

# Latrobe Magnesium Limited

## Share Acquisition Plan

### Information Booklet

This information booklet contains a summary of the Latrobe Magnesium Limited (*Latrobe Magnesium*) Share Acquisition Plan (the *Plan*) and the key Plan Rules. A complete copy of the Plan Rules follows this information booklet.

**No financial product advice is provided in the documentation related to the Plan and nothing in the documentation should be taken to constitute a recommendation or statement of opinion that is intended to influence a person or persons in making a decision to participate in the Plan. The documentation does not take into account the objectives, financial situation or needs of any particular person. Before acting on the information contained in the documentation, or making a decision to participate in the Plan, you should seek professional advice as to whether participation in the Plan is appropriate in light of your own circumstances.**

The decision to extend participation in the Plan to you, and the decision to grant you shares under the Plan, are solely at the discretion of Latrobe Magnesium. Similarly, any future decisions to extend participation in the Plan to you or to grant you shares under the Plan are also solely at the discretion of Latrobe Magnesium.

### KEY FEATURES OF THE PLAN

- Participation in the Plan is voluntary.
- As a participant in the Plan, you may elect to use up to 100 per cent of your pre-tax remuneration to purchase Latrobe Magnesium shares per year. By using pre-tax remuneration more shares can be bought than if you use after-tax dollars.
- Latrobe Magnesium will meet all Plan administration costs, except for transaction costs such as brokerage fees in buying and otherwise dealing with the shares. Those costs will be borne by you from your pre-tax remuneration.
- Generally, you will not be able to dispose of your shares until the earlier of the date on which you cease employment with the Latrobe Magnesium Group and the first day of the financial year following the period of nine years from the date the shares are acquired. However, in exceptional circumstances (eg financial hardship), you may apply to the board to consent for you to sell your shares. The board's power to approve any application for disposal of shares is discretionary and would be considered on a case-by-case basis.
- Under current Australian tax law, you will be able to defer the time at which you are taxed on the shares to the time when the restrictions on disposal of the shares cease to apply. The amount that will be subject to tax at the later time (as ordinary income, not a capital gain) will be the market value of the shares at that time. Therefore, a consequence of deferring the taxing time on the shares is that any increase in value of the shares from the time they are acquired until the time the deferral ceases to apply will not receive the benefit of the 50% capital gains tax discount.
- Any dividends on Latrobe Magnesium shares are paid to you, based on your shareholdings and are taxable at your personal marginal tax rate, less any franking credits.

- Latrobe Magnesium shares acquired with pre-tax remuneration do not appear on your Group Certificate, and Latrobe Magnesium is not required to withhold tax to cover the tax payable on the shares. Instead, you will be responsible for ensuring that you include the value of the shares in your income tax return in the year in which you are liable to pay tax in relation to the shares (for example, in the year that the restrictions on the disposal of the shares lift).
- The laws governing insider trading apply to the sale and purchase of shares under the Plan. Trading in Latrobe Magnesium shares while you are in possession of non-public price-sensitive information relating to Latrobe Magnesium is an offence. In accepting the offer to participate in the Plan you will be required to acknowledge your awareness and understanding of the prohibition against insider trading.
- The shares will be subject to forfeiture if you commit fraud or gross misconduct (including insider trading) in activities associated with Latrobe Magnesium or any of its subsidiaries.
- The Latrobe Magnesium share price can rise or fall. Accordingly, you should consult your financial adviser in respect of your own financial circumstances in relation to the Plan.

## 1. What is the Plan?

The Latrobe Magnesium Share Acquisition Plan (the *Plan*) is a plan which enables Eligible Participants to purchase shares tax effectively by salary sacrifice of your fixed remuneration (that is your monthly pay) or any incentives to which you may become entitled (such as bonus entitlements or any individual recognition award). It is an integral part of Latrobe Magnesium's overall remuneration framework. However, as participation in the Plan represents an investment by you in Latrobe Magnesium shares which can rise or fall in value, it is recommended that you seek independent financial advice before deciding whether or not to participate.

## 2. What is the aim of the Plan?

The aim of the Plan is to encourage employees and directors to increase their shareholding in Latrobe Magnesium, and thus their participation in its future performance. The Plan is therefore designed to align the interests of directors and employees with the interests of the shareholders.

An outline of how you can participate in the Plan follows. Full details are in the Plan Rules which are attached to this offer and will be provided (promptly and free of charge) on request to Latrobe Magnesium's Company Secretary.

## 3. How does the Plan work?

Latrobe Magnesium shares will be acquired on the Australian Stock Exchange (*ASX*) in the name of the Plan Participants. The shares will be paid for using payments from the relevant Latrobe Magnesium Group company which employs the Plan Participant representing the pre-tax remuneration forgone by that Plan Participant.

Latrobe Magnesium shares will normally be acquired at prevailing market prices on or about the first ASX trading day following the normal monthly payday or the date of payment of any incentive.

