Symal Employee Equity Incentive Plan Rules

Symal Group Limited
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1. Introduction

1.1 Purpose of Plan

(a) The Company has established this Plan to encourage ESS Participants to share in the ownership of the Company and to promote the long-term success of the Company as a goal shared by all ESS Participants.

(b) The purpose of the Plan is to assist in the reward, retention and motivation of key employees to increase long term financial returns of the Company and align the interests of employees with those of the Company's shareholders.

(c) This Plan allows the Board (in its sole discretion) to make Awards to ESS Participants pursuant to the employee share schemes provisions contained in Division 1A of Part 7.12 of the Corporations Act (**ESS Provisions**). However, the Board also has the discretion to grant Awards without utilising the ESS Provisions, and in doing so, the Board will not be taken to have breached any of the specific provisions contained within this Plan which reflect the ESS Provisions, subject to complying with all relevant Applicable Laws.

1.2 Advice

(a) There are legal and tax consequences associated with participation in the Plan. ESS Participants should ensure that they understand these consequences before accepting an invitation to participate in the Plan.

(b) Any advice given by or on behalf of the Company is general advice only, and ESS Participants should consider obtaining their own financial product advice from an independent person who is licensed by ASIC to give such advice.

1.3 Commencement, suspension, termination and amendment of Plan

(a) Subject to the passing of any necessary resolution approving the establishment of the Plan and the issue of the Awards, the Plan will take effect when the Board decides.

(b) The Plan may be suspended, terminated or amended at any time by the Board, subject to any resolution of the Company required by the Corporations Act and/or the Listing Rules (if applicable).

1.4 Listing Rules

In this Plan, a reference to the Listing Rules:

(a) only has effect if at the relevant time the Company is admitted to the official list of the ASX and is otherwise to be disregarded; and

(b) is to be read taking into account any waivers or exemptions from those Listing Rules applicable to the Company.

2. Definitions and Interpretations

2.1 Definitions

In these Rules unless the contrary intention appears:

Acquisition Loan means a loan made by the Company to an ESS Participant under clause 4.1 for the purpose of the ESS Participant acquiring a Loan Share as the result of the acceptance of an Offer;

Acquisition Loan Period means the period of the Acquisition Loan determined in accordance with clause 4.2(a)(v);

Amount has the meaning given to it under clause 16;

Applicable Law means the Corporations Act, Corporations Regulations, Listing Rules, Constitution, the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth), any practice note, policy statement, regulatory guide, class order, declaration, guideline, policy, procedure, ruling, judicial interpretation or other guidance note made to clarify, expand or amend any of the aforementioned subject matter and any other legal requirement that applies to the Plan;

Application means a written acceptance of an Offer for, or an application for, Awards in form approved by or acceptable to the Company;

ASIC means the Australian Securities and Investments Commission;

ASX means ASX Limited or the securities market which it operates, as the context requires;

Award means (as applicable) any of the following:

(a) an Option;

(b) a Performance Right;

(c) a Loan Share;

(d) a Deferred Share Award;

(e) an Exempt Share Award, as applicable; and

(f) any other ESS Interest as defined under section 1100M of the Corporations Act;

Benefit has the meaning given to it under clause 15;

Board means the Board of Directors of the Company;

Business Sale means a sale to a third-party purchaser of all (or substantially all) of the assets and business undertaking of the Group (including by way of a sale of shares of the Company's directly or indirectly owned subsidiaries) provided that no sale or transfer undertaken to effect a corporate reconstruction or reorganisation of any Group Member will constitute a Business Sale;

Company means Symal Group Limited ACN 615 255 466;

Constitution means the constitution of the Company;

Compulsory Divestiture Event means, unless otherwise determined by the Board, any of the following circumstances:

(a) the relevant Vesting Conditions have not been met by the Expiry Date of the Award (for Loan Shares, please refer to item (f)(ii) of this Definition);

(b) the ESS Participant becomes insolvent or declares bankruptcy;

(c) a Malus Event or Clawback under clause 11 occurs in relation to vested Options or vested Shares;

(d) the ESS Participant is terminated for cause;

(e) the ESS Participant breaches the Plan; or

(f) in relation to Loan Shares (only):

(i) the relevant Vesting Conditions are not met by the relevant time; or

(ii) ESS Participant fails to repay their loan on the due date for repayment, unless otherwise determined by the Board.

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

Deferred Share Award means a Share issued under clause 3.5;

Disposal or Dispose means in relation to an Award:

(a) sell, assign, buy-back, redeem, transfer, convey, grant or allow a Security Interest over;

(b) enter into any swap arrangement, any derivative arrangements or other similar arrangement; or

(c) otherwise directly or indirectly dispose of a legal, beneficial or economic interest in the Award;

ESS Interest has the meaning given to it under section 1100M of the Corporations Act, being offers of interests under an employee share scheme of a body corporate or a registered scheme that meets certain listing requirements;

ESS Participant means a person who is:

(a) a Primary Participant in relation to the Plan; or

(b) a Related Person in relation to the Plan;

Exempt Share Award means a Share issued under clause 3.6;

Exercise means exercise of an Award in accordance with its terms, and includes automatic exercise in accordance with these Rules;

Exercise Price means the price payable (if any) per Share to exercise an Award;

Exit Date means each of:

(a) in respect of a Share Sale, the date on which a person is registered as holding greater than 50% of the issued Shares; or

(b) in respect of a Business Sale, the date of the first distribution to Shareholders arising from the Business Sale,

or any such other date as nominated by the Board as the Exit Date;

Exit Event means each of the following:

(a) a Business Sale; or

(b) a Share Sale;

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

Good Leaver means an ESS Participant who ceases to be employed by, contracted by, or a director of, a Group Member as a result of:

(a) total or permanent disablement, or an illness which persists for at least 3 months, which in either case prevents the person from carrying out their previous functions as an employee, contractor or director;

(b) genuine redundancy;

(c) death; or

(d) other factors determined by the Board in its discretion to constitute sufficient reason to treat the person as a Good Leaver;

Group means the Company and each of its controlled entities, and **Group Member** means any of them;

