

APPEN LIMITED
LONG TERM INCENTIVE PLAN - TERMS & CONDITIONS

1. INTRODUCTION

1.1 Object of the Terms & Conditions

These Terms & Conditions are the overarching terms and conditions that apply to all Plans other than any equity plan to which Board determines they should not apply.

1.2 Purpose of the Plans

The purpose of each Plan is:

- (1) to provide Eligible Persons with an incentive plan which recognises ongoing contribution to the achievement by the Company of its strategic goals thereby encouraging the mutual interdependence of Participants and the Company;
- (2) to establish an employee share scheme within the meaning of Division 83A of the Tax Act (to the extent the employee share scheme provisions of the Tax Act may be applicable to current or future plans);
- (3) to align the interests of Participants with shareholders of the Company through the sharing of a personal interest in the future growth and development of the Company as represented in the price of the Company's ordinary fully paid shares;
- (4) to encourage Eligible Persons to improve the performance of the Company and its
- (5) total return to Shareholders; and
- (6) to provide a means of attracting and retaining skilled and experienced employees.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this document, unless the context requires otherwise:

Administrator means any person engaged by the Board to carry out the day-to-day administration of the Plans as contemplated by Rule 10.2(6).

Application Form means the form that the Board determines from time to time is to be used by an Eligible Person to make an offer to participate in a Plan.

ASIC means the Australian Securities and Investments Commission.

ASIC Class Order 14/1000 means Class Order 14/1000 as issued by ASIC and updated or replaced from time to time;

ASX Settlement Operating Rules means the operating rules of ASX Settlement Pty Limited ABN 49 008 504 532.

ASX means ASX Limited ABN 98 008 624 691 or the securities market which it operates, as the context requires.

Board means the Board of Directors of the Company or any Committee of the Board or any person to whom any authority has been delegated under clause 10.2(4).

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in New South Wales, Australia.

Company means Appen Limited ABN 60 138 878 298.

Constitution means the constitution of the Company.

Change of Control occurs where, as a result of any event or transaction, a person or entity (together with their associates) becomes entitled to more than 50% of the Shares or to all or substantially all of the Group's business and assets (provided that no sale or transfer undertaken in respect of a transaction referred to in clause 8 shall constitute a Change of Control).

Control has the meaning given in section 50AA of the Corporations Act

Control Event means any of the following:

- (1) a takeover bid (as defined in section 9 of the Corporations Act) is made for the Company and the Board resolves to recommend the bid to Shareholders of the Company;
- (2) a court convenes a meeting of Shareholders to be held to vote on a proposed scheme of arrangement pursuant to which control of the majority of the Shares in the Company may change;
- (3) a notice is sent to Shareholders of the Company proposing a resolution for the winding up of the Group; or
- (4) any transaction or event is proposed that, in the opinion of the Board, is likely to result in a Change of Control.

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

Date of Registration means with respect to a Plan Interest, the date that a Participant acquires a legal or beneficial interest.

Deferred Share Plan means a Plan to which Subdivision 83A-C of the Tax Act applies to allow deferral of income (subject to the conditions in the Tax Act as amended from time to time), and may include a Salary Sacrifice Plan.

Disposal Restrictions means, in relation to a Plan Share, the restrictions (if any) determined by the Board at the time of offer of that Plan Share that must be satisfied before the Plan Share may be Disposed of by a Participant.

Dispose means, in relation to a Plan Share, sell, transfer, grant an option over, create a Third Party Right in, deal with or otherwise dispose of the Plan Share or Share (as the case may be) or any interest in the Plan Share.

Eligible Person means an employee, contractor, consultant or executive director of the Group or any other person whom the Board determines to be eligible to participate in the Plans from time to time and who is not prohibited from participating in the Plans by virtue of these Terms & Conditions.

Employee Share Scheme has the meaning given to it in the Tax Act.

Exempt Share Plan means a Plan under which an Eligible Person is offered Plan Shares not exceeding a total value of \$1,000 or such other amount as permitted under the Tax Act (as

amended from time to time) that may be reduced from the assessable income of that Eligible Person for the income year in which the Eligible Person acquires those Plan Shares.

Exercise Price means the price payable (if any) per Share to exercise an Option or a Right.