As a Plan Participant you must forgo a minimum amount each financial year from your pre-tax remuneration, or (in the case of salary) a minimum amount each month (the *Minimum Contribution*). The Minimum Contribution is \$2,400 per annum. You can increase your allocation up to 100% per cent of your gross remuneration. If you do not change the level of your contribution, it will be assumed that you want your current level to be maintained.

Provided that you have forgone at least the Minimum Contribution, as soon as possible after shares are to be acquired for you under the Plan, Latrobe Magnesium will arrange the acquisition, in your name, of as many Latrobe Magnesium shares as possible, rounded down to the next whole share. Any residual amount of cash will be held and added to your contribution the following month to increase the amount available then, and so on.

For example, if the cost of a Latrobe Magnesium share is \$0.03 including brokerage, and your contribution was \$250, then a minimum of 8,333 Latrobe Magnesium shares would be purchased (ie \$250 divided by \$0.03, rounded down, making an actual cost of \$249.99). The \$249.99 will be recovered from your pre-tax contribution, and the \$0.01 will be applied towards the next share purchase. If you leave Latrobe Magnesium and you have any forgone remuneration remaining to your account, the amount will be added to your termination payment.

The shares will be registered in the Participant's name and will be subject to Disposal Restrictions. The Disposal Restrictions, which are required to attract the tax deferral on the shares, generally provide that you will not be able to dispose of your shares until the earlier of the date on which you cease employment with the Latrobe Magnesium Group and the first day of the financial year following the period of nine years from the date the shares are acquired.

Brokerage fees will be incurred on both purchases and sales of shares made on the ASX. Latrobe Magnesium will meet the Plan administration costs, but the transaction costs such as brokerage on the purchase of shares under the Plan will be borne by you from your pre-tax remuneration.

As a shareholder you will receive periodic statements as to your shareholdings in Latrobe Magnesium and details of dividend payments (see section 6).

The current stock market price of Latrobe Magnesium shares is available from Latrobe Magnesium's Company Secretary on 02 8274 6071.

#### 4. What are the benefits of the Plan?

You have the opportunity to contribute pre-tax remuneration to acquire Latrobe Magnesium shares at market price. The shares purchased are registered in your name but are subject to Disposal Restrictions (see section 6.3).

Under current Australian tax law, you may be able to defer the time at which you are taxed on the shares to the year in which the Disposal Restrictions cease to apply (see section 9).

The Latrobe Magnesium shares may grow in value as Latrobe Magnesium's performance improves. So over time, the Latrobe Magnesium shares can be a valuable investment.

You should also be aware that shares can fall in value. There is no guarantee of a return of either your original Contribution or any growth on it under the Plan. Therefore, we suggest that you seek independent financial advice prior to participating in the Plan.

Shares can earn dividends. Through your Plan shareholding in Latrobe Magnesium, you will be eligible to receive dividends declared by Directors from time to time based on the number of shares that you have in the Plan. These dividends, when received, become part of your taxable income and you will need to declare the dividends in your tax return for that year. The dividends may also carry franking credits which may reduce the tax payable on the dividends.

## 5. How do I participate?

### 5.1 You can participate in the Plan in two ways

Eligibility to participate in the Plan will be determined by the board. Once you have been nominated as eligible to participate, you may participate in the Plan by electing in advance:

- (a) to forgo all or part of your fixed remuneration or fees; and/or
- (b) to forgo all or part of any performance-based cash incentives to which you may become entitled,

to the Plan to purchase Latrobe Magnesium shares.

Under the Latrobe Magnesium's policy on price sensitive information, there are restrictions as to when you can apply to join the Plan or vary your Plan contributions (see section 7).

### 5.2 Participating by contribution of monthly fixed remuneration

You can contribute part of your monthly fixed remuneration to the Plan to be applied to purchase Latrobe Magnesium shares by completing an application and authorisation form. The Minimum Contribution will be \$200 per month. Under this method your monthly taxable salary will be renegotiated down by the equivalent amount.

This option can be discontinued at any time. It can also be varied, although when variations can be made will be subject to the restrictions associated with price sensitive information (see section 7).

### 5.3 Participating by forgoing cash incentives

You may also elect to forgo all or part of any performance-based cash incentive payment to which you may become entitled to fund contributions to purchase Latrobe Magnesium shares. As soon as possible after the incentive is due to you, Latrobe Magnesium will arrange the acquisition, in your name, of the applicable number of shares on the ASX after allowing for brokerage and any other transaction costs.

If you wish to participate in the Plan in this way, you must make an election at the start of the period for which the incentive applies. This early election is necessary for the contribution of your incentive to be effective for tax purposes.

You should specify the percentage of your incentive that you would like to contribute to the Plan. The percentage you select will be the maximum percentage that you can apply to the Plan when your entitlement for remuneration arises.

If you do not make an election initially you will not be able to apply any part of your incentive for the year to the Plan at a later time.

