

MALLESONS STEPHEN JAQUES

# Macquarie Group Employee Share Option Plan

Dated 30 August 2007

Macquarie Group Limited (ACN 122 169 279)

*Adopted by the Board on 30 August 2007*

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# Macquarie Group Employee Share Option Plan

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# Macquarie Group Employee Share Option Plan

## General terms

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### 1 Interpretation and object

#### 1.1 Definitions

In these Rules, unless the context otherwise requires:

**Associated Company** means:

- (a) any company that is a related body corporate of the Company; or
- (b) any other entity where the Company or a company referred to in (a) has a significant degree of influence on management or business decisions or a significant equity interest and which the Committee decides is an Associated Company for the purposes of the Plan.

**ASX** means ASX Limited (ACN 008 624 691) or the financial market operated by it (as the context requires).

**Bid Period** means, in relation to a takeover bid in respect of Shares, the period referred to in the definition of that expression in the Corporations Act but will only qualify for the purposes of these Rules if in the opinion of the Committee the takeover bid is a genuine offer to acquire a controlling shareholding in the issued shares of the Company and has not been announced for some other purpose or purposes.

**Board** means the board of Directors of the Company from time to time.

**Business Day** means a day which is a “business day” for the purposes of the Listing Rules.

**Change in Control** means:

- (a) a person acquiring a relevant interest (as defined in the Corporations Act) in more than 30% of the voting shares of the Company; or
- (b) a person ceasing to have a relevant interest (as defined in the Corporations Act) in more than 30% of the voting shares of the Company; or
- (c) the Board resolving that it considers that a person who previously had not been in a position to do so, is in the position, directly or indirectly, and either alone or with associates to remove one-half or more of the Directors.

**Change in Control Period** means, in relation to a Change in Control, the 20 Business Days after the day on which the Change in Control occurred.

**Committee** means the Board or, if a committee is appointed by the Board as contemplated by clause 2.1, that committee.

**Company** means Macquarie Group Limited (ACN 122 169 279).

**Controlled Company** means in relation to a Participant, a body corporate in respect of which one or more of the following applies:

- (a) the Participant holds more than one-half of the issued share capital;
- (b) the Participant is in a position to cast, or control (directly or indirectly) the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that body corporate; and
- (c) the Participant controls the composition of the board of directors, committee of management, council or other governing authority.

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

**Director** means a Voting Director of the Company (as defined in the Company's constitution) from time to time.

**Employee** means an employee of, or a consultant to, the Company or an Associated Company, or a person to whom an offer of employment by, or appointment as a consultant to, the Company or an Associated Company has been made.

**Employment Event** means, in respect of any Option, an event that occurs affecting the basis of employment or engagement of the Relevant Participant before the Option may be exercised as determined by the Committee in its absolute discretion and specified in the invitation made in relation to that Option.

**End Date** means, in respect of a Share held by a Grantee subject to Restrictions, the date which is ten years from the date on which the Company granted the Option which was exercised resulting in the issue of that Share to the Grantee.

**Exercise Condition** means, in respect of any Option, one or more conditions that must be met before the Option may be exercised as determined by the Committee in its absolute discretion.

**Exercise Period** means, in respect of an Option, each of:

- (a) subject to clause 2.8, each day which is after the Vesting Period and before the end of the Option Period;
- (b) each Bid Period during the Option Period; and
- (c) each Change in Control Period during the Option Period.

**Exercise Price** means in respect of an Option, the subscription price on exercise of the Option determined in accordance with clauses 2.4 and 3.1 in relation to that Option (as adjusted under clause 6).

**Forfeited Share** means a Share forfeited pursuant to clause 11.10.

**Grantee** means:

- (a) where the Committee invites a Participant under clause 3 to apply for Options:
  - (i) if the Participant applies for the Options personally the Participant; and
  - (ii) if a Controlled Company of the Participant or Permitted Trustee for the Participant applies for the Options that Controlled Company or Permitted Trustee; or
- (b) a person who acquires an Option under clause 10.1 or 10.2.

**Group** means the Company and all Associated Companies.

**Listed** means, in relation to the Company, the Company being and remaining admitted to the official list of ASX and its shares being admitted to official quotation on ASX's stock market.

**Listing Rules** means the Official Listing Rules of ASX as they may apply to the Company from time to time.

**Non-Disposal Period** means, in respect of a Share held by a Grantee subject to Restrictions, the period of 6 months from the date on which those Shares are issued to that Grantee under clause 5.4 or such other period as is specified in the invitation to the Relevant Participant under clause 3.1.