Issue means an issue of a Share and includes the transfer of an existing Share in accordance with clause 8.3;

Issue Cap means the issue cap for offers involving monetary consideration under section 1100V of the Corporations Act;

Issue Price means the price (if any) to be paid for the issue of a Share as stated in the Offer;

Liability means any liability, whether actual or contingent, present or future, quantified or unquantified;

Limiting Legislation has the meaning given to it under clause 15;

Listing Rules means the Listing Rules of ASX and any other rules of the ASX which are applicable from time to time, except to the extent of any waiver granted by the ASX;

Loan Share means a Share issued under clause 3.4 on the terms set out in clause 4;

Malus Event means any of the following circumstances:

(a) serious misconduct or fraud by an ESS Participant;

(b) conduct resulting in significant losses to the Group or significant deterioration in the Group's reputation caused directly or indirectly by an ESS Participant;

(c) A material breach of any obligation owed by an ESS Participant to the Group (including under their employment contract with a Group Member);

(d) when the Company is aware of a material misstatement or omission of financial statements of the Company ;

(e) any circumstance which would lead to an ESS Participant receiving or being eligible to receive an unfair benefit; or

(f) any other circumstance determined by the Board in its absolute discretion;

Market Price means the weighted average sale price of Shares on the ASX over the five trading days immediately preceding the day the Offer is made, or another pricing method determined by the Company;

New Holding Entity means an entity in which equity securities are issued in exchange for Shares as part of a Reconstruction Event;

Offer means an offer or issue of Awards made to an ESS Participant under clause 3. Where Awards are issued without the need for acceptance, an Offer includes the document setting out the terms of the Award;

Offer Document has the meaning given to that term in clause 5.2;

Option means an option to acquire Shares issued under clause 3.2;

Other Leaver means an ESS Participant that ceases to be employed by, contracted by, or a director of, a Group Member other than being a Good Leaver;

Performance Right means a right to acquire a Share issued under clause 3.3;

Plan means the Symal Employee Equity Incentive Plan Rules;

PPSA means the *Personal Property Securities Act 2009* (Cth);

Primary Participant means, subject to the Corporations Act, a person who is:

(a) an employee or director of, or an individual who provides services to, the Company;

(b) an employee or director of, or an individual who provides services to, an associated entity of the Company, where the associated entity is a body corporate (such as a Group Member);

(c) a prospective person to whom subparagraph (a) or (b) may apply; or

(d) a person prescribed by the regulations of the Corporations Act for the purposes of this definition;

Reconstruction Event means the reconstruction of the Company involving holders of Shares exchanging those Shares for equity securities in a New Holding Entity such that the equity security holders of the New Holding Entity are, or after the reconstruction become, the same or substantially the same as the former holders of Shares;

Related Body Corporate has the meaning given in the Corporations Act;

Related Person means, subject to the Corporations Act, another person who is:

(a) a spouse, parent, child or sibling of the Primary Participant; or

(b) another body corporate controlled by the Primary Participant, or a person mentioned in subparagraph (a); or

(c) a body corporate that is the trustee of a self-managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth)) where the Primary Participant is a director of the body corporate; or

(d) a person prescribed in relation to the Primary Participant by the regulations for the purposes of section 1100L of the Corporations Act; or

(e) any other person defined as a "related person" under section 1100L of the Corporations Act, as updated from time to time;

Restricted Award means an Award or a Share issued on exercise of an Award in respect of which a restriction on sale or Disposal applies under this Plan;

Restriction Period means the period during which Awards, or Shares issued on exercise of Awards, must not be sold or disposed of, being the period specified in these Rules in respect of Deferred Share Awards and Exempt Share Awards, and as specified in the Offer in respect of other Awards and Shares issued on exercise of Awards;

Rules means these rules as amended from time to time;

Securities Trading Policy means any securities trading policy adopted by the Company from time to time;

Security Interest means a right, interest, power or arrangement in relation to any property which provides security for, or protects against default by a person in, the payment or satisfaction of a debt, obligation or Liability, including a mortgage, charge, bill of sale, pledge, deposit, lien, encumbrance or hypothecation and a security interest as defined in sections 12(1) and 12(2) of the PPSA;

Share means a fully paid ordinary share of the Company, and where the context requires, includes a Loan Share, with such rights and obligations as set out in the Constitution;

Shareholder means a person who is a registered holder of a Share;

Share Sale means the sale by Shareholders (in one transaction or a series of connected transactions) to a third-party purchaser of greater than 50% of the issued Shares in the Group provided that no sale or transfer undertaken to effect a corporate reconstruction of any Group Member will constitute a Share Sale;

Tax Act means the *Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997*, or any legislation amending or replacing the provisions of those Acts relating to the issue and exercise of Awards;

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

Vesting Date means the date on which an Award is exercisable or is no longer subject to forfeiture following satisfaction of any Vesting Conditions and is the date of the Vesting Notice; and

Vesting Notice has the meaning given to it in 7.1(c).

2.2 Interpretation

In these Rules, unless expressed to the contrary:

(a) terms defined in the Corporations Act or the Listing Rules have the same meaning in these Rules;

(b) words importing:

  (i) the singular includes the plural and vice versa;

  (ii) any gender includes the other genders;

(c) if a word or phrase is defined cognate words and phrases have corresponding definitions;

(d) a reference to:

  (i) a person includes a firm, unincorporated association, corporation and a government or statutory body or authority;

  (ii) a person includes its legal personal representatives, successors and assigns;

  (iii) a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

  (iv) a right includes a benefit, remedy, discretion, authority or power;

  (v) "$" or "dollars" is a reference to the lawful currency of Australia;

  (vi) this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties; and

  (vii) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them.

2.3 Headings

Headings are for convenience only and do not affect the interpretation of these Rules.

2.4 Tax treatment of Plan

This Plan is a plan to which Subdivision 83A-C of the Tax Act applies (subject to the conditions in that Act).

3. Awards that may be made under the Plan

3.1 Making of Awards

The Company may, at the discretion of the Board, offer and issue Awards to ESS Participants of the kind set out in this clause or set out in the Corporations Act and on such conditions as set out in an ESS Participant's Offer.