When notification is received that entitlements to incentives have crystallised, a Plan application form will be sent to people who have made a prior election to forego all or part of a cash entitlement in favour of shares purchased under the Plan. The application form will require you to indicate the actual dollar value of the amount to be foregone from your cash incentive entitlement. The completion of this formal application is essential; the initial election, on its own, is not sufficient to enable you to participate. The timing of this application will also be subject to the restrictions associated with price sensitive information (see section 7).

## 6. Distribution and other rights and obligations

### 6.1 You can receive dividends

You will receive dividends based on the number of shares you have in the Plan.

Dividends, when received, become part of your assessable income and you will need to declare them in your tax return. You will be provided with dividend statements (including franking information) to assist in the completion of your tax return.

### 6.2 Voting Rights

You may exercise any voting rights attaching to the shares held by you under the Plan, or you may appoint a proxy to represent and vote for you at any meeting of the members of Latrobe Magnesium.

### 6.3 Disposal Restrictions

Your shares will be subject to Disposal Restrictions. This is one of the important conditions required by relevant taxation law.

These Disposal Restrictions prevent you from selling, transferring or otherwise disposing of your shares until the earlier of:

- (a) the first day of the financial year following the period of nine years from the date the shares are transferred to you;
- (b) the date on which you cease employment with the Latrobe Magnesium Group;
- (c) the date on which Latrobe Magnesium determines the Disposal Restrictions will no longer apply in the event of a takeover bid or scheme of arrangement; or
- (d) the date on which Latrobe Magnesium consents (at the discretion) to a request from you for permission to sell, transfer or dispose of the shares. If you wish to dispose of your shares, you must submit to Latrobe Magnesium your reasons for such disposal and Latrobe Magnesium may, in its absolute discretion, approve or disapprove your disposal application. Please note, approval of a disposal will only be granted in exceptional circumstances (eg financial hardship).

Once the Disposal Restrictions no longer apply, tax will become payable on the market value of the shares (see section 9 below).

### 6.4 Forfeiture

While the shares are still subject to the Disposal Restrictions, you will forfeit (for no consideration) any right or interest in any shares acquired under the Plan if, in Latrobe Magnesium's opinion, you have acted fraudulently or committed gross misconduct in relation to the affairs of Latrobe Magnesium or its subsidiaries.

Any brokerage or other transaction costs in connection with the disposal of any shares forfeited by you will be paid for out of the funds flowing from the sale of the forfeited shares.

## 7. Insider Trading

It is a criminal offence to trade in, or encourage others to trade in, shares with the benefit of price sensitive information which is not publicly known. This offence, called 'insider trading', can attract fines of up to \$220,000 and/or 5 years imprisonment.

It is for this reason that, under Latrobe Magnesium's share trading prohibition policy (*Policy*), you must not buy or sell Latrobe Magnesium shares when you are aware of price sensitive information about the company which has not been disclosed to the ASX.

Under the Policy, people likely to be aware of price sensitive information relating to Latrobe Magnesium (including members of Latrobe Magnesium's senior management team and those having access to, or involved in preparing, the monthly management reports) are prohibited from buying or selling Latrobe Magnesium shares during either of the following periods:

- (a) December 31 to the announcement of Latrobe Magnesium 's half yearly results; and
- (b) June 30 to the announcement of Latrobe Magnesium's annual results.

In addition, even if the trading prohibitions do not apply, you may, nonetheless, still possess price sensitive information which will preclude you from dealing in any Latrobe Magnesium shares. For example, independent of the financial information of Latrobe Magnesium, you may be aware of other strategic information and, therefore, be precluded from buying or selling shares at that time.

A similar restriction will apply to all Participants in the Plan.

Thus, if you wish to:

- (a) apply to participate in the Plan;
- (b) apply to alter the basis of your participation in the Plan (that is, to increase or reduce your level of Plan participation); or
- (c) request withdrawal of your shares from the Plan,

you must do so outside the trading prohibition periods and when you are not in possession of price sensitive information. In other words, so long as you are then not aware of price sensitive information, which has not been disclosed to the ASX, you will only be able to make such applications outside Latrobe Magnesium's trading prohibition periods.

Latrobe Magnesium's share trading prohibition policy has also been amended to allow the Company to purchase shares in your name during the usual trading prohibited periods in accordance with the standing instruction you have given it under the Plan prior to that period commencing, so long as you are then not in actual possession of price sensitive information which is not publicly available. You must withdraw from the Plan if you have inside information at any time when shares can be acquired for you under the Plan, even if you did not have that inside information at the time that you elected to participate in the Plan.

It is your responsibility, when applying to participate in the Plan or vary that participation, to ensure you comply with the laws relating to insider trading. If you are in any doubt, please contact Latrobe Magnesium's Company Secretary for clarification.

## 8. Modification, suspension or termination of the Plan

### 8.1 The board can modify, suspend or terminate the Plan

- (a) The Plan Rules permit the board to vary the rules of the Plan.
- (b) The board can also suspend or terminate the operation of the Plan at any time. In the event of a suspension or termination, the Plan will continue to operate with respect to any Latrobe Magnesium shares transferred under the Plan prior to that suspension or termination.

