

CLAYTON UTZ

Transpacific Industries Group Executive Share Option Plan

Plan Rules

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TRANSPACIFIC INDUSTRIES GROUP LTD

ACN 101 155 220

TRANSPACIFIC INDUSTRIES GROUP EXECUTIVE SHARE OPTION PLAN

PLAN RULES

1. Definitions and interpretation

1.1 Definitions:

In these Rules, the following words and expressions have the meanings indicated unless the contrary intention appears:

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

"**Associate**" has the meaning given to that term in section 139GE of the Income Tax Assessment Act.

"**ASX**" means Australian Stock Exchange Limited ABN 98 008 624 691.

"**Board**" means all or some of the Directors acting as a board or a committee of the Board appointed for the purposes of the Plan or these Rules.

"**Business Day**" means a day which is not a Saturday, Sunday or public holiday in Queensland or any other day that ASX declares is not a business day.

"**Ceasing Date**" has the meaning given in Rule 8.6.

"**Ceasing Event**" has the meaning given in Rule 8.5.

"**Company**" means Transpacific Industries Group Ltd ACN 101 155 220.

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

"**Control**" has the meaning given to that term in section 50AA of the Corporations Act.

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

"**Director**" means a director of a member of the Group.

"**Eligible Employee**" means a person who is, at the time of an Offer, a full or permanent part-time employee of a member of the Group, or such other person as the Board determines.

"**Executive**" means a Director of the Company or an Eligible Employee of the Group whom the Board determines from time to time to be an executive of the Group.

"**Exercise Condition**" means in respect of an Option any condition set out in the Offer which must be satisfied before that Option can be exercised or any other restriction on exercise of that Option specified in the Offer or in these Rules.

"**First Quotation**" means the day on which Shares are first Quoted.

"**Group**" means the Company and its Related Bodies Corporate.

"Income Tax Assessment Act" means the *Income Tax Assessment Act* 1936 (Cth) or the *Income Tax Assessment Act* 1997 (Cth), as appropriate.

"Lapsing Date" means, in respect of an Option the date which is six years after the date of the grant of that Option, or such other date as the Board determines in its discretion with respect to that Option at the time of the grant of that Option.

"Life" means, in relation to an Option, the period between the date of the grant of the Option and the first to occur of the date the Option lapses pursuant to Rule 8 and the Lapsing Date.

"Listing Rules" means the official listing rules of ASX, as amended or replaced from time to time, except to the extent of any express written waiver by ASX in their application to the Company.

"Marketable Parcel" has the meaning given to that term in the Listing Rules.

"Nominee" has the meaning given in Rule 5.4.

"Offer" means an offer made to an Executive to subscribe for one or more Options under the Plan.

"Option" means an option granted pursuant to these Rules to subscribe for one Share upon and subject to the terms of these Rules and the terms of the Offer.

"Option Exercise Price" means in respect of an Option, the price per Share determined in accordance with Rule 7 and specified in the Offer made in respect of that Option.

"Outstanding Options" means, in relation to a Participant, Options which remain unexercised from time to time and have not lapsed or been surrendered and the right to exercise that Option lost.

"Participant" means an Executive to whom Options have been granted under the Plan, or if Rule 5.4 applies, an Associate of the Executive to whom Options have been granted under the Plan.

"Permanently Disabled" means, in relation to a Participant, a Participant who is deemed, at the discretion of the Board, to be totally and permanently disabled.

"Plan" means the Transpacific Industries Group Executive Share Option Plan established in accordance with these Rules.

"Product Disclosure Statement" has the meaning given to that term in Chapter 7 of the Corporations Act.

"Quoted" means official quotation of securities on ASX.

"Record Date" has the meaning given to that term in the Listing Rules.

"Related Body Corporate" has the meaning given to that term in section 9 of the Corporations Act.

"Relevant Interest" has the meaning given to that term in section 608 of the Corporations Act.

"Relevant Person" means:

- (a) in respect of an Executive, that person; and

- (b) in respect of a Nominee of an Executive being a permitted Nominee under Rule 5.4, that Executive.

