, the holder of an Option will have no interest in any Share in respect of which the Option was granted until the Option is exercised.



**Participant** means an Eligible Person or their Nominated Party who has accepted an Invitation to participate in the Plan and has been granted one or more Awards.

**Performance Right** means a right granted under the Plan to acquire a Share, subject to satisfaction of any Vesting Conditions and/or other conditions specified in the Plan or in the Invitation (including exercise of the right). For the avoidance of doubt, the holder of a Performance Right will have no interest in any Share in respect of which the Performance Right was granted until the Performance Right is exercised.

**Plan** means the Solstice Minerals Limited Employee Incentive Plan established under these Rules as amended from time to time.

**Relevant Interest** has the meaning given to that term in the Corporations Act.

**Restriction Period** means the period (if any) during which Shares issued on exercise of Awards, must not be sold or disposed of, being the period specified in the Invitation in respect of an Award.

**Rules** means these Rules as altered or added to from time to time and a reference to a provision of these Rules is a reference to that provision as altered or added to from time to time.

**Securities Trading Policy** means the securities trading policy of the Company, as amended from time to time.

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

**Shareholder** means a shareholder of the Company.

**Takeover Bid** has the meaning given to it in the Corporations Act.

**Vesting Conditions** means any conditions described in the Invitation that must be satisfied before an Award can be exercised or before an Award (or Share issued under an Award) is no longer subject to forfeiture.

## 1.2 Interpretation

For the purposes of these Rules, unless the contrary intention appears:

- (a) the singular includes the plural and vice-versa;
- (b) words denoting a gender include all genders;
- (c) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (d) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements or any of them; and
- (e) any power, authority or discretion vested in the Company or the Board may be exercised at any time and from time to time and unless expressed otherwise, in their absolute discretion.

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## **2. Purpose**

- (a) The Plan is designed to allow the Board to make grants of Awards to Eligible Persons which provide the opportunity to acquire Shares to assist with:
  - (i) attracting, motivating and retaining Eligible Persons;
  - (ii) delivering rewards to Eligible Persons for individual and Group performance;
  - (iii) allowing Eligible Persons the opportunity to become Shareholders;
  - (iv) assisting with remuneration planning for Eligible Persons; and
  - (v) aligning the interests of Eligible Persons with those of Shareholders.
- (b) Unless stated otherwise in an Invitation, the Plan is intended to operate in accordance with subdivision 83A-C of the ITAA 1997, such that Awards allocated under the Plan are subject to deferred taxation.

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## **3. Awards that may be made under the Plan**

- (a) The Company may from time to time, at the discretion of the Board, operate the Plan and:
  - (i) invite an Eligible Person to apply for a grant of; or
  - (ii) grant to an Eligible Person,

Awards in accordance with the terms of the Plan and upon such additional terms and conditions as the Board determines.
- (b) The grant of Awards may, at the Board's discretion, be in the form of one or more Options and/or Performance Rights.

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## **4. Offers of Awards**

### **4.1 General Eligibility**

At any time and from time to time, the Board may make an Invitation to Eligible Persons, having regard in each case, to:

- (a) the contribution that has been made by the Eligible Person to the Group;
- (b) the period of employment or engagement of the Eligible Person with the Group, including (but not limited to) the years of service by that Eligible Person;
- (c) the potential contribution of the Eligible Person to the Group; and
- (d) any other matters which the Board considers in its absolute discretion to be relevant.

## **4.2 Invitations**

An Invitation shall be in writing (which includes email), include an Application if acceptance is required, and be made on such terms and conditions as the Board decides from time to time, including as to:

- (a) the number of Awards (or the method by which the number will be calculated) the subject of the Invitation;
- (b) any amount payable upon the grant of Awards;
- (c) the type of Awards being offered under the Invitation;
- (d) the manner in which the Eligible Person must apply for the Awards;
- (e) the period or period(s) during which Awards may be exercised and the manner of exercise of those Awards (if applicable);
- (f) the Exercise Price (if any) and Expiry Date of the Awards, or the manner in which those matters are to be determined (if applicable);
- (g) the Restriction Period (if any) that applies to Shares issued on the exercise of Awards;
- (h) details of any Vesting Conditions associated with the Awards;
- (i) the last date by which the Eligible Person may accept the Invitation (following which the Invitation, if not accepted, will lapse);
- (j) how Awards may be treated if the Participant (or if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) becomes a Good Leaver;
- (k) where subdivision 83A-C of the ITAA 1997 requires a statement that deferred taxation applies (subject to the conditions of the ITAA 1997), such wording as appropriate;
- (l) any restrictions on the manner of delivery of the Shares following the exercise of the Awards; and
- (m) any other matters required to be specified in the Invitation by Applicable Law.