## 9. Taxation considerations

### 9.1 Introduction

The following comments are a general guide only for an Australian resident employee based on taxation laws in force on 16 February 2004. The comments should not be interpreted as personal tax advice and, where appropriate, you should seek independent tax advice, taking into account your own personal circumstances.

### 9.2 Deferral of the taxing time on the shares

Generally, you will be entitled to defer the time tax is payable on the shares acquired by you under the Plan and therefore, no income tax will be payable by you in respect of the remuneration foregone at the time of purchase of the shares under the Plan, unless you make an election to be taxed on the shares in the year that they are acquired. This means that you can acquire more shares than if after-tax dollars were used.

However, you should note that a consequence of deferring the taxing time is that any increase in value of the shares from the time they are acquired until the time the deferral ceases to apply will not receive the benefit of the 50% capital gains tax discount (refer example calculation at 9.6).

### 9.3 Taxable amount when Disposal Restrictions lift

The amount that will be subject to tax at the time the Disposal Restrictions lift (as ordinary income, not as capital gain) will be the market value of the shares at that time, calculated as follows:

(a) Shares sold within 30 days of the Disposal Restrictions lifting

If you sell the shares in an arm's length transaction within 30 days of the Disposal Restrictions lifting, the amount that you will be required to include in your tax return in the year that the Disposal Restrictions lift will be the consideration you receive on the disposal of the shares. This will be taxed to you at your marginal rates of tax applying in the year that the Disposal Restrictions lift.

(b) Shares not sold within 30 days of the Disposal Restrictions lifting

If you do not sell the shares in an arm's length transaction within 30 days of the Disposal Restrictions lifting, you will still be taxed on the shares in the year the Disposal Restrictions lift (even though you continue to hold the shares), but the value of the shares on which you will have to pay tax will be the weighted average sale price of the shares in the week that the Disposal Restrictions lift. You can request that Latrobe Magnesium provide you with this deemed taxable value of the shares.

Capital gains tax will also apply to the later disposal of the shares. In order to avoid double taxation, you will be deemed for capital gains tax purposes to have a cost base of the shares equal to the deemed taxable value of the shares at the time the Disposal Restriction lifted.

### 9.4 You are responsible for correctly reporting and paying tax on the shares

Latrobe Magnesium is not required to withhold tax to cover the income tax payable on the shares, nor is it required to include the value of the shares on your group certificate. You will therefore be separately responsible for ensuring that you include the value of the shares in your income tax return in the year that the Disposal Restrictions lift.

It is important to note that tax will be payable by you on the shares in the year that the Disposal Restrictions lift, **even if you continue to hold the shares after that time**. For example, if you cease employment with Latrobe Magnesium in June 2004, you will be required to include the

market value of the shares in your tax return for the year ended 30 June 2004 (and pay tax at your marginal rates of tax for that year) even if you continue to hold the shares after your termination of employment.

As noted at 9.3, if you do not sell the shares within 30 days of the Disposal Restrictions lifting, you can request that Latrobe Magnesium provide you with the deemed taxable value of the shares at the date the Disposal Restrictions lifted.

## 9.5 Interaction with participation on other employee share or option plans

Your entitlement to defer the taxing time on the shares assumes that you do **not** make an election under Section 139E of the Income Tax Assessment Act 1936 to be taxed on the shares in the year that they are acquired under the Plan (*Tax Election*).

It is important to note that a Tax Election in a particular tax year would apply to **all** employee shares and options acquired by you in that year (ie you cannot choose to defer tax on shares acquired under this share plan, but elect for up-front tax to apply to shares or options acquired under another plan, where those acquisitions occur in the same tax year).

You would therefore not be able to defer the taxing time on shares acquired by you under this Plan in a particular tax year if you elect to claim the \$1,000 tax exemption for shares acquired under any other employee share plan in that year, or if you elect to be taxed up-front on employee options you acquired in that year.

## 9.6 Example calculation - Comparison of cash with shares

The following calculation compares an employee being paid cash of \$10,000, with the after tax amount being used to acquire shares, with an employee receiving \$10,000 of their remuneration in the form of Latrobe Magnesium shares on which the taxing time is deferred, based on the following assumptions:

- Company share price at acquisition: \$0.03.
- Disposal Restrictions lift 5 years later.
- Shares sold for \$0.05/share within 30 days of the disposal restrictions lifting.
- Participation on top marginal tax rate of 48.5%.
- No dividends paid during the period.