"Rules" means the rules of the Plan set out in this document.

"Share" means a fully paid ordinary share in the capital of the Company or, if at any time the Company's issued ordinary share capital consists of shares of some other description by virtue of an event of a kind dealt with by Rule 13.1, a share of that description.

"Takeover Bid" has the meaning given to that term in section 9 of the Corporations Act.

"Trading Day" means a Business Day other than a day which ASX declares is not a trading day, but including a day which for the purposes of settlement ASX declares is a trading day, notwithstanding that there is to be no official meeting of that stock exchange or that dealings between participating organisations of that stock exchange are suspended on that day.

"Voting Power" has the meaning given to that term in section 610 of the Corporations Act.

1.2 Interpretation

In these Rules (unless the context otherwise requires),

- (a) headings are for convenience only and do not affect interpretation;
- and unless the context indicates a contrary intention:
- (b) the expression **"person"** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to any party includes that party's executors, administrators, successors and permitted assigns, including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (d) a reference to any document (including these Rules) is to that document as varied, novated, ratified or replaced from time to time;
- (e) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
- (f) words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;
- (g) references to parties, rules, schedules, exhibits or annexures are references to parties, rules, schedules, exhibits and annexures to or of these Rules, and a reference to these Rules includes any schedule, exhibit or annexure to these Rules;
- (h) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (i) the word "includes" in any form is not a word of limitation; and
- (j) a reference to "\$" or "dollar" is to Australian currency.

1.3 Applicable Legislation

These Rules, the offering and granting of any Options, the rights attaching to the Options granted and the issue of any Shares pursuant to the exercise of Options will at all times be subject to the Corporations Act, the Income Tax Assessment Act and any other applicable legislation from time to time and, following First Quotation, subject also to the Listing Rules.

1.4 Reference to Shares

A reference to a Share comprised in an Option is a reference to the Share for which the Participant has, for the time being, an Option to subscribe by reason of the grant to him or her of that Option, including any Share resulting from an adjustment made pursuant to these Rules.

1.5 Rounding

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

2. Purpose

The purpose of the Plan is to:

- (a) encourage participation by Executives in the Company through Share ownership; and
- (b) attract, motivate and retain Executives.

3. Commencement of the Plan

The Plan will commence on the date determined by the Board.

4. Number of Options to be Offered

4.1 Number of Options

Subject to Rule 4.3, the number of Options (if any) to be offered to an Executive from time to time will be determined by the Board in its discretion and in accordance with the Rules and applicable law.

4.2 No Consideration

Options issued under the Plan will be issued for no consideration.

4.3 Limitation on Offers to 5%

- (a) The Company will not make an Offer if, at the time of that Offer, the total number of Shares to be received on exercise of Options the subject of that Offer, when aggregated with:
 - (i) the number of Shares which would be issued were each outstanding offer with respect to Shares, units of Shares and options to acquire unissued Shares, under the Plan or any other employee share scheme extended only to Eligible Employees to be accepted or exercised; and

- (ii) the number of Shares issued, during the previous 5 years pursuant to the Plan or any other employee share scheme extended only to Eligible Employees,

but disregarding any offer made, or option acquired or Share issued by way of or as a result of:

- (iii) an offer to a person situated at the time of receipt of the offer outside Australia; or
- (iv) an offer that was an excluded offer or invitation within the meaning of the *Corporations Law* as it stood prior to the commencement of Schedule 1 to the *Corporate Law Economic Reform Program Act 1999*; or
- (v) an offer that did not need disclosure to investors because of section 708 of the *Corporations Act*; or
- (vi) an offer that did not require the giving of a Product Disclosure Statement because of section 1072D of the *Corporations Act*; or
- (vii) an offer made under a disclosure document (as defined in section 9 of the *Corporations Act*) or Product Disclosure Statement,

would exceed 5% of the total number of issued Shares at the time of that Offer.

- (b) The Company will not make an Offer if, immediately after the acquisition of the Options by the Participant:
 - (i) the Participant would hold a legal or beneficial interest in more than 5% of the issued shares of the Company;
 - (ii) the Participant would be in a position to cast, or control the casting of, more than 5% of the maximum number of votes that might be cast at a general meeting of the Company.