## **4.3 Nominated Party**

An Eligible Person may notify the Board that they would prefer an Invitation to be made to a Nominated Party of that Eligible Person. The Board will, in its sole discretion, determine whether an Eligible Person may renounce an Invitation in favour of the Nominated Party and on what conditions.

## **4.4 Grant of Awards**

- (a) If an Invitation is accepted by an Eligible Person or a Nominated Party in respect of an Eligible Person, and that acceptance is accepted by the Company and the offer of the Awards is not subject to any conditions including without limitation shareholder approval, each Award must be granted on the terms of these Rules and the relevant Invitation as soon as practicable following the Acceptance Date, and each Participant will be taken to have agreed to be bound by these Rules, the Constitution, the Securities Trading Policy and the terms of the relevant Invitation on the Acceptance

Date.

- (b) The Company will announce the grant of Awards on ASX in accordance with the Listing Rules.

#### **4.5 Compliance with laws**

No Invitation will be made to the extent that any such Invitation would contravene any Applicable Law.

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## **5. Maximum Number of Awards**

### **5.1 5% Limit**

Subject to clause 5.2 of these Rules, when making an Invitation under the Plan, the Company must have reasonable grounds to believe that the number of Shares that have been or may be issued in any of the circumstances listed below will not exceed 5% of the Issued Capital:

- (a) Shares that may be issued on the exercise of Awards applied for and granted pursuant to the Invitation; and
- (b) Shares issued or that may be issued as a result of Invitations or similar offers made at any time during the previous 3 year period under any employee incentive scheme as defined and provided for in ASIC Class Order [CO 14/1000] (including the Plan) or any other ASIC exempt arrangement of a similar kind to an employee incentive scheme.

### **5.2 Exceptions**

When aggregating the number of Shares for the purposes of clause 5.1 of these Rules, the Company may disregard any invitation made, Award acquired or Share issued by way of, or as a result of:

- (a) an invitation to a person situated at the time of receipt of the offer outside Australia;
- (b) an invitation that did not need disclosure to investors because of section 708 of the Corporations Act; or
- (c) an invitation made under a disclosure document in accordance with Chapter 6D of the Corporations Act.

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## **6. Holding Statement**

The Company will procure the issue to the Participant to whom the Awards have been granted of a statement by the Company's share registry detailing the Participant's holding of Options or Performance Rights (as applicable).

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## **7. Waiver of Awards**

A Participant may give up Awards in whole or in part by deed.

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## **8. Vesting and exercise of Awards**

### **8.1 Vesting**

- (a) The Awards held by a Participant will vest and become exercisable by that Participant upon satisfaction of any Vesting Conditions specified in the Invitation and in accordance with these Rules.
- (b) Vesting Conditions may be waived at the absolute discretion of the Board (unless such waiver is excluded by the terms of the Award).

### **8.2 Restrictions on Dealing**

- (a) A Participant must not Deal with an Award, except:
  - (i) with the written consent of the Board; or
  - (ii) by force of law upon the death or legal incapacity of the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant or the legal personal representative of the Participant (as applicable)), or upon bankruptcy to the Participant's trustee in bankruptcy.
- (b) Where a Participant purports to transfer an Award other than in accordance with clause 8.2(a), the Award immediately lapses.

### **8.3 Default vesting condition if none specified in an Invitation**

If Vesting Conditions or other vesting events are not specified in an Invitation and the Invitation does not expressly state that no vesting conditions apply, the Awards vest in equal one-third tranches on the first, second and third anniversaries of the Grant Date of the Awards (or of another date specified in the Invitation for this purpose).

### **8.4 Automatic exercise**

- (a) Unless clause 8.4(b) applies, the vesting of an Award on the satisfaction of any Vesting Conditions will not automatically trigger the exercise of the Award.
- (b) An Invitation will specify whether an Award that has a nil Exercise Price is to be exercised automatically:
  - (i) upon vesting, in which case the Company will treat the Award as having been validly exercised on the vesting date; or
  - (ii) immediately prior to expiry, in which case the Company will treat the Award as having been validly exercised on the trading day immediately preceding the Expiry Date,

and, whether or not the terms of the Award provide for it, the Board may in its discretion waive any requirement that an issued Award that has a nil Exercise Price be exercised by the Participant.

### **8.5 Exercise of Awards**

- (a) A Participant is, subject to this clause 8, entitled to exercise an Award on or after the

Vesting Date. Any exercise must be for a minimum number or multiple of Shares (if any) specified in the Invitation.