**Notice of Withdrawal of Shares** means a duly completed and executed request for permission to withdraw some or all of their Shares from being subject to the Restrictions, submitted by a Grantee to the Plan Company. Such Notice of Withdrawal of Shares must specify the number of Shares requested to be withdrawn and must be submitted on a form approved by the Company.

**Option** means an option to subscribe under the Plan for one fully paid Share (as adjusted under clause 6).

**Option Period** means, in respect of an Option, subject to clause 2.8, 5.6 and 5.7, the period starting on the date on which the Company grants the Option and ending on the fifth anniversary of that date, unless otherwise specified in the invitation made in relation to that Option under clause 3.

**Participant** means any Employee whom the Committee has decided under clause 2.3 is eligible to participate in the Plan.

**Permitted Trustee** means an entity approved by the Committee to hold an Option on trust for a Participant from time to time.

**Plan** means the Macquarie Group Employee Share Option Plan established in accordance with these Rules.

**Plan Company** means the entity appointed by the Company to act as Plan Company from time to time.

**Relevant Participant** means in respect of an Option:

- (a) if the Grantee is a Participant, the Participant;
- (b) if the Grantee is a Controlled Company or Permitted Trustee, the Participant to whom the invitation was made as a result of which the first Grantee of the Option applied for the Option; and
- (c) if the Grantee is a person who acquired the Option under clause 10.1 or 10.2 and is not a Participant, a Controlled Company or a Permitted Trustee, there is no Relevant Participant in respect of that Option.

**Restrictions** means the restrictions on dealing in Shares set out in clause 11 other than the Non-Disposal Period.

**Retirement** means retirement from or otherwise leaving the relevant industry as determined at the absolute discretion of the Committee.

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

**Share** means an ordinary share in the Company (as adjusted under clause 6).

**Special Circumstances** means death, total and permanent disability in the opinion of the Company, Retirement, circumstances of hardship as determined by the Company, and any other circumstances as determined at the discretion of the Company.

**Vesting Period** means, in respect of an Option, and subject to clause 2.8, the period specified as the Vesting Period for that Option in the invitation made under clause 3.1 in relation to that Option.

## **1.2 General**

In these Rules, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;

- (c) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (d) a reference to any gender includes all genders;
- (e) a reference to a clause, schedule or annexure is to a clause, schedule or annexure of or to these Rules;
- (f) a schedule or annexure forms part of these Rules;
- (g) a reference to any agreement or document (including, without limitation, these Rules) is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (h) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (i) a reference to a “related body corporate” of a body corporate is to a body corporate which is related to that body corporate as defined in the Corporations Act;
- (j) a reference to an “associate” of a person is to:
  - (i) a person acting in concert with the first person;
  - (ii) a person controlled, directly or indirectly, by the first person; or
  - (iii) a person who acts in accordance with the directions, instructions or wishes of the first person,
 in respect of the matter to which the reference to an associate relates;
- (k) a reference to “dollars” or “\$” is to Australian currency;
- (l) a reference to bankruptcy or winding up includes bankruptcy, winding up, liquidation, dissolution, becoming an insolvent under administration (as defined in section 9 of the Corporations Act), the appointment of an administrator and the occurrence of anything analogous or having a substantially similar effect to any of those conditions or matters under the law of any applicable jurisdiction, and to the procedures, circumstances and events which constitute any of those conditions or matters; and
- (m) a reference to “amendment” includes addition, alteration, deletion, extension, modification and variation.

### 1.3 Headings

In these Rules, headings are for convenience of reference only and do not affect interpretation.

#### **1.4 Object of Plan**

The object of the Plan is to assist in the recruitment, reward, retention and motivation of employees of the Group, including persons who provide services to the Group on a long term consultancy basis.

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## **2 Administration**

### **2.1 Committee's authority**

The Board or a Committee appointed by the Board for the purpose under the Constitution of the Company may manage and administer the Plan for the Company, including exercising any discretion or power conferred on the Company, and the Committee has all powers necessary to do so including the power to appoint officers of the Company to act on the Committee's behalf.