	<b>Cash</b>	<b>Shares</b>
Remuneration	\$10,000	\$10,000
Tax on remuneration (48.5%)	(\$4,850)	-
Net investment in shares	\$5,150	\$10,000
Number of shares (@\$0.03)	171,666	333,333
Sale proceeds (@\$0.05)	\$8,583.30	\$16,666.65
Income tax on sale (48.5% x \$16,666.65)	-	(\$8,083.33)
Capital gains tax on sale (50% x 48.5% x [\$8,583.30 - \$5,150])	(\$832.58)	-
<b>AFTER TAX GAIN</b>	<b>7,750.72</b>	<b>8,583.32</b>

# LATROBE MAGNESIUM LIMITED

## SHARE ACQUISITION PLAN

### PLAN RULES

#### 1. Purpose

- (a) The Plan has been established to provide a method whereby Eligible Participants of any Group Company are able to invest in Shares in the Company a tax effective manner.
- (b) As shareholders, employees who participate in the Plan will have the opportunity to share in the growth in value of the Company and will be encouraged to improve the longer-term performance of the Company and its returns to shareholders.
- (c) It is intended that the Plan will assist the Company in attracting and retaining skilled and experienced employees and provide them with a greater incentive to focus on the long-term goals of the Company.

#### 2. Definitions and interpretations

##### 2.1 Definitions

In these Rules, the following terms have these meanings unless the contrary intention appears:

**Acceptance Form** means the form that the Relevant Company encloses with its Offer and which is to be used by an Eligible Participant to apply to participate in the Plan.

**Acquisition Date** means in relation to Shares acquired under the Plan by, or for the benefit of, a Participant:

- (a) the date on which the Shares are registered by the Company in the name of the Participant; or
- (b) such other date as may be determined by the Board in its discretion.

**ASX** means the Australian Stock Exchange Limited (ACN 008 624 691).

**Authorised Deductions** means a deduction authorised by Rule 12.

**Board** means all or some of the directors of the Company acting as a Board as constituted from time to time, and includes a committee of the Board as constituted from time to time whose purpose includes administering the Plan.

**Company** means Latrobe Magnesium Limited (ACN 009 173 611).

**Constitution** means the Constitution of the Company as amended from time to time.

**Contribution** represents the amount of future pre-tax remuneration or Incentive forgone by a Participant in accordance with Rule 5.1.

**Disposal Restrictions** means the restrictions on dealing with the Shares as set out in Rule 10.

**Eligible Participant** means:

- (a) a full-time or permanent part-time employee of any Group Company;
- (b) a secretary or director of any Group Company;

- (c) a person the Company in its absolute discretion determines is eligible to participate in the Plan; or
- (d) a person who has been invited by the Company to participate in the Plan, provided such person is accepted by the Board.

**Forfeited Shares** means Shares forfeited pursuant to Rule 9.1 or 9.2.

**Group Company** means the Company and each of its Subsidiaries.

**Holding Lock** means a mechanism to ensure that the Disposal Restrictions are satisfied, arranged or approved and administered by the Board (including through the Company's share registry), that imposes restrictions on dealings with shares by a Participant.

**Incentive** means any bonus entitlement and/or individual recognition award offered by a Group Company to which the Eligible Participant may be entitled.

**Listing Rules** means the official listing rules of the ASX as amended from time to time.

**Maximum Contribution** means the maximum percentage of the Eligible Participant's future remuneration or Incentive which may be contributed to the Plan.

**Minimum Contribution** means the minimum percentage of the Eligible Participant's future remuneration or Incentive which may be contributed to the Plan.

**Net Contribution** means a Contribution after deducting any Authorised Deductions.

**Participant** means an Eligible Participant who accepts an Offer and agrees to be bound by these Rules and on whose behalf the Company subsequently arranges the acquisition of Shares.

**Plan** means the Latrobe Magnesium Share Acquisition Plan established and operated in accordance with these Rules.

**Plan Company** means the entity appointed or engaged by the Company from time to time to perform the functions of the plan company under the Rules.

**Offer** means an offer of participation in the Plan and an invitation to acquire Shares under the Plan made to an Eligible Participant pursuant to Rule 6.

**Relevant Company** means, in relation to any Eligible Participant or Participant:

- (a) the Group Company which is the employer of the Eligible Participant or Participant; or
- (b) where the Eligible Participant or Participant is a director or secretary of a Group Company, but is not an employee of a Group Company, the Group Company of which he or she is a director or secretary; or
- (c) in any other circumstances, the Group Company determined by the Company in relation to a particular Eligible Participant.

**Rules** means the rules governing the operation of this Plan set out in this document as amended from time to time.

**Shares** means fully paid ordinary shares in the capital of the Company.

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

**Subsidiary** means a body corporate which is a subsidiary of the Company under Part 1.2 Division 6 of the Corporations Act, which has agreed with the Company and Plan Company to be bound by these Rules.

## **2.2 Interpretation**

In these Rules, unless the contrary intention appears:

- (a) a reference to any legislation or any provision of any legislation includes any modification or re-enactment of the legislation or any legislative provision substituted for, and all legislation and statutory instruments and regulations issued under the legislation;
- (b) the singular include the plural and vice versa;
- (c) a gender includes all genders;
- (d) an individual or persons include bodies corporate and trusts and vice versa;
- (e) headings are for convenience only and do not affect the interpretation of these Rules;
- (f) a reference to a clause or paragraph is a reference to a clause or paragraph of these Rules, or the corresponding Rule or Rules of this Plan as amended from time to time;
- (g) a reference to any document or agreement includes reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (h) where any word or phrase is given a definite meaning in these Rules, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (i) a reference to a person includes a reference to the person's legal personal representatives, executors, administrators and successors, a firm or a body corporate;
- (j) terms which are defined in the Corporations Act bear the same meaning when used in this document.