3.2 Options

(a) The Company may offer or issue Options, which are rights to be issued a Share upon payment of the Exercise Price (if any) and satisfaction of specified Vesting Conditions. These terms apply unless the Offer specifies otherwise:

(i) Options are Restricted Awards until they are exercised or expire;

(ii) an Offer may specify a Restriction Period for Shares issued on the exercise of Options;

(iii) Options are subject to adjustment under clause 13; and

(iv) if granted while the Company is admitted to a stock exchange, must comply with and be subject to the listing rules of that exchange (as amended from time to time).

3.3 Performance Rights

(a) The Company may offer or issue Performance Rights, which are rights to be issued a Share for nil Exercise Price upon the satisfaction of specified Vesting Conditions. These terms apply unless the Offer specifies otherwise:

(i) Performance Rights are Restricted Awards until they are exercised or expire;

(ii) an Offer may specify a Restriction Period for Shares issued on the exercise of Performance Rights;

(iii) Performance Rights are subject to adjustment under clause 13; and

(iv) if granted while the Company is admitted to a stock exchange, must comply with and be subject to the listing rules of that exchange (as amended from time to time).

3.4 Loan Shares

(a) The Company may offer or issue Loan Shares, which are Shares issued to ESS Participants at an Issue Price that the Board in its discretion determines, and may be subject to the satisfaction of specified Vesting Conditions. These terms apply unless the Offer specifies otherwise:

(i) Loan Shares are Restricted Awards until Vesting Conditions are satisfied and the Acquisition Loan is repaid or satisfied;

(ii) the Acquisition Loan and security terms in clause 4 apply; and

(iii) if granted while the Company is admitted to a stock exchange, must comply with and be subject to the listing rules of that exchange (as amended from time to time).

3.5 Deferred Share Awards

(a) The Company may offer or issue Deferred Share Awards, which are Shares issued to ESS Participants:

(i) who elect to receive Shares in lieu of any wages, salary, director's fees, or other remuneration; or

(ii) by the Company in its discretion, in addition to their wages, salary and remuneration, or in lieu of any discretionary cash bonus or other incentive payment.

(b) If granted while the Company is admitted to a stock exchange, must comply with and be subject to the listing rules of that exchange (as amended from time to time).

(c) Unless a different Restriction Period is specified in an Offer, the Restriction Period for Deferred Share Awards will expire on the earlier of:

(i) when a Primary Participant ceases to be an employee;

(ii) when the Board, in its discretion, agrees to end the Restriction Period; and

(iii) 10 years from the date of issue of the Shares.

3.6 Exempt Share Awards

(a) The Company may offer or issue Exempt Share Awards, which are Shares issued for no consideration or at an Issue Price which is a discount to the Market Price with the intention that up to $1,000 (or such other amount which is exempted from tax under the Tax Act from time to time) of the total value or discount received by each ESS Participant will be exempt from tax.

(b) Unless a different Restriction Period is specified in an Offer, the Restriction Period for Exempt Share Awards will expire on the earlier of:

(i) three years from the date of issue of the Shares; and

(ii) the time when a Primary Participant ceases to be an employee.

(c) The Company must offer Exempt Share Awards on a non-discriminatory basis as defined by section 83A-35(6) of the Tax Act.

(d) If granted while the Company is admitted to a stock exchange, must comply with and be subject to the listing rules of that exchange (as amended from time to time).

4. Loan Shares

4.1 Offer of Acquisition Loan

(a) The Company may provide an Acquisition Loan in relation to Loan Shares by making a loan to an ESS Participant on the terms set out in an Offer and in these Rules.

(b) The offer of an Acquisition Loan may be subject to the Company and the ESS Participant executing agreements and other documents in a form acceptable to the Company providing for:

(i) the offer by the Company and the acceptance by the ESS Participant of an Acquisition Loan equal to the aggregate Issue Price of the Loan Shares offered;

(ii) the grant by the ESS Participant in favour of the Company of a Security Interest over the Loan Shares as set out in this clause 4 and the perfection of that Security Interest under the PPSA as a first ranking Security Interest; and

(iii) if required by the Company, a written agreement by the ESS Participant to the application of a holding lock in respect of the Loan Shares and or the entry by the ESS Participant and the Company into a restriction agreement in respect of the Loan Shares.

4.2 Default Acquisition Loan Terms

(a) Unless otherwise determined by the Board:

(i) (**Timing**) an Acquisition Loan will be made to an ESS Participant for the purpose of acquiring a Loan Share as the result of their acceptance of an Offer;

(ii) (**Amount**) the amount of the Acquisition Loan will be equal to the aggregate Issue Price of the Loan Shares offered;

(iii) (**Application of Acquisition Loan money**) an ESS Participant who accepts an Acquisition Loan irrevocably authorises the Company to apply the Acquisition Loan on behalf of the ESS Participant to pay for the aggregate Issue Price of the Loan Shares to be issued or transferred to the ESS Participant;

(iv) (**Acquisition Loans interest free**) an Acquisition Loan will not bear interest;

(v) (**Acquisition Loan Period**) the Acquisition Loan Period commences when the Acquisition Loan is made and ends on the earliest of:

(A) the date on which the Primary Participant ceases to be an employee;

(B) the buy-back of the Loan Shares in accordance with clause 12 or the Loan Shares are otherwise disposed of;

(C) the failure to satisfy any Vesting Conditions applicable to the Loan Shares;

(D) any breach by the ESS Participant of this Plan where the breach is not remedied within seven days of the Company's notice to the ESS Participant to do so; or

(E) an application being made to a court for an order, or an order being made, that the ESS Participant be made bankrupt (or any similar event in any jurisdiction as determined by the Board in its discretion); and

(vi) (**Repayment**) an ESS Participant:

(A) may repay all or part of an Acquisition Loan made to the ESS Participant at any time before expiry of the Acquisition Loan Period; and

(B) must repay in full the outstanding amount of the Acquisition Loan at the end of the Acquisition Loan Period (or return the relevant securities in accordance with the Acquisition Loan).