### **2.2 Total number of Shares**

At any time, the aggregate of:

- (a) the total number of Shares which the Company would have to issue if all Options which have not lapsed were exercised; and
- (b) the total number of partly paid Shares issued under employee incentive schemes of the Company,

may not exceed 20% of the aggregate of:

- (c) the number of Shares at that time (whether fully paid or partly paid); and
- (d) the total number of Shares (whether fully paid or partly paid) which the Company would have to issue if all rights to require the Company to issue Shares which the Company has then granted (including, without limitation, all Options and assuming all those rights are then fully exercisable or enforceable) were enforced or exercised to the greatest extent permitted.

### **2.3 Determination of eligibility**

The Committee may from time to time decide:

- (a) that an Employee is eligible to participate in the Plan; and
- (b) (whether or not the Participant has previously been invited to apply for Options) the number of Options for which the Participant may at that time be invited to apply.

In making these determinations, the Committee must consider:

- (a) the Employee's position with the Group and the services provided to the Group by the Employee;

- (b) the Employee's record of employment with or service to the Group;
- (c) the Employee's potential contribution to the growth of the Group; and
- (d) any other matters which tend to indicate the Employee's merit.

#### **2.4 Determination of price**

When the Committee decides to invite a Participant to apply for an Option, it must, in its absolute discretion (but subject to clause 6), also determine the Exercise Price for that Option.

#### **2.5 Disputes**

Any dispute or difference of any nature arising in relation to the Plan:

- (a) must be referred to the Committee; and
- (b) the Committee's decision on that dispute or difference is final and binding on the Company, the Participants and the Grantees in all respects.

#### **2.6 Directions from Board**

The Board may at any time and from time to time:

- (a) give directions to the Committee as to the manner of the exercise by the Committee of any of its discretions under these Rules or the Plan; and
- (b) amend any of those directions,

and where the Board has given such a direction, the Committee must exercise the relevant discretion in accordance with that direction.

#### **2.7 Set-off**

Where at the same time a Grantee is obliged under these Rules to make a payment to the Company and the Company is also obliged under these Rules to make a payment to the Grantee, the Committee may decide to set off the amount of those payments so that:

- (a) payment of the lesser amount is fully satisfied; and
- (b) payment of the greater amount is satisfied by the payment of the difference between the lesser amount and the greater amount.

#### **2.8 Modification of Vesting Period, Exercise Period and Exercise Condition**

If the Relevant Participant of the Grantee of an Option dies or ceases to be an Employee or gives notice that the Relevant Participant intends to cease to be an employee, or if another event specified in the invitation under clause 3.1 in relation to an Option for the purpose of this clause 2.8 occurs, the Committee

may in its absolute discretion (on any conditions which it thinks fit) decide that an Option does not lapse under clause 5.6(c) but lapses at the time and subject to the conditions it may specify by notice to the Grantee, which may include one or more of the following:

- (a) the Vesting Period of the Option is reduced to a period shorter than that specified in the invitation made in relation to that Option under clause 3.1;
- (b) the Exercise Period of that Option is extended for a specified period following the date that the Relevant Participant dies or ceases to be an Employee; and
- (c) any Exercise Condition of the Option be waived.

In making a decision under this clause, the Committee may consider any relevant matter (including, without limitation, whether the Relevant Participant ceased to be an Employee by reason of death, Retirement, ill-health, accident or redundancy and whether the event occurred during or after the Vesting Period).

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### **3 Method of invitation**

#### **3.1 Invitations**

The Committee may from time to time give a Participant notice inviting the Participant to apply for Options and must specify in the invitation:

- (a) the Participant;
- (b) the number of Options for which the Participant is invited to apply;
- (c) the amount payable (if any) by the Grantee as consideration for the Options and the terms of its payment (which may include the circumstances in which the Company must refund some or all of that amount);
- (d) the Exercise Price and any Exercise Condition for each Option;
- (e) the Vesting Period for each Option;
- (f) the Option Period for each Option;
- (g) the closing date for applying for each Option;
- (h) the Restrictions and Non-Disposal Period to apply to the Shares issued on exercise of the Options;
- (i) how the Grantee is to apply for the Option; and
- (j) how the Grantee is to provide an executed power of attorney in the form set out in schedule 2 (or in such other form as approved by the Plan Company).

### **3.2 Directors**

If the Company is Listed, invitations to apply for Options may not be made in a manner which is not permitted by the Listing Rules.

### **3.3 Grantee may apply**

Where a Participant receives an invitation under clause 3.1, either the Participant or a Controlled Company of the Participant or a Permitted Trustee for the Participant may apply for the Options specified in the invitation.