## **3. Commencement of the Plan**

The Plan will commence on the date on which all necessary corporate actions and consents for the establishment of the Plan have been obtained.

## **4. Operation of the Plan**

### **4.1 General**

- (a) The Plan must be operated in accordance with these Rules.
- (b) Subject to these Rules, the Listing Rules and any law to the contrary, the Plan Company will follow any direction given to it by the Board as to the operation of the Plan.
- (c) The Company will, or will cause one or more other Group Companies to, pay all the expenses, costs and charges incurred by the Plan Company in operating the Plan, other than the Authorised Deductions.

### **4.2 Binding Rules**

These Rules bind each Group Company, the Plan Company and each Participant.

## **5. How the Plan Works**

### **5.1 Contribution**

The Relevant Company may at any time request an Eligible Participant to provide to the Board information relating to the Eligible Participant's remuneration preference for the purposes of this Plan, including (without limitation) the following matters:

- (a) the percentage or amount of the Eligible Participant's future remuneration (before tax) which he or she wishes to be contributed to the Plan; and
- (b) the percentage or amount of any future incentive he or she wishes to be contributed to the Plan,

(the *Contribution*) which percentages or amounts cannot exceed the Maximum Contribution or less than the Minimum Contribution relevant to the Eligible Participant under this Plan.

## **5.2 Discretion as to Minimum and Maximum Contribution**

The Relevant Company, in conjunction with the Board, has absolute discretion in determining the Minimum Contribution and Maximum Contribution which may be contributed under the Plan by a Participant. That maximum or minimum may vary between Eligible Participants and between Group Companies.

## **5.3 Notification**

The terms of the Offer must (amongst other things) set out in writing the outcome of the Relevant Company's determination under clause 5.2 with respect to the Minimum and Maximum Contribution.

# **6. Offer**

## **6.1 Notice of Offer**

- (a) Subject to these Rules, the Relevant Companies may from time to time issue Offers on behalf of the Company to Eligible Participants to acquire Shares under the Plan.
- (b) An Offer may take any form determined by the Board from time to time and to the extent possible should specify:
  - (i) the date of the Offer;
  - (ii) the name of the Eligible Participant to whom the Offer is made;
  - (iii) the Minimum Contribution and Maximum Contribution relating to that Eligible Participant;
  - (iv) the Disposal Restrictions which will attach to the Shares acquired by the Eligible Participant;
  - (v) the time period for acceptance of the Offer; and
  - (vi) any other material terms and conditions applicable to the Offer.
- (c) Offers will be issued with an Acceptance Form and such explanatory material in respect of the Plan as the Board considers appropriate or is required by law.

## **6.2 Offer as an Invitation**

Each Offer constitutes an invitation to the Eligible Participant to apply for the acquisition of Shares under the Plan, subject always to compliance with law.

# **7. Acceptance of Offer**

## **7.1 Acceptance Procedure**

- (a) An Eligible Participant may only accept an Offer by delivering to the Relevant Company the duly completed Acceptance Form within the time period specified in the Offer.

- (b) Each Acceptance Form must specify the amount of the Contributions (which must be between the Minimum Contributions permitted and the Maximum Contribution permitted) nominated by the Eligible Participant and such other information as requested in the Offer.
- (c) On acceptance of an Offer, the Eligible Participant:
  - (i) becomes a Participant;
  - (ii) irrevocably offers to acquire Shares under the Plan in accordance with the Offer; and
  - (iii) agrees to be bound by the terms of the Acceptance Form, the Rules and the Constitution.

## **8. Acquisition of Shares**

### **8.1 Payment of Contributions**

Any Group Company may pay to the Company Contributions to be used for the purposes of the Plan.

### **8.2 Use of Contributions**

- (a) The Company must use the Net Contributions to acquire Shares for and in the name of Participants in accordance with the Offer and in proportion to the relevant Participant's Contribution.
- (b) The Company shall not repay any amount so received to the Relevant Company or any Group Company even if the purposes of the Plan are unable to be effected.
- (c) Pending the acquisition of the Shares, the Company may invest moneys in short term deposits or otherwise apply the moneys for the purposes of the Plan. Any interest earned on such deposits will be used towards the costs of administering the Plan or the purchase of Shares.

### **8.3 Acquisition of the Shares**

- (a) The Company will use the Net Contributions of each Participant to acquire Shares in the name of the Participant in the ordinary course of trading on the ASX as directed from time to time by the Board.
- (b) The Company will acquire in the name of a Participant as many Shares as possible by applying the Participant's Net Contribution to purchase Shares at prevailing market prices. Participants cannot receive fractions of Shares.
- (c) Any residual amount of cash will be held by the Company and added to the Participant's next Contribution for use in accordance with clause 8.3(a) and (b) at that time.
- (d) The Shares acquired by the Company on behalf of a Participant pursuant to a Participant's Acceptance Form shall be registered in the name of the Participant.