4.3 Repayment of Acquisition Loan

(a) Subject to clause 4.3(b), if an Acquisition Loan provided to an ESS Participant becomes repayable, the Company must accept in full and complete satisfaction of the ESS Participant's indebtedness and obligations to it under the Acquisition Loan:

(i) if the applicable Vesting Conditions have been satisfied, the total amount owing by the ESS Participant to the Company in cash or by other means agreed between the ESS Participant and the Company; or

(ii) in any case, the transfer to the Company (or its nominee) of the Loan Shares to which the Acquisition Loan relates in accordance with clause 12.

(b) If the ESS Participant has:

(i) not repaid the outstanding amount of an Acquisition Loan (if any) at the end of the Acquisition Loan Period; or

(ii) triggered a Compulsory Divestiture Event; or

(iii) not satisfied the Vesting Conditions applicable to the Loan Shares,

the Board may, in its discretion, determine that the Company may, on behalf of the ESS Participant:

(i) transfer to the Company (or its nominee) the Loan Shares to which the outstanding amount of the Acquisition Loan or outstanding Vesting Conditions (as applicable) relate in accordance with clause 12; or

(ii) sell the relevant Loan Shares to which the outstanding amount of the Acquisition Loan or outstanding Vesting Conditions (as applicable) relate.

(c) Without limiting the generality of clause 17, for the purpose of the sale of the Loan Shares in accordance with clause 4.3(b), the ESS Participant appoints the secretary of the Company (or his or her duly authorised delegate) as their attorney and authorises the secretary of the Company (or their duly authorised delegate) to sell the relevant Loan Shares on behalf of the ESS Participant. The Company and the secretary will have complete discretion in respect of the sale of the relevant Loan Shares under clause 4.3(b) and will not be liable to the ESS Participant in respect of the timing of or price obtained on or any other circumstances relating to such sale.

(d) If the Company sells any Loan Shares in accordance with clause 4.3(b), the proceeds of sale will be applied in the following order, unless the Board otherwise determines:

(i) in payment of any costs and expenses of the sale incurred by the Company;

(ii) in reduction of the outstanding amount of the Acquisition Loan (if any); and

(iii) the balance (if any):

(A) if Vesting Conditions applicable to the Loan Shares were satisfied at the time of the sale, in payment to the ESS Participant; or

(B) if the Loan Shares were unvested at the time of the sale, in payment to the Company.

4.4 Limited recourse

(a) If the Acquisition Loan is discharged or repaid under clauses 4.3 then:

(i) no further amount will be repayable by the ESS Participant to the Company under the Acquisition Loan in respect of the Loan Shares; and

(ii) no further amount will at any time be recoverable by the Company from the ESS Participant in respect of the Acquisition Loan.

(b) In the event of default in the payment of the loan, the rights of the Company against the ESS Participant are limited to forfeiture of the ESS Interests acquired using the loan.

4.5 Security

(a) As security for the Acquisition Loan, each ESS Participant grants to the Company:

(i) a pledge of its Loan Shares provided under the Plan; and

(ii) a charge over all dividends and other amounts paid or payable on those Loan Shares.

(b) While the Shares are subject to the restrictions of this Plan, an ESS Participant must not without the consent of the Board:

(i) create, other than in favour of the Company, any Security Interest over any Shares; or

(ii) grant, or agree to grant, a first right of refusal, voting right, or pre-emptive right or enter into any agreement, option or other arrangement to grant such an interest or right.

(c) Loan Shares are Restricted Awards until the Vesting Conditions applicable to the Loan Shares (if any) are satisfied and/or the Acquisition Loan is repaid, unless the Board in its discretion determines otherwise.

(d) The Company is entitled to retain the share certificates (if any) for any Loan Shares provided under this Plan to the ESS Participant, and to impose a holding lock on the Loan Shares.

4.6 Dividends and other entitlements

(a) The Company may retain, or pay to itself on behalf of an ESS Participant, any moneys (including dividends) and any capital distributions (calculated at the top marginal tax rate in Australia at the relevant time plus all relevant levies and taxes and less any tax offset for franking credits) that may become payable in respect of a Loan Share in reduction of the amount outstanding under the Acquisition Loan in respect of that Loan Share.

(b) An ESS Participant may not participate in any dividend reinvestment plan (or similar plan) established by the Company until the Acquisition Loan in respect of his or her Loan Shares has been fully repaid.

(c) If any Shares or other securities are issued in respect of Loan Shares as part of a bonus or entitlement issue, then those Shares or other securities will also be subject to the security in this clause 4.5 and the other terms of this Plan as if they were a Loan Share (unless the Board otherwise determines).

5. Offers of Awards

5.1 Form of Offer for Awards involving monetary consideration

(a) Offers for Awards involving monetary consideration must;

(i) be in writing (which includes email);

(ii) include an Application if acceptance is required; and

(iii) if offered to an ESS Participant that is not otherwise exempt from disclosure under the Corporations Act or any other regulations, rules, relief or instruments that apply at the time of the Offer, specify the following information contained in 5.2 to the extent applicable.

5.2 Offer Document

The following information must be included in an Offer Document:

(i) the identity of the ESS Participant to whom the Offer is made;

(ii) the terms of the Offer, or a summary of the terms of the Offer with a statement that, on request, a copy of the full terms of the Offer will be provided to the ESS Participant;

(iii) provide general information about the risks of acquiring and holding the ESS Interests;

(iv) state that advice given in relation to the Offer does not take into account the ESS Participant's objectives, financial situation and needs;

(v) suggests that the ESS Participant obtain personal advice in relation to the Offer;

(vi) states the period during which the ESS Participant may accept the Offer;

(vii) if ESS Interests may be acquired under the Offer using a loan or contribution plan, then the:

(A) terms of the loan or plan; or

(B) a summary of the terms of the loan or plan and a statement that, on request, a copy of the plan or loan will be provided to the ESS Participant;

(viii) any other terms or conditions that the Board decides to include; and

(ix) any other matters required to be specified in the Offer by either the Corporations Act, any other regulations, rules, relief or legislative instruments or applicable laws that apply at the time of the Offer or the Listing Rules.

(b) If required by Applicable Laws or the conditions to applicable ASIC relief, the Offer must include an undertaking by the Company to provide to an ESS Participant, if a request is made before the Award is exercised and within a reasonable period of being so requested, the current market price of the Shares.