5. Offers of Options

5.1 Form of Offer

Each Offer must be in writing and:

- (a) specify the name and address of the Executive to whom the Offer is made;
- (b) specify the number of Options being offered;
- (c) specify the Option Exercise Price;
- (d) state that no amount is payable on the issue of any Option;
- (e) specify the date of the Offer;
- (f) specify the date by which the Offer must be accepted and the manner of acceptance of the Offer;
- (g) include an undertaking that, and an explanation of the way in which, the Company will, during any period or periods during which the Participant may acquire the

Shares the subject of the Option, within a reasonable period of the Participant so requesting, make available to the Participant information on the current market price of the Shares, and such other undertakings as may be required by law or any requirement, policy or practice of ASIC;

- (h) specify terms and conditions and/or any restrictions (including performance hurdles) on a Participant's right to exercise Options;
- (i) be accompanied by a copy of these Rules; and
- (j) otherwise be on terms which the Board may, in its discretion from time to time, determine.

5.2 Determination by the Board

The Board, acting in its absolute discretion may:

- (a) offer Options to any Executive from time to time as determined by the Board and in exercising that discretion, may have regard to some or all of the following:
 - (i) the Executive's length of service with the Group;
 - (ii) the contribution made by the Executive to the Group;
 - (iii) the potential contribution of the Executive to the Group; or
 - (iv) any other matter the Board considers relevant; and
- (b) impose conditions, including performance-related conditions, on the right of a Participant to exercise any Option granted.

5.3 Personal Offer

Subject to Rule 5.4, an Offer is personal and is not assignable.

5.4 Renunciation

Upon receipt of an Offer, an Executive may, by notice in writing to the Board, nominate an Associate of that Executive ("**Nominee**") in whose favour the Executive wishes to renounce the Offer. The Board may, in its discretion, resolve not to allow a renunciation of an Offer in favour of a Nominee without giving any reason for that decision. If the Board resolves to allow a renunciation of an Offer in favour of a Nominee, the Executive will procure that the permitted Nominee accepts the Offer made to that Executive and that both the Executive and the Nominee agree to be bound by the Rules.

5.5 Time Period

An Executive (or permitted Nominee) may only accept an Offer within the time period specified in the Offer document.

6. Grant of Options

6.1 Valid Acceptance

Where the Company receives a valid acceptance of an Offer under the Rules, it will grant the Options to the Participant within 10 Business Days of receipt of the valid acceptance and will

issue to the Participant a certificate in respect of the Options granted (including on the certificate a notice of exercise of Options).

6.2 Rules

Options must be issued in accordance with the Rules and each Participant to whom Options are granted will be taken to have agreed to be bound by the Rules and the terms upon which those Options were granted.

6.3 No Listing

The Options will not be listed on any stock exchange.

7. Exercise Price

7.1 Option Exercise Price

In respect of any proposed Offer, the Board may determine the Option Exercise Price for that Offer in its absolute discretion.

7.2 Minimum Exercise Price

The Option Exercise Price in respect of an Offer made following First Quotation must not be less than any minimum price specified in the Listing Rules.

8. When Options may be Exercised

8.1 Exercise

- (a) Subject to Rules 8.1(b) and 8.4, a Participant will be entitled to exercise Options granted as a result of an Offer in respect of which all Exercise Conditions have been satisfied and which are otherwise capable of exercise in accordance with the terms of the relevant Offer and the Rules.
- (b) No Option may be exercised unless at the time of exercise of the Options, the Shares have been Quoted throughout the 12 month period immediately preceding the exercise of the Option without suspension for more than a total of 2 Trading Days during that period.
- (c) Once an Option is capable of exercise in accordance with this Rule 8.1, it may be exercised at any time up until 5.00 pm in Brisbane on the Lapsing Date.