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## **4 Application for Options**

### **4.1 Invitation**

A Grantee who wishes to apply for Options specified in an invitation made under clause 3 must on or before the closing date stated in the invitation (or any later date that the Company may allow either generally or in a particular case) do what is specified in the invitation in order to apply for the Options.

### **4.2 Grant**

Where the Company accepts a Grantee's application, the Company grants the relevant Options to the Grantee in accordance with the terms specified in the invitation made under clause 3 and these Rules.

### **4.3 Register**

The Company must enter or cause to be entered in the register of Optionholders such information as prescribed in the Corporations Act from time to time within 14 days after the grant of the Options.

### **4.4 Confirmation of grant**

Where the Company grants Options to a Grantee in accordance with clause 4.2, the Company must issue a notice to the Grantee confirming the grant of the relevant Options and setting out such information as prescribed under the Corporations Act as soon as reasonably practicable after the grant occurs.

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## **5 Option to subscribe**

### **5.1 Exercise**

The Grantee may exercise any Option granted to the Grantee under clause 4.2 or transferred to the Grantee under clause 10.1 or 10.2 only:

- (a) during an Exercise Period for the Option;
- (b) if all Exercise Conditions applying to that Option at the time of Exercise have been met;

- (c) by giving a notice and doing all the other things required by clause 5.2 during that time; and
- (d) if the Grantee at the same time either:
  - (i) exercises a number of Options so that the Company will issue a minimum of a number of Shares or multiple of a number of Shares that the Committee determines; or
  - (ii) exercises all the Options granted or transferred to the Grantee which the Grantee is then entitled to exercise.

The exercise of an Option does not prevent the exercise of any other Option.

## **5.2 Notice**

To exercise an Option the Grantee must give a notice to the Company specifying that the Grantee exercises the Option. In addition, if a power of attorney in the form set out in schedule 2 (or in such other form as may be approved by the Plan Company) has not previously been provided by the Grantee to the Plan Company, and the Grantee does not request the Company waive the application of the Restrictions and the Non-Disposal Period in accordance with clause 11.1, the notice must include an executed power of attorney in the form set out in schedule 2 (or in such other form as may be approved by the Plan Company).

The notice must be accompanied by payment of the full amount of the Exercise Price in accordance with clause 5.3.

Exercise of an Option is only effective when the Company receives full value for the full amount of the Exercise Price.

## **5.3 Payment**

All payments of the Exercise Price for an Option must be made by cheque, bank draft or other immediately available funds in favour of the Company.

## **5.4 Allotment**

Not more than 15 Business Days after the exercise of an Option becomes effective, the Company must allot and issue to the Grantee the Shares the subject of the Option.

## **5.5 Share allotted upon exercise of Option**

The Shares allotted and issued following exercise of an Option, upon allotment rank *pari passu* in all respects (including as to dividends the entitlement to which is determined after the allotment) with those then issued fully paid Shares which are entitled to participate in full in any dividend and are subject to the Constitution of the Company.

## **5.6 Lapse**

Each Option lapses on the earlier of the following times:

- (a) on exercise of the Option under clause 5.1;
- (b) if the Option is not exercised under clause 5.1 during the Option Period, at the end of the Option Period;
- (c) subject to any determination of the Committee being made under clause 2.8 before or at any time after the Relevant Participant of the Grantee dies or ceases to be an Employee, if the Relevant Participant of the Grantee dies or ceases to be an Employee:
  - (i) during the Vesting Period; or
  - (ii) after the Vesting Period and the Option is not exercised within six months after that happens;
- (d) if the Committee becomes aware of circumstances which, in the reasonable opinion of the Committee indicate that the Relevant Participant has acted fraudulently, dishonestly or in a manner which is in breach of his or her obligations to the Company or any Associated Company and the Committee (in its absolute discretion) determines that the Option lapses;
- (e) if the Company commences to be wound up; or
- (f) if the Grantee was a Controlled Company of the Relevant Participant when the Option was granted under clause 4.2 and, without the prior written consent of the Committee, the Grantee ceases to be a Controlled Company of the same Participant.

## **5.7 Proportionate lapse**

Where a Grantee's Options are issued subject to an Employment Event specified in the invitation made in respect of those Options, a proportion of those Options will lapse upon the occurrence of that Employment Event in respect of the Relevant Participant, as specified in the invitation made in respect of those Options, except with the written approval of the Committee in its absolute discretion.