Expiry Date means the date on which a Plan Interest lapses, or the date determined by a method of calculating when a Plan Interest lapses, as specified at the time of the offer.

Forfeiture Conditions means, in relation to a Plan Interest, the conditions (if any) determined by the Board at the time of offer of that Plan Interest that will result in forfeiture of the Plan Interest.

Group means the Company and any Subsidiary of the Company.

Holding Lock has the same meaning as in the Listing Rules.

Holding Lock Period means the period commencing on the Date of Registration and expiring on the date as determined by the Board at the time of offer of the Plan Share, such as removal of the Holding Lock or satisfaction of the Disposal Restrictions.

Invitation means an invitation made in accordance with clause 3.1(1) and clause 3.2.

Law means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction, including common law and equity, as applicable from time to time.

Legal Personal Representative means:

- (a) the executor of the will or an administrator of the estate of a deceased person;
- (b) the trustee of the estate of a person under a legal disability; or
- (c) any beneficiary of the estate of the deceased person as nominated by the executor, administrator or trustee.

Listing Rules means the official listing rules of the ASX, as they apply to the Company from time to time.

Option means an option to acquire Shares, subject to these Terms & Conditions and any Vesting Conditions and payment of any Exercise Price as specified at the time of the offer of the option.

Participant means a person who acquires a legal or beneficial interest in Plan Interests under a Plan and includes the Legal Personal Representative of the person.

Performance Conditions means, in relation to a Plan Interest, the conditions (if any) determined by the Board that must be satisfied in the Performance Period.

Performance Period means, in relation to a Plan Interest, the period determined by the Board.

Permanent Disability means, in relation to a Participant, the inability, by reason of physical condition, mental illness or accident, of the Participant to perform substantially all of the duties of the position in which the Participant has been employed or appointed (as determined by the Board).

Plan or **Plans** means:

- (1) any equity incentive scheme; and
- (2) any Employee Share Scheme

established by the Board and operated in accordance with these Terms & Conditions (and for the avoidance of doubt, also in accordance with any additional rules made pursuant to clause 10.2(1)), including but not limited to an Exempt Share Plan, a Salary Sacrifice Plan and/or a Deferred Share Plan.

Plan Interest means a Share, Option or Right allocated under a Plan.

Plan Share means a Share allocated under a Plan and which remains subject to these Terms and Conditions.

Qualifying Reason means, in relation to a Participant, the cessation of employment of the Participant with the Group due to his or her death or Permanent Disability or any other reason determined by the Board from time to time.

Right means, without limiting the operation of clause 6.3, a non-transferable right to receive, subject to these Terms & Conditions and any Vesting Conditions, the number of Shares specified at the time of the offer of the right.

Salary Sacrifice Plan means a Plan:

- (1) which is intended to be subject to the deferred taxation arrangements as permitted under the Tax Act and to which Subdivision 83A-C of the Tax Act applies (subject to the requirements of the Tax Act as amended from time to time); and
- (2) under which the total market value of the Plan Interests that may be acquired by an Eligible Person under any Plans during the year does not exceed \$5,000 (or such other amount as prescribed by the Tax Act as amended from time to time).

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

Shareholder means a holder of Shares.

Subsidiary has the meaning given to it in the Corporations Act.

Tax includes any tax (whether direct or indirect), levy, impost, deduction, charge, rate, contribution, duty or withholding which is assessed (or deemed to be assessed), levied, imposed or made by any government or any governmental, semi-governmental or judicial entity or authority together with any interest, penalty, fine, charge, fee or other amount assessed (or deemed to be assessed), levied, imposed or made on or in respect of any or all of the foregoing.

Tax Act means the *Income Tax Assessment Act 1997* (Cth) and any amendments to that Act or any additional legislation which applies to Employee Share Schemes.

Terms & Conditions means these terms and conditions governing the Plans as amended from time to time pursuant to clause 10.1, and includes any additional rules made pursuant to clause 10.2(1) or contained within any offer letter or Invitation.

Third Party Right means:

- (1) any third party interest, including a mortgage, charge, assignment by way of security, lien, pledge, hypothecation, title retention arrangement, preferential right or a trust arrangement;
- (2) any arrangement having a commercial effect equivalent to anything in (a); and
- (3) any agreement to create an interest described in (a) or an arrangement described in (b).