8.2 One or Several Parcels

Subject to Rule 8.1, Options may be exercised in one parcel equal to the total number of Options which are then exercisable, or in several parcels which, when aggregated, equal the total number of Options which are then exercisable, provided that the number of Shares issued upon exercise of the number of Options in any parcel is not less than a Marketable Parcel.

8.3 Adjustment to Terms of Exercise

- (a) The Board will have the power to make adjustments to or vary the terms of exercise of an Option. Following First Quotation, any proposed variation or adjustment will be subject to any requirements of the Listing Rules.

- (b) No adjustment or variation of the terms of exercise of an Option will be made without the consent of the Participant who holds the relevant Option if such adjustment or variation would have a materially prejudicial effect upon the Participant (in respect of his or her Outstanding Options), other than an adjustment or variation introduced primarily:
 - (i) for the purpose of complying with or conforming to present or future State, Territory or Commonwealth legislation governing or regulating the maintenance or operation of the Plan or like plans;
 - (ii) to correct any manifest error or mistake; or
 - (iii) to enable a member of the Group to comply with the Corporations Act, the Listing Rules, applicable foreign law, or a requirement, policy or practice of ASIC or other foreign or Australian regulatory body.

8.4 Lapsing of Options

Subject to the terms of the Offer made to a Participant and unless Rule 8.5 applies, if in respect of a Participant, the Relevant Person ceases to be an employee or director of, or to render services to, a member of the Group for reason of misconduct or fraud the Participant's Options will lapse immediately and all rights in respect of those Options will thereupon be lost.

8.5 Notice

The Company will send a notice addressed to the Participant (or where the Participant is not the Relevant Person, to the Relevant Person) setting out the number of Options which can be exercised by the Participant and the period(s) during which the Participant may exercise those Options fourteen days prior to the first day of the relevant exercise period of any of the Options granted to a Participant together with such other information as is required by the Corporations Act, the Income Tax Assessment Act, any other applicable legislation from time to time and, following First Quotation, the Listing Rules.

9. Manner of Exercise of Options

9.1 Delivery to Company Secretary

Options granted to a Participant may only be exercised by delivery to the Company's secretary (at a time when the Options may be exercised) of:

- (a) the certificate for the Options or, if the certificate for the Options has been lost, mutilated or destroyed, a declaration to that effect, accompanied by an indemnity in favour of the Company against any loss, costs or expenses which might be incurred by the Company as a consequence of its relying on the declaration that the certificate has been lost, mutilated or destroyed;
- (b) a notice addressed to the Company and signed by the Participant:
 - (i) stating that the Participant exercises the Options and specifying the number of Options which are exercised; and
 - (ii) specifying the subregister of the Company in which the Shares referred to in Rule 9.2(a) are to be recorded; and
- (c) payment to the Company of an amount equal to the Option Exercise Price multiplied by the number of Options which are being exercised.

9.2 Issue of Shares

If the items specified in Rule 9.1 are delivered in accordance with that Rule, the Company will, subject to the Listing Rules (if relevant):

- (a) within 10 Business Days of delivery of the documents referred to in Rule 9.1 issue to the Participant the Shares credited as being fully paid in respect of which the Options are exercised together with any additional Shares an entitlement to which has arisen under Rules 11 and 12 in consequence of the exercise of the Options; and
- (b) cancel the certificate delivered pursuant to Rule 9.1(a) and, if any Options which have not lapsed remain unexercised, deliver to the Participant a replacement certificate reflecting the number of those Options which remain unexercised.

9.3 Death of Participant

If the Participant has died, the Participant's legal personal representative will stand in the place of the Participant for the purposes of Rules 9.1 and 9.2 subject only to prior production to the Company of such evidence as would be required to permit the legal personal representative to become registered as a shareholder in respect of Shares held by the Participant.

9.4 Beneficial Owner of Shares

From and including the date of issue to a Participant of any Shares in accordance with these Rules, the Participant will:

- (a) be the beneficial owner of those Shares; and
- (b) subject to Rule 9.6, the Corporations Act, the Constitution and, after First Quotation, the Listing Rules, be entitled to deal with those Shares as beneficial owner.