5.3 Form of Offer for Awards involving no monetary consideration

(a) Offers for Awards made for no monetary consideration (other than an Offer that does not require disclosure to any investor under Part 6D.2 of the Corporations Act because of section 708 of the Corporations Act) will be made in writing (which includes email) and, at the discretion of the Board, may only be accompanied by a statement that the Offer is made pursuant to Division 1A of Part 7.12 of the Corporations Act.

(b) An Offer for Awards will be made for no monetary consideration if:

(i) no monetary consideration is to be provided for the issue or transfer of the interests; and

(ii) if the Offer is for Options or Performance Rights, no monetary consideration is to be provided on the Exercise of the Options or Performance Rights; and

(iii) the Offer meets any requirements prescribed in the Corporations Regulations from time to time.

5.4 Compliance with laws

(a) No Offer will be made to the extent that any such Offer would contravene the Company's Constitution, the Listing Rules, the Corporations Act, any other regulations, rules, relief or legislative instruments or applicable laws that apply at the time of the Offer.

5.5 Acceptance

(a) If acceptance of an Offer is required, it may be accepted:

(i) by an ESS Participant completing and returning the Application, as required by the Offer, by not later than the date specified in the Offer; and

(ii) if required, by the ESS Participant making or directing payment of the total amount payable for the Awards (if any) accepted under the Offer, in the manner specified in the Offer.

(b) An Offer which requires acceptance lapses if it is not accepted by the ESS Participant to whom the Offer is made as required under clause 5.5.

6. Issue cap

6.1 Offers for monetary consideration

Where an Offer of Awards for monetary consideration is made under the Plan, the Company must, at the time of making the Offer of Awards, have reasonable grounds to believe that the Offer of Awards complies with the Issue Cap.

The Issue Cap is subject to adjustment or increase:

(a) as may be permitted by Applicable Law; and

(b) to a limit prescribed in the Constitution in accordance with Applicable Law.

6.2 Offers not for monetary consideration

An Offer of Awards for no monetary consideration is not limited by the Issue Cap.

7. Vesting and Exercise of Awards

7.1 Vesting

(a) The Awards held by an ESS Participant will vest in and become exercisable by that ESS Participant upon the satisfaction of any Vesting Conditions specified in the Offer and in accordance with these Rules.

(b) Vesting Conditions may be waived at the absolute discretion of the Board (unless such waiver is excluded by the terms of the Award).

(c) Upon a determination from the Board that an applicable Vesting Condition has been satisfied, it will notify the ESS Participant of the number of Awards that have vested and/or lapsed via a Vesting Notice. The date of the Vesting Notice will be the Vesting Date.

7.2 Default vesting conditions if none specified in an Offer

(a) If vesting conditions or other vesting events are not specified in an Offer and the Offer does not expressly state to the effect that no vesting conditions apply, the following Vesting Conditions apply to any Options, Performance Rights or Loan Shares offered under the Plan:

(i) the Awards only vest if at the applicable vesting date the ESS Participant either:

(A) remains employed with a Group Member, continues to provide consulting services to a Group Member or acts as a director of a Group Member (as applicable); or

(B) ceased to be employed with a Group Member before the applicable vesting date in circumstances where the person was a Good Leaver;

(ii) the Awards vest in equal one-third tranches on the first, second, and third anniversaries of the grant date of the Awards (or of another date specified in the Offer for this purpose).

7.3 Leavers

(a) **Good Leaver**: If an ESS Participant ceases to be an engaged by a Group Member as an employee, director or contractor in circumstances where the person was a Good Leaver, then:

(i) the ESS Participant will retain all vested Awards;

(ii) retain a number of unvested Awards on a pro-rata basis (subject to the relevant vesting conditions), with the remaining unvested Awards being compulsorily divested in accordance with clause 13,

unless the Board, in its absolute discretion determines otherwise.

(b) **Other Leaver**: If an ESS Participant ceases to be an employee, director or contractor in circumstances where the person was <u>not</u> a Good Leaver, then, subject to compliance with the Listing Rules and Corporations Act, any;

(i) unvested Awards held by the relevant ESS Participant will immediately lapse or be forfeited; and

(ii) any vested Awards that have not been exercised will be retained,

unless the Board, in its absolute discretion determines otherwise.

7.4 Exercise of Awards

(a) An ESS Participant is, subject to this clause 7, entitled to exercise an Award on or after the Vesting Date. Any exercise must be for a minimum number or multiple of Shares (if any) specified in the terms of the Offer (unless determined otherwise by the Board in accordance with clause 7.5).

(b) Unless stated otherwise, Awards may be exercised by the ESS Participant delivering to the Company a notice stating the number of Awards to be exercised together with payment of the cash amount equal to the Issue Price (if any) for the Shares to be issued.

7.5 Cash settlement of Awards

The Board retains the right in its sole discretion to settle Awards in cash instead of Shares. If the Board makes an election under this clause 7.5 it will provide the ESS Participant with cash equal to the then current value of the Awards (being prevailing market price for the Company's Shares less any applicable amount payable by the ESS Participant in respect of that Award). By way of example, if the Board elects settle an Option in cash rather than issuing resulting shares, the Option would be settled in cash equal to the then current Share Price at time of exercise less the Exercise Price for that Option.

7.6 Cashless exercise of Awards

Instead of paying the aggregate Exercise Price to purchase Shares, the Board may, in its discretion, permit an ESS Participant to elect and receive, without payment of cash or other consideration, upon surrender of the applicable portion of exercisable Options or Performance Rights to the Company, a number of Shares determined in accordance with the following formula (a **Cashless Exercise**):

$$\boldsymbol{A} = \frac{\boldsymbol{B}(\boldsymbol{C} - \boldsymbol{D})}{\boldsymbol{C}}$$

Where:

A = the number of Shares (rounded to the nearest whole number) to be issued to the ESS Participant pursuant to this clause 7.5;

B = the number of Shares otherwise issuable upon the Exercise of the Options or Performance Rights (as applicable) or portion of the Options or Performance Rights (as applicable) being exercised;

C = the current market price of one Share determined as of the date of delivery to the Company of the notice referred to in clause 7.4(b); and

D = the Exercise Price

Worked example: If an ESS Participant holds 100 Options to be exercised, each with an Exercise Price of $1.00 and the ESS Participant elects to Exercise all of their Options by paying the Exercise Price, they would pay $100 and receive 100 Shares. However, if the ESS Participant elects for the Cashless Exercise of vested Options, and the current market price of one Share prior to Exercise is $1.50, the ESS Participant will pay no cash and receive 33 Shares (being 100($1.50-$1.00)/$1.50 = 33.33 Shares, rounded down to 33 Shares).