## **9. Forfeiture of Shares**

### **9.1 Termination of Employment**

If the employment or office of a Participant is terminated before any future remuneration or incentive referable to all or part of the Participant's holding of Shares under this Plan has been fully earned, the Board has the right to forfeit a Participant's holding of Shares under this Plan to

the extent (as determined by the Board in its absolute discretion) of the unearned remuneration or bonus entitlement.

## **9.2 Breach, Fraud or Dishonesty**

At a time when the Shares are still subject to Disposal Restrictions, a Participant will forfeit any right or interest in Shares or other entitlements under the Plan to the Plan Company if, in the opinion of the Board, the Participant has acted fraudulently or dishonestly or committed gross misconduct in the performance of his or her obligations to any Group Company.

## **9.3 Power of attorney**

Each participant must grant an irrevocable power of attorney, in the form determined by the Company from time to time, to the person or persons determined by the Board, authorising the attorney to:

- (a) acquire shares in the Participant's name in accordance with Rule 8 or to arrange for the transfer of shares to the Participant;
- (b) execute a transfer to the Plan Company of, or dispose of, or otherwise deal with, (in accordance with the directions of the Board) any Shares held by the Participant the ownership of which the Board has determined is to be forfeited under this Rule 9, and to execute any documents (including transfers) on behalf of the Participant for such purposes; and
- (c) appoint an agent to do any of the things referred to in paragraph (a) or (b).

## **9.4 Forfeiture Mechanism**

- (a) Unless the Board determines otherwise, any Share forfeited by a Participant under this clause 9 will be acquired from the Participant by the Plan Company for no consideration.
- (b) The Plan Company shall hold any Forfeited Shares for the benefit of such Eligible Participants as are nominated by the Board from time to time or sell the Forfeited Shares if so directed by the Board. If the Board directs the Plan Company to sell the Forfeited Shares, any proceeds on the sale of such shares will be applied by the Plan Company towards the cost of administering the Plan.
- (c) For the avoidance of doubt, the Plan Company will hold full legal and beneficial title to any Forfeited Shares which are transferred to the Plan Company pursuant to a power of attorney granted by the Participant under Rule 9.3 at all times until those Forfeited Shares are disposed of by the Plan Company under Rule 9.4(b).
- (d) The Plan Company must take all necessary steps to give effect to the transfer to the Plan Company of Forfeited Shares.

## **9.5 Participant's Rights**

A Participant will have no rights in respect of Forfeited Shares or any proceeds of sale or transfer of Forfeited Shares and must, as from the time forfeiture occurs, release and hold harmless the Group Companies and the Plan Company in respect of any claim relating to them.

## **9.6 Overriding restriction on dealings with Forfeited Shares**

- (a) The Plan Company will not under any circumstances transfer to any Group Company (other than the Plan Company) any Forfeited Shares or any interest in Forfeited Shares.
- (b) Nothing in this Rule 9 will (or is intended to) result in any Group Company acquiring any right or interest (whether legal or equitable) in any Forfeited Shares.

## 10. Restrictions on Dealing with Shares

### 10.1 Participant not to dispose of Shares

A Participant must not sell, transfer or otherwise dispose of any Shares transferred to, or acquired by, the Participant under the Plan until the earlier of:

- (a) the first day of the financial year following the period of nine years (or such other period as the Board may determine) commencing on the Acquisition Date;
- (b) the date on which the Participant is no longer employed by, or an officer of, a Group Company;
- (c) the date on which the Board determines that the Disposal Restrictions will cease to apply, which determination may only be made if a takeover bid or scheme of arrangement is made or undertaken in respect of the Company; and
- (d) the date on which a written consent is received from the Board following an application for the sale, transfer or disposal of Shares by the Participant. In determining whether to give consent, the Board must exercise its discretion on a case-by-case basis taking into account relevant commercial considerations.

### 10.2 Register of Members

The Company may administer its register of members, and make such arrangement and do all things necessary or desirable, for the purpose of preventing a contravention of Rule 10.1 and each Participant agrees to the Company effecting such arrangement or doing such things. In particular, but without limitation, to the extent permitted by law, the Company may refuse to register a transfer of a Share acquired by a Participant under the Plan that would involve a contravention of Rule 10.1 and may instruct the share registry to apply a Holding Lock to the Shares for the duration of the period for which the Disposal Restrictions apply as set out in Rule 10.1. A Participant must not require the Company to instruct that share registry to remove a Holding Lock on those Shares during that period.

## 11. Distributions and Other Rights

### 11.1 Entitlement to Dividends

A Participant is entitled to receive any dividend or other distribution (less Authorised Deductions) made in respect of Shares held by the Participant under the Plan (other than Forfeited Shares).