Trading Policy means the Company's Securities Dealing Policy (as amended from time to time) that has been released to the ASX under ASX Listing Rule 12.10.

Vesting Conditions means the combination of any Performance Conditions and any Forfeiture Conditions.

Vesting Date means the date on which Vesting Conditions are satisfied or determined by the Board to be satisfied.

2.2 Interpretation

In these Terms & Conditions, unless the context otherwise requires:

- (1) a reference to any thing (including an amount or a provision of these Terms & Conditions) is a reference to the whole and each part of it;
- (2) the singular includes the plural, and vice versa;
- (3) the word 'person' includes an individual, a body corporate, a firm, an unincorporated body, a society, an association and an authority;
- (4) a reference to a particular person includes their legal personal representatives, administrators, successors, substitutes and permitted assigns;
- (5) a reference to '**costs**' includes charges, expenses and legal costs;
- (6) a reference to a '**clause**' in these Terms & Conditions, '**a rule**' or '**additional rules**' is the clause, the rule or rules (as the case may be) as amended or replaced;
- (7) a reference to a document or an agreement is to that document or agreement as amended or replaced;
- (8) a reference to 'dollars', '\$' or 'A\$' is to the lawful currency of Australia;
- (9) a time means that time in Victoria, Australia;
- (10) a reference to a day or a month means a calendar day or calendar month but Business Day has that meaning given to it in clause 2.1;
- (11) if a period of time starts from a given day (or event), it is to be calculated exclusive of that day (or the day the event occurs);
- (12) the masculine includes the feminine, and vice versa; and

- (13) the meaning of any general language is not restricted by any accompanying example and the words 'includes', 'including', 'such as' or 'for example' (or similar phrases) are not words of limitation.

2.3 Headings

Headings in this document are for convenience only and do not affect its meaning.

2.4 Omission of certain provisions

If (but for this clause) a provision of this document would be illegal, void or unenforceable or contravene the law, this document is to be interpreted as if the provision was omitted.

3. OPERATION OF THE PLAN

3.1 Invitation to participate

Subject to these Terms & Conditions, the Board may from time to time do all or any of the following under the Plan:

- (1) invite an Eligible Person to acquire Plan Interests;
- (2) grant Plan Interests to an Eligible Person;

as part of the Eligible Person's remuneration.

3.2 Form of invitation

An invitation made under clause 3.1 shall be in such form and content and subject to such conditions and rules as the Board determines, including, if applicable:

- (1) either:
 - (1) the number or value of Plan Interests to which the invitation relates; and/or
 - (2) the basis on which the number or value of Plan Interests to which the invitation relates is to be determined;
- (2) either:
 - (1) the date on which the Plan Interests will be allotted; and/or
 - (2) the basis on which the date on which the Plan Interests will be acquired is to be determined;
- (3) either:
 - (1) the amount payable by the Eligible Person (if any) to acquire Plan Interests; and/or
 - (2) the basis on which the amount payable by the Eligible Person (if any) to acquire Plan Interests is to be determined;

- (4) the Performance Period (if any);
- (5) the Performance Conditions (if any);
- (6) the Forfeiture Conditions (if any);
- (7) the Disposal Restrictions (if any);
- (8) the Holding Lock Period (if any);
- (9) the Expiry Date (if any);
- (10) the Exercise Price (if any); and
- (11) any other matters required to be specified at the time of the offer by either the Corporations Act or the Listing Rules.

3.3 Acceptance of an Invitation

- (1) Acceptance of an Invitation must be made in accordance with the instructions that accompany the Invitation, or in any other way the Board determines.
- (2) The Board may only allow the participation of an Eligible Person where that Eligible Person continues to satisfy any relevant conditions imposed by the Board (which may include, without limitation, that the Eligible Person continues to be an employee of the Group at the time of the grant of Plan Interests).
- (3) Nothing limits the Board's ability to treat the conduct of an Eligible Person in respect of an Invitation (including the failure of an Eligible Person to lodge an election not to participate within the time specified in the instructions accompanying the Invitation) as valid acceptance of that Invitation under these Terms & Conditions.