- (b) Unless otherwise specified in an Invitation, Awards may be exercised by the Participant delivering to the Company a notice stating the number of Awards to be exercised together with the Exercise Price (if any) of the Shares to be issued, in the form determined by the Board from time to time (**Notice of Exercise**).
- (c) The exercise of some Awards only does not affect the Participant's right to exercise other Awards at a later time. If the Participant exercises less than all of their Awards then the Company will cause a replacement holding statement to be issued.

## 8.6 Cashless exercise of Awards

- (a) An Invitation may specify that at the time of exercise of the Awards subject of the Invitation, the Participant may elect not to be required to provide payment of the Exercise Price for the number of Awards specified in the Notice of Exercise but that on exercise of those Awards the Company will transfer or allot to the Participant that number of Shares equal in value to the positive difference between the then Market Value of the Shares at the time of exercise and the Exercise Price that would otherwise be payable to exercise those Awards (with the number of Shares rounded down to the nearest whole Share).

## 8.7 Lapsing of Awards

- (a) An Award held by a Participant will lapse upon the first to occur of:
  - (i) subject to clause 8.7(b) below, its Expiry Date;
  - (ii) the Board making a determination that the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) has acted fraudulently, dishonestly or in breach of the Participant's obligations to the Company or any member of the Group; or
  - (iii) a Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) ceasing to be an Eligible Person as a Bad Leaver.
- (b) If the Expiry Date of any Award falls within a 'Black-out Period' (as defined in the Securities Trading Policy) or within 10 Business Days after the expiry of the Black-out Period applicable to any relevant Participant, then the Expiry Date for that Award shall be the date that is the tenth Business Day after the expiry of the Black-out Period (the **Black-out Expiry Date**). The Black-out Expiry Date in respect of an Award may not be amended by the Board.

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# 9. Award terms

## 9.1 Terms

An Award must be granted in accordance with the Invitation in respect of that Award and these Rules, or such other additional terms, conditions or restrictions that are not inconsistent with the Invitation in respect of that Award or these Rules, as the Board determines either generally or in relation to particular Awards.

## **9.2 Variation of terms**

Despite anything to the contrary in these Rules, to the full extent permissible by Applicable Law, the Board may from time to time vary the Exercise Price, the period during which an Award may be exercised and the conditions to which an Award is subject, provided:

- (a) an Invitation in respect of such Awards has not yet been accepted by a Participant; or
- (b) an Invitation in respect of such Awards that has been accepted by a Participant has not yet been accepted by the Company.

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## **10. Allotment of Shares on exercise or vesting of Awards**

### **10.1 Issue of Shares**

- (a) Unless the Invitation provides otherwise, upon valid exercise, each Award shall entitle the Participant to subscribe for and be issued one Share.
- (b) Subject to these Rules and Applicable Law, the Company shall issue Shares on valid exercise of Awards.

### **10.2 Rights attaching to Shares**

The Shares issued under the Plan will, upon allotment:

- (a) be credited as fully paid;
- (b) rank equally for dividends and other entitlements where the record date is on or after the date of allotment, but will carry no right to receive any dividend or entitlement where the record date is before the date of allotment;
- (c) be subject to any restrictions imposed under these Rules or an Invitation; and
- (d) otherwise rank equally with the existing issued Shares at the time of allotment.

### **10.3 Quotation**

If the Company is listed, then as soon as practicable after the date of the allotment of Shares the Company will, unless the Board otherwise resolves, apply for official quotation of such Shares on the ASX.

### **10.4 New or existing Shares**

- (a) The Company may, in its discretion, either issue new Shares or cause existing Shares to be acquired for transfer to the Participant, or a combination of both alternatives, to satisfy the Company's obligations under these Rules.
- (b) If the Company determines to cause the transfer of Shares to a Participant, the Shares may be acquired in such manner as the Company considers appropriate, including from a trustee appointed under clause 10.5.

### **10.5 Trustee**

The Company may appoint a trustee on terms and conditions which it considers appropriate to

acquire and hold Shares, options or other securities of the Company either on behalf of Participants or for the purposes of the Plan.

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## 11. Future issues of Shares

There are no participating rights or entitlements inherent in the Awards and Participants will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Awards, save for in respect of any participation rights arising as a consequence of the Participant being a Shareholder. However, in determining the record date for determining entitlements to any such issue, the Company will, to the extent practicable, procure that Participants shall be afforded the opportunity to exercise all Awards which they are entitled to exercise pursuant to these Rules prior to the date for determining entitlements to participate in any such issue.