8. Allotment of Shares on exercise or vesting of Awards

8.1 Rights attaching to Shares

(a) The Shares issued under this Plan will upon allotment:

(i) be credited as fully paid;

(ii) rank equally for dividends and other entitlements where the record date is on or after the date of allotment, but will carry no right to receive any dividend or entitlement where the record date is before the date of allotment;

(iii) be subject to any restrictions imposed under these Rules, and

(iv) otherwise rank equally with the existing issued Shares at the time of allotment.

8.2 Quotation

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

8.3 New or existing Shares

(a) The Company may, in its discretion, either issue new Shares or cause existing Shares to be acquired for transfer to the ESS Participant, or a combination of both alternatives, to satisfy the Company's obligations under these Rules.

(b) If the Company determines to cause the transfer of Shares to an ESS Participant, the Shares may be acquired in such manner as the Company considers appropriate, including from a trustee appointed under clause 8.4.

8.4 Trustee

The Company may appoint a trustee on terms and conditions which it considers appropriate to acquire and hold Shares, options, or other securities of the Company either on behalf of ESS Participants or for the purposes of this Plan. Where a trustee is appointed, an ESS Participant will on request be entitled to a copy of the relevant trust deed.

9. Restricted Awards

9.1 Restrictions

(a) An ESS Participant must not sell, transfer, grant a Security Interest over or otherwise Dispose of any Restricted Awards, or agree to do any of those things, during the Restriction Period.

(b) The Company may implement any procedures it considers appropriate to ensure that Restricted Awards are not disposed of during the Restriction Period, including applying a holding lock in respect of Shares.

(c) Without limiting its discretions under these Rules, the Board may at any time in its discretion waive or shorten the Restriction Period applicable to an Award.

9.2 Bonus issues

(a) If the Company makes a pro rata bonus issue to holders of Restricted Awards, the Shares issued to ESS Participants under the pro rata bonus issue will be subject to the balance of the Restriction Period that applied to the Restricted Awards.

9.3 Takeovers and control transactions

(a) If a takeover bid is made to acquire all of the issued Shares of the Company, or a scheme of arrangement, selective capital reduction or other transaction is initiated which has an effect similar to a full takeover bid for Shares in the Company, then ESS Participants are entitled to accept the takeover bid or participate in the other transaction in respect of all or part of their Awards other than Exempt Share Awards notwithstanding that the Restriction Period in respect of such Awards has not expired.

(b) The Board may, in its discretion, waive unsatisfied Vesting Conditions in relation to some or all Awards in the event of such a takeover or other transaction.

9.4 Personal representatives

(a) If an ESS Participant dies before the end of the Restriction Period, then the legal personal representative of that deceased ESS Participant will have the same rights and benefits and be subject to the same obligations in respect of those Shares as the deceased ESS Participant would have had or been subject to had they survived until the end of the Restriction Period.

10. Hedging unvested Awards

(a) ESS Participants must not enter into transactions or arrangements, including by way of derivatives or similar financial products, which limit the economic risk of holding unvested Awards.

(b) Without limiting clause 11, if an ESS Participant is a member of the Company's key management personnel (as defined in the Corporations Act) then the ESS Participant must also observe any additional restrictions imposed by the Corporations Act, any other regulations, rules, relief or legislative instruments or applicable laws that apply at the time of the Offer.

11. Clawback

(a) If in relation to an ESS Participant's Awards:

(i) the Company or Board waived any Vesting Condition; or

(ii) the Company or Board determined that a Vesting Condition was satisfied; or

(iii) clause 7.2(a)(i)(B) (Good Leaver vesting) applied to the Awards;

and it was the case or is later discovered that:

(iv) a Vesting Condition was not, in fact, satisfied; or

(v) the ESS Participant was not, in fact, entitled to the benefit of clause 7.2(a)(i)(B); or

(vi) a Malus Event had occurred; or

(vii) an ESS Participant has been found to have breached a restraint clause in their employment agreement with a Group Member; or

(viii) the satisfaction of a Vesting Condition, or the decision of the Company or Board to waive a Vesting Condition, was contributed to by the ESS Participant's fraud, unlawful behaviour, wilful default, or conduct in material breach of the Company's policies and codes of conduct; or

(ix) an ESS Participant committed fraud, unlawful behaviour, wilful default, or conduct in material breach of the Company's policies and codes of conduct,

then the Board may determine that:

(x) all or some of the Awards held by the ESS Participant immediately expire and are incapable of being exercised; and/or

(xi) for Loan Shares, all of some of the Shares are subject to a Compulsory Divestiture Event and dealt with in accordance with clause 4.3(b); and/or

(xii) the ESS Participant must, or must procure that any relevant third party, immediately on request by the Company transfers any or all Shares issued upon the exercise of the relevant Award on terms, determined by the Company (which may include transferring them for nil consideration), to:

(A) the Company in accordance with clause 12; or

(B) to a person, determined by the Board in its discretion; and/or

(xiii) the ESS Participant must pay the Company any:

(A) proceeds received from the sale of any Shares issued upon the exercise of the Awards; and

(B) any distributions or dividends paid on Shares issued upon the exercise of the Awards,

as a debt due to the Company.