9.5 Equal Rank

A Share issued on exercise of an Option will rank equally in all respects with Shares already on issue on the date of exercise of the Option, except for entitlements which had a Record Date before the date of issue of that Share.

9.6 Official Quotation

After First Quotation, the Company will make application for Shares which are issued after that time pursuant to Rule 9.2 to be Quoted in accordance with the Listing Rules.

10. Lapse of Options Not Exercised

If an Option has not been exercised on or before the Lapsing Date, the Option lapses and all rights in respect of that Option will thereupon be lost.

11. New Issues and Adjustments for Rights Issues

11.1 New Issues

Subject to the Listing Rules (where relevant), a Participant may only participate in respect of an Option in a new issue of Shares or other securities to holders of Shares if the Option has been exercised in accordance with its terms on or before the Record Date for determining entitlements to the issue.

11.2 No Variation of Option Exercise Price or Number of Securities

Subject to the Listing Rules (where relevant), a Participant has no entitlement or right to any variation in the Option Exercise Price or to the number of underlying securities over which the Option can be exercised.

12. Adjustment for Bonus Issues

If, during the Life of any Option, Shares are issued pro rata to the Company's shareholders for which no consideration is payable by those shareholders, the Participant will be entitled, upon later exercise of that Option, to receive in addition to the Share comprised in the Option an issue of so many additional Shares as would have been issued to a shareholder who, on the Record Date for determining entitlements under the bonus issue, held Shares equal in number to the Shares comprised in the Option exercised.

13. Adjustment for Reconstructions

13.1 Reorganisation of Issued Capital

In the event of any reorganisation of the issued capital of the Company other than a bonus issue of the type described in Rule 12, the rights of Participants will be changed to the extent necessary to comply with the Listing Rules (where relevant) applying to a reorganisation of capital of a body corporate.

13.2 New or amended Option Certificates

After each reorganisation of the issued capital of the Company, upon the return by the Participant of the original Option certificate to the Company, that Option certificate will be amended or a new Option certificate will be issued to reflect either or both the adjusted number of Shares that may be taken up upon the exercise of that Option and the adjusted Option Exercise Price (as the case may be).

14. Notice of Adjustments and Cumulation of Adjustments

14.1 Cumulation of Adjustments

Effect will be given to Rules 12 and 13 in such manner that the effect of the successive applications of them is cumulative, with the intention being that the adjustments they progressively effect will reflect previous adjustments.

14.2 Notice of Adjustments

Whenever the number of Shares comprised in an Option or the Option Exercise Price is adjusted pursuant to these Rules, the Company will give notice of the adjustment to the Participant and ASX together with calculations on which the adjustment is based.

15. Takeovers

If, after First Quotation and during the Life of an Option:

- (a) a Takeover Bid is made to the Company's shareholders to acquire their Shares and a bidder who did not have a Relevant Interest in more than 50% of the Company's issued Shares has acquired (or become entitled to acquire) a Relevant Interest in more than 50% of the Company's issued Shares, then each Participant's unexercised Options (whether vested or not) will be exercisable, unless the Board resolves

otherwise; or

- (b) there has been a change in Control of the Company, each Participant's unexercised Options (whether vested or not) will be exercisable, unless the Board resolves otherwise.

16. Administration of the Plan

- (a) The Plan will be administered by the Board in accordance with these Rules. The Board may make regulations for the operation of the Plan which are consistent with these Rules.
- (b) Any power or direction which is conferred on the Board by these Rules may be exercised by the Board in the interests or for the benefit of the Company, and the Board is not, in exercising any such power or discretion, under any fiduciary or other obligation to any other person.
- (c) Any power or discretion which is conferred on the Board by these Rules may be delegated by the Board for such period and upon such conditions as the Board may determine to:
 - (i) a committee consisting of such Directors as the Board determines; or
 - (ii) any one or more persons selected by the Board.
- (d) Every exercise of discretion by the Board (or its delegate) and every decision of the Board as to the interpretation, effect or application of these Rules is final, conclusive, and binding.

17. Termination and Suspension of the Plan

The Plan may be terminated or suspended at any time by resolution of the Board. Termination or suspension of the Plan will not affect the rights of Participants who were granted Options prior to that termination or suspension.