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## 12. Clawback

If the Board determines that a Clawback Event has occurred, the Board may, in its absolute discretion and subject to Applicable Law, take any steps that it determines necessary to ensure that no unfair benefit is or has been obtained by the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant). Those steps may include any of the following:

- (a) determining that some or all of the Participant's Awards should lapse and providing the Participant with notice of that determination;
- (b) a reduction in the Participant's (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) future pay;
- (c) a repayment of the overpaid amount granted under these terms or any other overpaid remuneration that was paid to the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) by the Group; or
- (d) another form of alteration of the Participant's (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) remuneration.

If this clause 12 applies and the Board determines, in its absolute discretion and subject to Applicable Law, to implement any clawback by a reduction in the Participant's (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) future pay, that person's salary will be reduced to the extent necessary over the period determined by the Board to accommodate the amount to be clawed back under this clause 12.

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## 13. Hierarchy of laws

- (a) Notwithstanding anything else in these Rules or in any Invitation, an Award may not be granted or exercised if to do so would contravene Applicable Law.
- (b) To the extent of any inconsistency, the terms and conditions of an Award included in (and to be granted under) an Invitation will prevail over the provisions of these Rules.
- (c) Notwithstanding anything to the contrary in any employment agreement or contract between an Eligible Person and any member of the Group (an **Employment**



**Agreement**), but subject at all times to these Rules, if there is any inconsistency between these Rules and an Employment Agreement, these Rules prevail.

- (d) The entitlements of Participants under these Rules and any Invitation are subject to the Constitution. In the event of any inconsistency between these Rules or an Invitation and the Constitution, the terms of the Constitution will prevail.

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## **14. Administration of the Plan**

### **14.1 Delegation**

The Plan shall be in all respects administered under the directions of the Board or a committee of the Board. The Board or committee may appoint, for the proper administration and management of the Plan, such secretarial or executives or staff or other persons as it considers desirable and may delegate to those persons such powers and authorities as may be necessary or desirable for the administration and management of the Plan.

### **14.2 Procedures**

Subject to these Rules, the Board may make such regulations and establish such procedures for the administration and management of the Plan as it considers appropriate. If any disagreement or dispute with respect to the interpretation of these Rules or the terms of grant of any Award arises, such disagreement or dispute shall be referred to the Board and the decision of the Board shall, in the absence of manifest error and subject to Applicable Law, be final and binding upon all parties.

### **14.3 Covenant or exercise of discretion**

Any member of the Group or the Board may, subject to any express provision in these Rules or Applicable Law to the contrary:

- (a) do any act, matter or thing or make any decision, determination or resolution; or
- (b) conditionally or unconditionally give or withhold any consent or approval,

as contemplated by these Rules in its absolute discretion and is not obliged to give reasons for so doing.

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## **15. Notification of adjustments and prices**

### **15.1 Adjustment to Exercise Price or number of Shares**

The Company shall give notice to each Participant of any adjustment to the Exercise Price or the number of Shares that the Participant is entitled to subscribe for on exercise of an Award, in accordance with the Listing Rules.

### **15.2 Market and Exercise Price of Awards**

The Company will provide to a Participant upon request, within a reasonable time, either verbally or in writing, details of the current market price (in Australian dollars) of the Shares and details of the Exercise Price (if any) in relation to Awards held by that Participant.

### 15.3 Reorganisations of capital

If, prior to the exercise of an Award, the Company undergoes a reorganisation of capital (other than by way of a bonus issue or issue for cash) the terms of the Awards of the Participant will be changed to the extent necessary to comply with the Listing Rules as they apply at the relevant time.

### 15.4 General

Unless otherwise permitted by the Listing Rules, the number of Shares that the Participant is entitled to receive on exercise of an Award will only be adjusted in accordance with this clause 15.

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## 16. Change of control

Unless otherwise specified in an Invitation, and notwithstanding any other terms contained in these Rules, upon the occurrence of a Change of Control Event, any outstanding Awards shall vest and may be exercised at any time and in any number from the date of such Change of Control Event, written notice of which the Board shall provide to each Participant as soon as reasonably practicable after becoming aware of such event.

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## 17. Tax compliance

### 17.1 Taxes and withholding

- (a) The Company is not responsible for any taxes that may become payable by a Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) in connection with the issue or transfer of Awards, the issue, transfer or allocation of Shares, or any other Dealing by a Participant with such Awards or Shares including the payment of any cash amount. Participants are solely responsible for all such amounts.
- (b) Where a member of the Group or a trustee appointed under these Rules must account for any tax or social security contributions (in any jurisdiction) for which a Participant may be liable because of the issue or transfer of Shares, payment of cash, or the vesting or exercise of any Award (an **Amount**), the entity or trustee may in its discretion:
  - (i) withhold up to the Amount from any cash payment; and/or
  - (ii) withhold a number of Shares that would otherwise be provided to the Participant and sell them in order to realise the Amount (with any excess received over the Amount net of costs of sale being paid to the Participant).