3.4 Plan Interests subject to the Terms & Conditions

Generally, Plan Interests will be subject to these Terms & Conditions until such time as the Plan Interest:

- (1) is registered in the name of the Participant; and
- (2) is not subject to any Vesting Conditions; and
- (3) is not subject to a Holding Lock; and
- (4) is not subject to any Disposal Restrictions.

3.5 Binding nature of these Terms & Conditions

The Plans shall operate in accordance with these Terms & Conditions, which bind the Company and each Participant.

3.6 Issue or On-Market Acquisition

Plan Shares or Shares (as the case may be) may be delivered to a Participant by, at the absolute discretion of the Board, the issue, transfer and/or purchase of Plan Shares or Shares (as the case may be) on behalf of the Participant.

3.7 **Trustee**

The Company may appoint a trustee on terms and conditions which it considers appropriate to acquire and hold Plan Shares or Shares (as the case may be) either on behalf of Participants or for the purpose of a Plan.

The Company must ensure the Trustee must not, either alone or together with any one or more trustees, hold more than 5% of the voting shares or voting interests in the Company calculated by reference to all Plans or employee incentive schemes or like schemes of the Company, or such other percentage, as required by any class order or other instrument issued by the Australian Securities and Investments Commission from time to time and which is binding on or in respect of which the Company has sought relief from Applicable Law.

3.8 **Ranking of Plan Shares**

Plan Shares will rank equally with all existing Shares on and from the Date of Registration in respect of all Shareholder entitlements (including rights issues, bonus issues and dividends) which have a record date for determining entitlements on or after the date of issue of those Plan Shares.

3.9 **Quotation**

Where Plan Shares or Shares (as the case may be) acquired under the Plans are not yet quoted on the official list of ASX, the Company must apply for quotation of those Plan Shares or Shares (as the case may be) on the official list of ASX as soon as practicable after the acquisition of those Plan Shares or Shares (as the case may be), so long as the Plan Shares or Shares (as the case may be) are quoted on the official list of ASX at that time.

The Company will not seek official quotation by ASX of any Rights or Options.

4. **LIMITATIONS ON OFFERS OF PLAN INTERESTS**

4.1 **Overriding Restrictions**

Notwithstanding anything else in these Terms & Conditions, the Plans must be operated in accordance with the Constitution, any Law, the Listing Rules and the ASX Settlement Operating Rules.

4.2 **No assignment**

Unless the Board determines otherwise, a Participant must not assign to any other person any of their legal or equitable rights to Plan Interests, except a Participant's Legal Personal Representative, to be delivered Shares upon vesting of Rights or exercise of Options.

4.3 **No Disposal of Shares**

Participants must not Dispose of any Plan Share until the removal of any Disposal Restrictions.

4.4 **Lapse of Plan Interests**

Subject to the rules of any relevant Plan, a Plan Interest will lapse upon the earliest to occur of:

- (1) the expiry date;
- (2) failure to meet a Performance Condition applicable to the Plan Interest within the applicable Performance Period; or
- (3) the occurrence of a Forfeiture Condition.

4.5 Effect of lapse

On a Plan Interest lapsing, all rights of a Participant under the relevant Plan in respect of that Plan Interest cease and no consideration or compensation will be payable for or in relation to that lapse.

5. STATEMENT OF PLAN INTERESTS

If applicable, as soon as practicable after the allotment of Plan Interests, the Company must forward to the Participant a statement which will include all relevant information in relation to the offer of Plan Interests and any information required by any Law.

6. VESTING AND CONVERSION

6.1 No Interest

A grant of Rights or Options does not confer any legal or equitable interests in Plan Shares or Shares (as the case may be) represented by the Rights or Options until the relevant Vesting Date and any exercise or conversion to Plan Shares or Shares (as the case may be) has been completed.

6.2 Vesting and Exercise of Rights or Options

The vesting, exercise or conversion of any Right or Option will only occur in accordance with the terms of the relevant offer of the Right or Option.

6.3 Discretion to make cash payment

- (1) The Board may determine in its absolute discretion that a vested Right will be satisfied by the Company making a cash payment to the Participant in lieu of allocating Shares to the Participant;
- (2) Where the Board exercises its discretion under this clause, the Company must pay to the Participant, as soon as reasonably practicable, an amount in Australian dollars (or any other currency determined by the Board in its absolute discretion) calculated by:
 - (i) multiplying the number of vested Rights by the volume weighted average price of the Shares over the 5 days prior to the date determined by the Board for calculation under this clause; and
 - (ii) deducting and remitting to the relevant taxation authority any related Tax liability.