## **5.8 Listing on ASX**

If Shares of the same class as those issued on exercise of Options are quoted on ASX, the Company will apply to ASX as required by the Listing Rules (and to any other stock exchange on which the Shares of the Company are quoted) for, and will use its best endeavours to obtain, quotation for those Shares.

### **5.9 No additional rights**

The Plan does not give a Relevant Participant any additional rights to compensation or damages as a result of the termination of employment or appointment.

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## **6 Adjustments**

### **6.1 Capitalisation of profits or reserves**

Where during the Option Period the Company issues Shares by way of capitalisation of profits or reserves, subject to clause 6.8, the Committee may in its absolute discretion adjust either or both the number of Shares to be issued on exercise of an Option and the Exercise Price for that Option.

### **6.2 New issues**

Where before the end of the Option Period the Company gives holders of Shares the right (pro-rata with existing shareholdings and on terms including the payment of some consideration by the holders of Shares on exercising the right) to subscribe for additional Shares and the Option is not exercised as contemplated in clause 6.3, the Exercise Price of an Option after the issue of those Shares is adjusted in accordance with schedule 1.

### **6.3 Rights/entitlements issues**

Where after the Vesting Period but during the Option Period of an Option, the Company makes an offer or invitation to holders of Shares for subscription for cash for shares, options or other securities of the Company or any other entity, the Company must give the Grantee notice not less than ten Business Days before the books closing date to determine entitlements to receive that offer or invitation to enable the Grantee to exercise the Option and receive that offer or invitation in respect of the Shares allotted on exercise of the Option.

### **6.4 Sub-division or consolidation**

Where during the Option Period the Company subdivides or consolidates its Shares, the number of Options is subdivided or consolidated in the same ratio as the Shares are subdivided or consolidated, and the Exercise Price is amended in inverse proportion to the ratio in which the Shares are subdivided or consolidated.

### **6.5 Return of capital**

Where during the Option Period the Company returns issued capital to holders of Shares, the Exercise Price of each Option is reduced by the same amount as the amount returned in relation to each Share.

### **6.6 Cancellation of capital**

Where during the Option Period the Company cancels Shares on a pro-rata basis, the number of Options is reduced in the same ratio as the Shares are

cancelled, and the Exercise Price of each Option is amended in inverse proportion to the ratio in which the Shares are cancelled.

#### **6.7 Other reorganisations**

Where during the Option Period the Company reorganises its issued capital in a manner that is not referred to in clause 6.4, clause 6.5 or clause 6.6, the number of Options, or the Exercise Price of those Options, or both, must be reorganised so that the Grantee does not receive a benefit that holders of Shares do not receive. This clause 6.7 does not prevent a rounding up of the number of Shares the Grantee may receive on exercise of an Option if the rounding up is approved at the meeting of Share holders which approves the reorganisation.

#### **6.8 Pro-rata bonus issues**

Where during the Option Period the Company makes a pro-rata bonus issue to holders of Shares and an Option is not exercised before the books closing date to determine entitlements to that bonus issue, the number of shares to be issued on exercise of the Option is the number of Shares before that bonus issue plus the number of bonus shares which would have been issued to the Grantee if the Option had been exercised before that books closing date.

#### **6.9 Notice of adjustment**

The Company must give notice to Grantees of any adjustment to the number description or items of security which are to be issued on exercise of an Option or to the Exercise Price (if the Company is Listed, in accordance with the applicable Listing Rules).

#### **6.10 Listing Rules**

If the Company is Listed, each amendment contemplated by the provisions of this clause 6 is subject to its being consistent with the Listing Rules.

#### **6.11 Cumulative adjustments**

Each adjustment provided for in clauses 6.1 to 6.8 (inclusive) is to be made to either or both the Shares and the Exercise Price in respect of each Option granted and unexercised at the time the relevant clause applies on each occasion during the Option Period of the Option that the relevant clause applies.

#### **6.12 Rounding**

Before an Option is exercised under clause 5.1, all adjustment calculations are to be carried out including all fractions (in relation to both the Shares and the Exercise Price of the Options), but on exercise by a person of a number of Options, the aggregate number of Shares issued to that person as a result of those exercises is rounded down to the next lower whole number and the Exercise Price per Option rounded up to the next higher cent.

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## **7 Duration of the Plan**

### **7.1 Discretionary**

The Plan continues in operation until the Committee decides to terminate or discontinue it.

### **7.2 Suspension**

The Committee may decide to suspend the operation of the Plan either for a fixed period or indefinitely and may also decide to end any period of suspension.