The member of the Group or trustee may also, either instead of or in addition to exercising the above discretion:

- (iii) accept payment from the Participant of the Amount; or
- (iv) make acceptable arrangements with the Participant for the Amount to be made available.

## **17.2 Tax reporting**

Participants acknowledge that the Company may have reporting obligations in relation to participation in the Plan. Participants authorise the Company to provide information regarding their participation in the Plan, and any related personal or financial information, to any tax authority or other government agency (in any jurisdiction) to the extent required by law, or by the official policy of the tax authority or a government agency.

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## **18. Notices**

Notices may be given by the Company to the Participant in the manner prescribed by the Constitution for the giving of notices to members of the Company and the relevant provisions of the Constitution apply with all necessary modification to notices to Participants.

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## **19. Right to accounts**

Where expressly requested in writing, Participants will be sent all reports and accounts required to be laid before Shareholders in general meeting and all notices of general meetings of Shareholders. Participants will not have any right to attend or vote at those meetings (unless they are otherwise entitled to do so).

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## **20. Company's rights not waived**

- (a) The Company's right to terminate or vary the terms of employment or engagement of any Participant shall not be prejudiced in any way by the Company or any Participant participating in the Plan or anything contained in these Rules or both.
- (b) Participation in the Plan, the rights or benefits of a Participant under these Rules or the inability or restricted ability of a Participant to exercise an Award shall not be used as grounds for granting or increasing damages in any action brought by any Participant (or Eligible Person in respect of a Participant) against the Company whether in respect of any alleged wrongful dismissal, termination or otherwise.
- (c) None of the Company, its directors, officers or employees represents that the Share price will attain, maintain or exceed the Exercise Price (if any). A Participant who chooses to exercise any Award does so at their own risk in that they may suffer financial detriment if the Share price falls.

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## **21. Governing law**

The Plan and these Rules shall in all respects be governed by, and shall be construed in accordance with, the laws of Western Australia.

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## **22. Severance**

If any provision in these Rules is void, voidable by any party or illegal, it shall be read down so as to be valid and enforceable or, if it cannot be so read down, the provision (or where possible, the offending words) shall be severed from these Rules without affecting the validity, legality or

enforceability of the remaining provisions (or parts of those provisions) of these Rules, which shall continue in full force and effect.

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## **23. Commencement, suspension, termination or amendment of the Plan**

- (a) Subject to the passing of any necessary resolution approving the establishment of the Plan and the issue of the Awards, the Plan will take effect when the Board decides.
- (b) The Board may suspend or terminate the Plan at any time, in which case the Company shall not make any further grants of Awards under the Plan during the suspended or terminated period. However, during that period, the Board shall otherwise continue to administer the Plan in accordance with these Rules until all Awards have been exercised or have expired.
- (c) The Plan may be amended at any time by the Board, subject to any requirements of the Listing Rules and the Corporations Act.

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## **24. No representation or warranty**

- (a) The Company makes no representation or warranty as to the value of an Award or any Shares or with respect to any tax matters affecting any Eligible Person or Participant in connection with the Plan.
- (b) Subject to clause 24(c), neither the Company, nor any of its directors, officers, employees, contractors or consultants are liable for anything done or omitted to be done by such person or any other person in respect of:
  - (i) price, time, quantity or other conditions and circumstances of the issue or acquisition of Shares under the Plan;
  - (ii) any fluctuations in the market price of Shares; or
  - (iii) any other matter related to the Plan.
- (c) Clause 24(b) does not exclude any liability of a Participant for anything done or omitted to be done by a Participant when acting in that capacity.

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## **25. Data protection**

By participating in the Plan, the Participant consents to the holding and processing of personal data provided by the Participant to the Company for all purposes relating to the operation of the Plan including, but not limited to:

- (a) administering and maintaining Participant records;
- (b) providing information to trustees of any employee benefit trust, registrars, brokers or third party administrators of the Plan;
- (c) providing information to any regulatory authority (including the Australian Taxation Office) where required under law; and

- (d) providing information to future purchasers of the Group or a member of the Group or business in which the Participant (or, if the Participant is a Nominated Party, the Eligible Person in respect of that Participant) works.

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## **26. Rounding**

Where any calculation or adjustment to be made pursuant to these Rules produces a fraction of a cent or a fraction of an Award or Share, the fraction will be eliminated by rounding down to the nearest whole number.