12. Share buy-back or transfer

12.1 When Shares are bought back or transferred

(a) Shares held by an ESS Participant may be bought back and cancelled if:

(i) a Compulsory Divestment Event occurs (clause 13); or

(ii) the ESS Participant elects to transfer Loan Shares to the Company in satisfaction of any outstanding Acquisition Loan under clause 4.3(a)(ii); or

(iii) an Acquisition Loan has become repayable and either the ESS Participant does not repay the Acquisition Loan in accordance with clause 4.3(a)(i) on the repayment due date or any Vesting Conditions in respect of relevant Loan Shares have not been satisfied at the repayment due date; or

(iv) any Vesting Conditions in respect of relevant Loan Shares have not been satisfied by the last date for their satisfaction (if applicable) or have otherwise failed to be satisfied; or

(v) the circumstances set out in clause 4.3(a)(ii) arise and the Board in its discretion determines that ESS Participant must or must procure that any relevant third party must transfer any or all Shares issued upon the exercise of a relevant Award.

12.2 Buy-back price

(a) The consideration for a buy-back of Shares is:

(i) if the buy-back is in respect of Loan Shares, the full satisfaction of any Acquisition Loan provided in connection with the acquisition of those Loan Shares, even if the amount of Acquisition Loan was or has been reduced to nil; or

(ii) if the buy-back is in the circumstances set out in clause 11 or clause 13, nil.

12.3 How Shares are bought back

(a) An ESS Participant and the Company must do whatever is necessary or desirable to effect a buy-back or transfer of Shares when required under clause 12. Each ESS Participant irrevocably appoints the Company and each of its Directors and secretaries from time to time severally as its attorney to sign any document necessary or desirable, and carry out any act, on that ESS Participant's behalf for the purposes of this clause 12.

(b) If the buy-back is in respect of Loan Shares where an Acquisition Loan is outstanding, payment of the amount by the Company under a buy-back of the Loan Share as provided in this clause 12 will be satisfied by being set off and applied against the amount of the Acquisition Loan outstanding in respect of the Loan Share bought back.

(c) If it is impractical to buy back Shares to which this clause 12 applies, or if the Board in its discretion otherwise determines, the Company may, instead of buying back the relevant Shares, direct that they be transferred to a person nominated by the Company. Any transfer under this clause 12.3(c) will discharge the ESS Participant's Acquisition Loan in the same way as a buy-back would have done if conducted under this clause 12.

13. Compulsory divestiture

An ESS Participants' Award will lapse or be forfeited or otherwise dealt with as outlined in clause 4.3(b) if a Compulsory Divestiture Event occurs, unless otherwise determined by the Board in its absolute discretion.

14. Adjustments

14.1 Application of this clause

This clause 13 applies to Options, Performance Rights, and other Awards where the ESS Participant may be entitled to acquire Shares in the future on exercise of the Award.

14.2 New issues of shares

An ESS Participant is not entitled to participate in a new issue of Shares or other securities made by the Company to holders of its Shares without exercising the Awards, or unless the applicable Loan Shares or other Shares comprising the Award are on issue, before the record date for the relevant new issue.

14.3 Bonus issues

If, prior to the exercise of an Award, the Company makes a pro-rata bonus issue to the holders of its Shares, and the Award is not exercised prior to the record date in respect of that bonus issue, the Award will, when exercised, entitle the holder to one Share plus the number of bonus shares which would have been issued to the holder if the Award had been exercised prior to the record date.

14.4 Other reorganisations of capital

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

14.5 General

(a) Unless otherwise permitted by the Corporations Act and/or Listing Rules (if applicable), the number of Shares which the ESS Participant is entitled to receive on exercise of an Award will only be adjusted in accordance with this clause 13.

(b) The Company must give notice to ESS Participants of any adjustment to the number of Shares which the ESS Participant is entitled to receive on exercise of an Award in accordance with the Corporations Act and/or the Listing Rules as they apply at the relevant time.

15. Termination benefits

(a) This clause 15 applies to any benefit which may be required to be provided by any Group entity (**Benefit**). This clause 15 applies notwithstanding, and prevails over, any other provision of this Plan, an Offer, Award or other agreement or arrangement.

(b) No person will be entitled to any Benefit in connection with any person's cessation of employment to the extent that the giving of the Benefit would give rise to a breach of Part 2D.2 of the Corporations Act, any other provision of the Corporations Act, or any other applicable law which limits or restricts the giving of such Benefits (**Limiting Legislation**).

(c) If any Limiting Legislation limits the amount of the Benefit, or the amount of the Benefit that may be given without obtaining shareholder approval, the Benefit is capped at that amount and no further Benefit is required to be provided to the relevant person. The Group may reduce any Benefit in such manner as it determines appropriate to ensure compliance with Limiting Legislation and so that shareholder approval does not need to be obtained. No Group entity is required to seek or obtain the approval of its shareholders for the purpose of overcoming any limitation or restriction imposed by any Limiting Legislation.

16. Tax compliance

16.1 Taxes and withholding

(a) The Company is not responsible for any taxes which may become payable by an ESS Participant in connection with the issue or transfer of Awards, the issue, transfer or allocation of Shares, or any other dealing by an ESS Participant with such Awards or Shares including the payment of any cash amount. ESS Participants are solely responsible for all such amounts.

(b) Where a Group entity, or a trustee appointed under these Rules, must account for any tax or social security contributions (in any jurisdiction) for which an ESS Participant may be liable because of the issue or transfer of Shares, payment of cash, or the vesting or exercise of an Award (the **Amount**), the entity or trustee may in its discretion:

(i) withhold up to the Amount from any cash payment; and/or

(ii) withhold a number of Shares which would otherwise be provided to the ESS Participant and sell them in order to realise the Amount (with any excess received over the Amount net of costs of sale being paid to the ESS Participant).

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

(i) accept payment from the ESS Participant of the relevant Amount; or

(ii) make acceptable arrangements with the ESS Participant for the Amount to be made available.