### **7.3 No prejudice**

If the Plan terminates or is discontinued or suspended for any reason, that does not prejudice the accrued rights of Grantees of Options.

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## **8 Amendment of the Plan**

### **8.1 By the Committee**

Subject to clause 8.2, the Committee may at any time and from time to time by resolution:

- (a) amend all or any of these Rules or all or any of the rights or obligations of the Grantees or any of them; and
- (b) formulate (and subsequently amend) special terms and conditions, in addition to those set out in these Rules, to apply to Participants employed in, resident in, or who are citizens of, a particular jurisdiction.

### **8.2 Listing Rules**

If the Company is Listed, the Committee's exercise of its powers under clause 8.1 is subject to any restrictions or procedural requirements relating to the amendment of the terms of an employee incentive scheme or of issued options imposed by the Listing Rules and applicable to the Plan or the Options, as the case may be, unless those restrictions or requirements are relaxed or waived by ASX or any of its delegates either generally or in a particular case or class of cases and either expressly or by implication.

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## **9 Notices and correspondence**

### **9.1 Instructions by Participants**

For the purposes of these rules, the Company, the Plan Company, the Board and the Committee is entitled to regard any notice, direction or other communication given or purported to be given by or on behalf of a Grantee or a Relevant Participant of a Grantee as valid. Any notice, direction or other communication given or purported to be given by or on behalf of a Grantee or

a Relevant Participant of a Grantee or any other person under these rules to the Company, the Plan Company, the Board or the Committee is duly given only if actually received by the Company, the Plan Company, the Board or the Committee (as the case may be).

## **9.2 Notices**

Any notice, certificate, consent, approval, waiver or other communications given by the Company, the Plan Company, the Board or the Committee 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 Grantee or to a Relevant Participant of any Grantee as indicated on the Application Form, any other address as the Company, the Plan Company, the Board, the Committee or any Grantee may notify to the other, or the address of the place of business at which the Grantee or a Relevant Participant of a Grantee performs the whole or substantially the whole of the duties of his or her office or employment.

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## **10 Transfer of the Option**

### **10.1 No transfer**

Each Option is personal to the Grantee and is not transferable, transmissible, assignable or chargeable, except in accordance with clause 10.2 or with the prior written consent of the Committee.

### **10.2 Death**

If the Relevant Participant is the Grantee of an Option and the Relevant Participant dies, with approval in writing or by a resolution of the Committee given in its absolute discretion, the Option may (subject to any conditions specified in the approval for the purpose of clause 2.8) be transferred to the Relevant Participant's legal personal representatives.

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## **11 Restrictions on Shares issued on exercise of the Option**

### **11.1 Restrictions on transfer of Shares**

Shares issued to a Grantee on exercise of an Option must be held by the Grantee subject to the Restrictions and the Non-Disposal Period, unless the Grantee has requested that the Company waive the application of those provisions, (such request to be made at the same time the notice is provided in accordance with clause 5.2) and that request has been approved by the Company.

The Company may only refuse a waiver request if the Company is aware of circumstances which, in the reasonable opinion of the Company, indicate that the Relevant Participant may have acted fraudulently, dishonestly or in a manner which is in breach of his or her obligations to the Company or any Associated Company.

### **11.2 Restrictions on granting a Security Interest**

A Grantee must not grant a Security Interest over any Shares held under the Restrictions:

- (a) only in the case of Shares which are not subject to the Non-Disposal Period, without submitting a Notice of Withdrawal of Shares and without such notice having been approved by the Plan Company; or
- (b) in any case where the Shares will continue to be held subject to the Restrictions, without the written consent of the Plan Company and approved by the Company, the giving of such consent or approval being at the absolute discretion of the Plan Company or the Company, as appropriate, (having regard to ensuring any arrangements do not affect any rights of the Plan Company or the Company to enforce the Restrictions over the Shares) and may be subject to such conditions or restrictions as the Plan Company or the Company, as appropriate, may, in their absolute discretion, determine.

### **11.3 Enforcement of Restrictions**

The Plan Company is entitled to make such arrangements as it considers necessary to enforce the Restrictions and the Non-Disposal Period on a Grantee dealing with Shares or granting a Security Interest over Shares, including forfeiture under clause 11.10, and the Grantee and the Relevant Participant must agree to such arrangements.