### 11.2 Voting Rights

A Participant may exercise any voting rights attaching to the Shares held by the Participant under the Plan, or may appoint a proxy to represent and vote for him or her, at any meeting of the members of the Company. This applies notwithstanding the application of a Holding Lock.

### 11.3 Notices

Because they are shareholders, the Company will give Participants notice of every general meeting and other documents accompanying such notice, as well as a copy of any other material sent to shareholders at the same time as they are given to other shareholders of the Company.

## 12. Authorised Deductions

When purchasing or otherwise dealing with the Shares for the Participant, the Company is authorised to deduct:

- (a) all outgoings and expenses it incurs in buying and otherwise dealing with Shares for the Participant; and
- (b) any tax which, in the opinion of the Company, is or would be payable by the Company in connection with the operation of the Plan,

but only to the extent that those amounts relate to the Participant, or Shares held by the Participant, or any payment, allocation or distribution to or withdrawal of Shares by, the Participant.

### 13. Suspension or Termination

- (a) The Board may terminate or suspend the operation of the Plan at any time by resolution of the Board.
- (b) In the event of a suspension or termination, these Rules will continue to operate with respect to any Shares transferred under the Plan prior to that suspension or termination.

### 14. Powers of the Board

The Plan will be managed by the Board, which will have power to:

- (a) determine appropriate procedures and make regulations for the administration of the Plan consistent with these Rules;
- (b) determine that funds be provided to the Company to be applied by the Company for the purposes of the Plan in accordance with Rule 8;
- (c) resolve and bind the Company and the Participants absolutely regarding any question of fact, interpretation, affect or application arising in connection with the Plan;
- (d) determine matters falling for determination under these Rules in its absolute discretion having regard to the interests of and for the benefit of the Company;
- (e) exercise the discretions conferred on it by these Rules or which may otherwise be required in relation to the Plan. In exercising these discretions, the Board is not, and is not to be regarded as being, under any fiduciary or other obligation to any other person;
- (f) delegate to any one or more persons (for such period and on such conditions as it may determine) the exercise of any of its powers or discretions arising under the Plan; and
- (g) appoint or engage an entity to perform the functions of the Plan Company under the Rules.

### 15. Amendment of the Plan

#### 15.1 By the Board

Subject to the rest of this clause 15, the Board may at any time and from time to time by resolution amend all or any of these Rules (including this Rule 15) or all or any of the rights or obligations of the Participants or any of them.

#### 15.2 Limitation on amendments

No amendment to the provisions of these Rules may be made which materially reduces the rights of Participants in respect of Shares acquired on their behalf prior to the date of the amendment, other than an amendment which:

- (a) has the purpose of complying with or conforming to present or future State, Territory or Commonwealth legislation or the Listing Rules;
- (b) corrects any manifest error or mistake;
- (c) has the purpose of enabling Participants to receive a more favourable position, including taxation treatment, in respect of their participation in the Plan;
- (d) has the written consent of three quarters of the Participants affected by such an amendment; or
- (e) has been approved by a majority consisting of three quarters of those who vote of the Participants affected by such an amendment at a meeting or by ballot (postal or otherwise) conducted in accordance with procedures approved by the Company.

### **15.3 Retrospectivity**

Subject to this Rule 15, any amendment made pursuant to Rule 15.2 may be given retrospective effect.

### **15.4 Listing Rules**

The Board's exercise of its powers under Rule 15.1 is subject to any future restrictions or procedural requirements relating to the amendment of the rules of an employee incentive scheme imposed by the Listing Rules and applicable to the Plan or the Shares 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.

## **16. Rights of Participants**

Unless otherwise expressly agreed by the Board in writing, nothing in these Rules:

- (a) confers on any Participant the right to continue as an employee of any Group Company;
- (b) affects any rights which a Group Company may have to terminate the employment of an Eligible Participant;
- (c) may be used to increase damages in any action brought against any Group Company in respect of any such termination; or
- (d) confers any responsibility or liability on any Group Company or its directors, officers, employees, representatives or agents in respect of any taxation liabilities of the Eligible Participants.

## **17. General**

### **17.1 Connection with Other Plans**

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

### **17.2 Law, Listing Rules and Constitution**

The Rules and all offers of Shares under the Plan are subject to the law, the Listing Rules and the Company's Constitution, each as in force from time to time.

### **17.3 Costs and Expenses**

With the exception of Authorised Deductions, a Participant will not be liable for any costs associated with the implementation and administration of the Plan unless the Board at its discretion determines otherwise. If the Board so determines otherwise, the Board must inform the Participant prior to making any such deduction.

### **17.4 Dispute**

Any disputes or differences of any nature arising under the Plan shall be referred to the Board and its decision shall be final and binding in all respects.

### **17.5 Notices**

Any notice or direction given under these Rules is validly given if it is handed to the person concerned or sent by ordinary prepaid post to the person's last known address or given in such manner as the Company from time to time determines.

### **17.6 Governing Law**

The laws of the State of New South Wales shall govern this Plan and the rights of the Participants under the terms and conditions of the Plan.