16.2 Tax reporting

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

17. Procedure on Exit Event

17.1 Sale of the Group or its business

On or prior to an Exit Event, the Board may, in its absolute discretion:

(a) where there is a Reconstruction Event as part of the Exit Event:

(i) provide for the grant of an Award in substitution for some or all of the Awards on a like for like basis, by the New Holding Entity or any Related Body Corporate of the New Holding Entity;

(ii) arrange for some or all of the Awards to be acquired by the New Holding Entity in exchange for their Market Price on the date of completion of the Reconstruction Event;

(b) buy back or cancel some or all of the Awards (whether vested or not) in exchange for their Market Price; or

(c) take the following steps:

(i) notify an ESS Participant of the number of Awards that will vest as a result of the Exit Event occurring;

(ii) make appropriate arrangements to ensure that such Awards are able to be exercised on or prior to the Exit Date; and

(iii) use reasonable endeavours to ensure that the Awards issued at or about the time of an Exit Event are accorded the same rights and receive the same benefits in relation to the Exit Event as pre-existing Shares,

or take any combination of the above steps.

17.2 Group may require Awards to be exercised or lapse if an Exit Event is to occur

If the Group expects an Exit Event to occur, or an Exit Event not anticipated by the Group does occur, then, subject to clause 4.3(b), the Company may, by notice to all ESS Participants, require that all Awards (including those Awards vesting under clause 17.1(c)) either be exercised:

(a) on or before the Exit Date pertaining to the relevant Exit Event; or

(b) in the case of an unanticipated Exit Event, a date after the Exit Date for that event,

provided that if those Awards are not exercised as provided in clauses 17.2(a) or 17.2(b), the Awards shall lapse on a date specified by the Board.

18. Reconstruction Event

(a) Subject to this clause 18, this Plan continues to apply in full force and effect despite any Reconstruction Event.

(b) If any Reconstruction Event occurs before all Awards capable of vesting in favour of the ESS Participant have vested in favour of that ESS Participant, the Group will procure that the terms of the Plan are varied in such a way as determined by the Board in its absolute discretion, which neither disadvantages nor advantages that ESS Participant nor adversely effects the rights of the other holders of Shares, to account for the effect of the Reconstruction Event.

(c) Each ESS Participant agrees to any such variations to the Plan.

19. Power of attorney

(a) In consideration of the issue of the Awards, each ESS Participant irrevocably appoints each director and the secretary for the time being of the Company severally as his or her attorney or agent, to do all acts and things and to complete and execute any documents, including share transfers, in his or her name and on his or her behalf that may be convenient or necessary for the purpose of giving effect to the provisions of these Rules or the terms of an Award.

(b) The ESS Participant (or after his or her death, his or her legal personal representative) will be deemed to ratify and confirm any act or thing done under this power and must indemnify the attorney / agent in respect of doing so.

(c) Each ESS Participant indemnifies the Company and each other person who exercises powers under this clause 17 against all liability and loss arising from and all costs incurred in connection with an exercise of powers under this clause 17.

20. Employment rights

20.1 Acknowledgement by ESS Participant

It is acknowledged and accepted by each ESS Participant that:

(a) neither these Rules nor any contract formed between a Group Member and that ESS Participant under the Plan form part of any contract or terms and conditions of employment or appointment, or any arrangement in respect of any such employment or appointment, between an ESS Participant and a Group Member, nor do they constitute a related condition or collateral arrangement to any such contract or arrangement;

(b) participation in the Plan will not in any way affect the rights and obligations of an ESS Participant under the terms under which the ESS Participant is employed or appointed; and

(c) the terms of an ESS Participant's employment or appointment with Group Member will not in any way affect the rights and obligations of an ESS Participant under this Plan.

20.2 No claims

An ESS Participant has no right to compensation or damages from any Company in the Group in respect of any loss of future rights under the Plan, as a consequence of termination of that ESS Participant's employment or appointment for any reason.

20.3 Termination and suspension of the Plan

If the Board terminates or suspends the Plan, no compensation under any employment contract will be payable to any ESS Participant.

20.4 Calculation of employee benefits

The value of Awards does not increase an ESS Participant's income or remuneration for the purpose of calculating any employee benefits, including any payment in lieu of notice or redundancy or severance payments.

20.5 No right to future employment

Participation under the Plan does not confer on any ESS Participant any right to future employment and does not affect any rights which the Company in the Group may have to terminate the employment of any ESS Participant.

21. Powers of the Board

(a) The Plan will be administered by the Board, or a committee of the Board, which will have an absolute discretion to:

(i) select ESS Participants;

(ii) determine appropriate procedures for administration of the Plan consistent with these Rules;

(iii) resolve conclusively all questions of fact or interpretation arising in connection with the Plan or these Rules;

(iv) delegate to any one or more persons, for such period and on such conditions as they may determine, the exercise of any of their powers or discretions under the Plan or these Rules;

(v) formulate special terms and conditions (subject to the Listing Rules), in addition to those set out in these Rules to apply to ESS Participants employed and/or resident in and/or who are citizens of countries other than Australia. Each of these special terms and conditions will be restricted in their application to those ESS Participants employed and/or resident in and/or who are citizens of other jurisdictions;

(vi) amend any Offer related to any Award; and

(vii) amend these Rules, provided that such amendments do not materially prejudice the rights of existing ESS Participants except where the amendment is made primarily:

(A) for the purpose of complying with a law which affects the Group, an ESS Participant, or Awards;

(B) for the purpose of complying with the Listing Rules; or

(C) to correct any manifest error or mistake.

(b) The Board may only exercise its powers in accordance with the Listing Rules.

(c) If a Malus Event occurs, the Board has the power to:

(i) cancel some or all of an ESS Participant's unvested Awards or

(ii) amend the vesting conditions which apply to the relevant Awards.

22. General provisions

22.1 Bound by Constitution and Securities Trading Policy

ESS Participants who are issued or who exercise Awards under this Plan are deemed to agree to be bound by these Rules, the Constitution, and by any Securities Trading Policy (by whatever name called), as each of those documents is in force from time to time.

22.2 Notices

(a) Any notice required to be given by the Company to an ESS Participant or any correspondence to be made between the Company and an ESS Participant may be given or made by the Board or its delegate on behalf of the Company.

(b) Any notice to be given by the Company may be given by email, and any reference to the Company giving or providing information or documents in writing includes doing so by email.

22.3 Governing law and jurisdiction

These Rules are governed by and are to be construed in accordance with the laws of the State of Victoria and each ESS Participant submits to the non-exclusive jurisdiction of the Courts of Victoria.9c