### **11.4 Withdrawal of Shares by Grantee**

Except as expressly provided by these Rules, a Grantee may not submit a Notice of Withdrawal of Shares until the expiration of the Non-Disposal Period.

After the expiration of the Non-Disposal Period, and if the Shares of a Grantee held subject to Restrictions have not been forfeited under clause 11.10, a Grantee may:

- (a) continue to hold some or all of their Shares subject to the Restrictions; or
- (b) decide to hold some or all of their Shares not subject to the Restrictions and request the Plan Company to remove the Restrictions in respect of those Shares by submitting a Notice of Withdrawal of Shares to the Plan Company; and
- (c) sell some or all of his or her Shares subject to any administrative guidelines established from time to time by submitting a Notice of Withdrawal of Shares to the Plan Company.

#### **11.5 Withdrawal of Shares on End Date**

A Share held by a Grantee, as and from the End Date in relation to that Share will, at the direction of the Company, after the Company has determined that the Shares are not to be forfeited in accordance with clause 11.10, be released from the Restrictions by the Plan Company and will be held by the Grantee no longer subject to the Restrictions. No Notice of Withdrawal of Shares is required to be submitted by the Grantee to the Plan Company in this case.

#### **11.6 Withdrawal of Shares on cessation of employment**

A Share held by a Grantee when the Relevant Participant ceases to be an Employee of the Company or an Associated Company will, at the direction of the Company, after the Company has determined that the Shares are not to be forfeited in accordance with clause 11.10, be released from the Restrictions and the Non-Disposal Period by the Plan Company and will be held by the Grantee no longer subject to the Restrictions and the Non-Disposal Period. No Notice of Withdrawal of Shares is required to be submitted by the Grantee to the Plan Company in this case.

For the purpose of this clause 11.6, a Relevant Participant ceasing to be an Employee includes the circumstance whereby the employer of that person ceases to be an Associated Company in relation to the Company.

#### **11.7 Withdrawal of Shares in Special Circumstances**

Despite clause 11.1, but subject always to clause 11.10, a Grantee may, in the event of Special Circumstances, at any time submit a Notice of Withdrawal of Shares. Where such a Notice of Withdrawal of Shares has been submitted, approval for withdrawal of the Shares will only be given by the Plan Company if the Company is satisfied that the Special Circumstances exist in respect of that Relevant Participant.

#### **11.8 Withdrawal of Shares on a Takeover**

Despite clause 11.1, but subject always to clause 11.10, if an offer is made for all of the Shares and the Company has been served with a bidder's statement

under the Corporations Act in respect of that offer, then if the Company so directs, Grantees may dispose of the Shares the subject of Restrictions or a Non Disposal Period by accepting the offer.

#### **11.9 Withdrawal of Shares in other circumstances**

Despite clause 11.1, but subject always to clause 11.10, if:

- (a) any notice is despatched to members of the Company in relation to a meeting to approve a compromise or arrangement proposed 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, then a Grantee may submit a Notice of Withdrawal of Shares the subject of Restrictions or a Non Disposal Period;
- (b) notice is given to members of the Company of a proposed resolution for the voluntary winding up of the Company, then a Grantee may submit a Notice of Withdrawal of Shares the subject of Restrictions or a Non Disposal Period; and
- (c) the relevant Shares are subject to compulsory acquisition under any law, then a Grantee may dispose of Shares the subject of Restrictions or a Non Disposal Period to the person entitled to acquire them.

#### **11.10 Forfeiture**

A Grantee (and any person claiming through the Grantee) must forfeit any right or interest in any Shares or other entitlements subject to the Restrictions to the Plan Company if the Relevant Participant:

- (a) has been convicted on indictment of an offence against the Corporations Act in connection with the affairs of the Company or an Associated Company; or
- (b) commits any act of theft, fraud or defalcation in relation to the affairs of the Company or any Associated Company (whether or not charged with any offence); or
- (c) does an act (or fails to do an act) which in the opinion of the Company brings the Company or any Associated Company into disrepute.

#### **11.11 Dealing with Forfeited Shares**

Subject to clause 11.12, the Company may by notice in writing to the Plan Company determine that the Plan Company transfer any Forfeited Shares (or the proceeds of sale of such Shares) to:

- (a) one or more Employees;
- (b) a provident, benefit, superannuation or retirement fund established and maintained by the Company or an Associated Company in which no body corporate in the Group is beneficially interested; or

- (c) a participant in any other employee or director share scheme of the Company,

subject to any conditions specified by the Company.