18. Rights and Obligations of Participants

18.1 Rights of Participants

Nothing in these Rules:

- (a) confers on an Eligible Employee the right to receive any Shares;
- (b) confers on a Relevant Person the right to continue as an employee of the Group;
- (c) affects any rights which any member of the Group may have to terminate the employment of any employee; or
- (d) may be used to increase damages in any action brought against any member of the Group in respect of any such termination.

18.2 Rules

All Participants will be entitled to the benefit of and will be bound by the terms and conditions of the Rules and any amendments thereto.

18.3 Offer

The Plan will not form part of any contract between any member of the Group and any Participant and will not confer directly or indirectly on any Participant any legal or equitable rights whatsoever against any such corporation (other than rights as a Participant under the Plan against the Company).

18.4 Company Reports

Every report and other document sent by the Company to its shareholders generally will, during the Life of any Option, be sent also to the holders of any Options.

18.5 Rights of Optionholders

A grant of an Option does not confer on a Participant any right to receive notice of, or to vote at, a meeting of members of the Company or any right to receive a dividend, before the Option is exercised.

18.6 Assignment of Options

Subject to the Board's consent (which may be given in the Board's absolute discretion), Options granted cannot be assigned (other than to the legal personal representative of the Participant as contemplated in Rule 8.5).

19. Amendment of these Rules

19.1 Amendments

Subject to the Listing Rules and Rule 19.2, the Company may at any time by written instrument or by resolution of the Board, amend all or any of the provisions of these Rules (including this Rule 19).

19.2 No Reduction of Rights

- (a) Subject to Rule 19.2(b), no amendment of the provisions of these Rules is to reduce the rights of any Participant in respect of his or her Outstanding Options, other than an amendment introduced primarily:
 - (i) for the purpose of complying with or conforming to present or future State, Territory or Commonwealth legislation governing or regulating the maintenance or operation of the Plan or like plans (including without limiting the generality of the foregoing), the Income Tax Assessment Act);
 - (ii) to correct any manifest error or mistake; or
 - (iii) to enable a member of the Group to comply with the Corporations Act, the Listing Rules, applicable foreign law, or a requirement, policy or practice of ASIC or other foreign or Australian regulatory body.
- (b) Notwithstanding Rule 19.2(a), the Company may amend all or any of the provisions of these Rules, provided that the Company provides to any affected Participant appropriate compensation, such that the Participant remains no worse off as a result of any such amendment.

19.3 Retrospectivity

Subject to Rules 19.1 and 19.2, any amendment made pursuant to Rule 19 may be given such retrospective effect as is specified in the written instrument or resolution by which the amendment is made.

20. Attorney

Each Participant, in consideration of an Offer:

- (a) irrevocably appoints the Company and any person nominated from time to time by the Company (each an "*attorney*"), severally, as the Participant's attorney to complete and execute any documents including applications for Shares and Share transfers and to do all acts or things on behalf of and in the name of the Participant which may be convenient or necessary for the purpose of giving effect to the provisions of these Rules; and
- (b) covenants that the Participant will ratify and confirm any act or thing done pursuant to this power;
- (c) releases each member of the Group and the attorney from any liability whatsoever arising from the exercise of the powers conferred by this Rule; and
- (d) indemnifies and holds harmless each member of the Group and the attorney in respect thereof..

21. ASIC relief

Notwithstanding any other provisions of the Plan, every covenant or other provisions set out in an exemption or modification granted from time to time by ASIC in respect of the Plan pursuant to its power to exempt and modify the Corporations Act and required to be included in the Plan in order for that exemption or modification to have full effect, is deemed to be contained in the Plan. To the extent that any covenant or other provision deemed by this Rule to be contained in the Plan is inconsistent with any other provision in the Plan, the deemed covenant or other provision shall prevail.

22. Notices

Any notice to Participants may be given in such manner as the Board determines.

23. Governing Law

This Plan is governed by and shall be construed and take effect in accordance with the laws of Queensland.