Subject to clause 11.12, if a notice under this clause 11.11 has not been received by the Plan Company within 60 days after the time Shares become forfeited then the Plan Company must sell Forfeited Shares and hold the cash proceeds of sale until it receives a notice from the Company under this clause 11.11.

Under no circumstances may the Plan Company pay the proceeds of sale of any Forfeited Shares to the Company.

#### **11.12 Authorised Deductions**

Before making any payment or allocating any Shares under clause 11.11, the Plan Company is authorised to deduct:

- (a) all outgoings and expenses it incurs in buying, selling and otherwise dealing with Shares for Grantees; and
- (b) any tax (including stamp duty) which, in the opinion of the directors of the Plan Company, is or would be payable by the Plan Company in connection with its obligations under the Plan; and
- (c) any other amounts that in the opinion of the directors of the Plan Company it is fair to deduct.

#### **11.13 Termination of the Plan**

If the Plan is terminated then all Restrictions will immediately cease to apply to Shares otherwise held subject to the Restrictions.

#### **11.14 Distributions**

A Grantee is entitled to receive any dividend or other distribution made in respect of Shares held subject to Restrictions but this does not apply if the Shares are to be forfeited under clause 11.10.

#### **11.15 Bonus and rights issues**

A Grantee can participate in any bonus issue of Shares or pro rata rights issue of Shares made by the Company or sell renounceable rights. If any shares are issued in respect of, or exchange for, or in substitution of, any Shares by reason of any bonus issue or other change in the capital structure of the Company, such shares are to be held by the Grantee according to the terms of the Restrictions and any Non-Disposal Period.

#### **11.16 Distributions on Forfeited Shares**

The Plan Company may use any dividend, bonus issue or other benefit received in connection with Forfeited Shares for any purpose relevant to the Plan or apply them in accordance with the directions of the Company.

#### **11.17 Connection with other schemes**

Participation in the Plan does not affect, and is not affected by, participation in any other scheme of the Company unless the terms of that scheme provide otherwise.

#### **11.18 Plan Company capacity**

The Plan Company acts as principal in the operation of the Plan and not as a trustee or an agent of the Company or, subject to clause 11.19, of Grantees or Participants.

#### **11.19 Plan Company as agent**

The Plan Company may act as agent for the relevant Grantee in the sale of Shares.

#### **11.20 Replacement of Plan Company**

The Company may replace the Plan Company and appoint a new entity to be Plan Company at any time by notice in writing to the Plan Company and on such other terms (if any) as agreed between the Company and the Plan Company.

#### **11.21 Limited application of Plan**

These Rules:

- (a) do not confer on any Relevant Participant the right to continue as an Employee; and
- (b) do not affect any right which the Company or an Associated Company may have to terminate the employment of that Relevant Participant; and
- (c) may not be used to increase damages in any action brought against the Company or an Associated Company in respect of that termination.

# Macquarie Group Employee Share Option Plan

## Schedule 1

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

where:

O' = the new Exercise Price of the Option

O = the old Exercise Price of the Option

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

P = The average closing price on the Automated Trading System provided for the trading of Shares on ASX, excluding special crossings, overnight sales and exchange traded option exercises per Share (weighted by reference to volume) during the 5 trading days ending before the ex-rights date or ex-entitlements date.

S = Subscription price for one Share under the renounceable rights or entitlements issue.

D = Dividend due but not yet paid on Shares (except those Shares to be issued under the renounceable rights issue or entitlements issue).

N = Number of Shares with rights or entitlements that must be held to receive a right to one new Share.

# Macquarie Group Employee Share Option Plan

## Schedule 2

Macquarie Group Limited

Macquarie Group Employee Share Option Plan

### POWER OF ATTORNEY

I [ ] of [ ] hereby grant an irrevocable power of attorney to the entity acting as Plan Company under the Macquarie Group Employee Share Option Plan ("MGESOP") from time to time and each of its officers jointly and severally ("the Attorneys").

This power of attorney is limited to Shares held subject to Restrictions under the MGESOP and authorises the Attorneys to dispose of or otherwise deal with any Shares and to execute documentation on my behalf for the acquisition or disposal of Shares for the purposes of the MGESOP in accordance with the Rules of the MGESOP.

To enable full particulars to be completed by you on my behalf as required, my Tax File Number is disclosed to you for that purpose. My Tax File Number is [ ].

Signed by the said [ ]

in the presence of [ ]