6.4 Waiver, amendment or replacement

The Board may waive, amend or replace any performance measure in a Performance Condition attaching to a Right or Option if the Board determines that the relevant Performance Condition is no longer appropriate or applicable, provided that the interests of the relevant Participant are not, in the opinion of the Board, materially prejudiced or advantaged relative to the position reasonably anticipated at the time of the grant.

6.5 **Forfeiture of Plan Interests**

Where, in the opinion of the Board, a Participant acts fraudulently or dishonestly, or is in breach of his or her obligations to the Company, any:

- (a) unvested Plan Interests held by the Participant;
- (b) vested but unexercised Options held by the Participant; and/or
- (c) Plan Shares,

will lapse or are deemed to be forfeited (as the case may be) immediately, unless the Board determines otherwise.

7. **CESSATION OF EMPLOYMENT**

7.1 **General rule for unvested Plan Interests**

Subject to this clause 7, where a Participant ceases to be an employee of the Group prior to Plan Interests vesting, a pro-rata number (based on the portion of the Performance Period that has elapsed at the time of cessation, calculated based on the number of days elapsed) of the Participant's unvested Plan Interests will continue under the Plan and may vest at the end of the relevant Performance Period in accordance with clause 6.

Any Plan Interests which do not continue under the Plan or do not vest pursuant to this clause 7.1 will lapse immediately.

7.2 **Circumstances where unvested Plan Interests lapse**

Subject to clause 7.4, where a Participant ceases to be an employee of the Group by reason of:

- (1) resignation;
- (2) mutual separation; or
- (3) termination for cause (including gross misconduct),

all unvested Plan Interests held by the Participant will lapse on cessation of employment.

7.3 **Vested Plan Interests**

Subject to clause 7.4, where a Participant ceases to be an employee of the Group and at that time holds vested Plan Interests that require exercise (including Plan Interests that vest under this clause 7), unless the terms of the relevant offer of Rights, Options or Plan Shares provides otherwise, the Participant must exercise the vested Plan Interests by the earlier of:

- (a) 30 days of ceasing to be an employee of the Group; or
- (b) The date the Plan Interests lapse.

Vested Plan Interests which are not exercised within the period specified in this clause will immediately lapse.

Where a Participant is terminated for cause (including gross misconduct), all vested Plan Interests which have not been exercised at the time of termination will automatically lapse, subject to the Board's discretion to apply a different treatment at the time of termination.

7.4 **Board discretion to determine treatment**

Notwithstanding any other provision of this clause 7, the Board may determine a different treatment applied on cessation of employment (including at the time of grant or cessation of employment) in respect of unvested or vested Plan Interests. Where the Board exercises its discretion under this clause 7.4, it will give written notice to the Participant of its decision and the impact on the Participant's Plan Interests and any other information required by law.

7.5 Termination or other benefits

Nothing in these Terms & Conditions:

- (1) authorises the Board to provide any termination or other benefit to a Participant which, without the approval of Shareholders, would be prohibited under the Corporations Act or the Listing Rules; or
- (2) requires the Board to seek approval of Shareholders in relation to the provision of any termination or other benefit to a Participant.

8. PRO-RATA ISSUES, RECONSTRUCTIONS OF CAPITAL AND TAKEOVERS

8.1 Subject to clause 8.3, in respect of a Right or Option, a Participant may not participate in:

- (a) new issues of Shares to Shareholders;
- (b) bonus issues of Shares or other securities to Shareholders; or
- (c) any pro-rata issue of Shares or other securities pro-rata to Shareholders,

unless the Option is exercised or the Right is converted into Shares or Plan Shares (as the case may be), in each case before the record date for the relevant issue.

8.2 Reconstructions

In the event of any reconstruction (including consolidation, subdivision, reduction, capital return, buy back or cancellation) of the share capital of the Company, the number of Shares or Plan Shares that may be acquired by each Participant and/or the consideration (for example, Exercise Price) (if any) payable by the Participant for the acquisition of the Shares or Plan Shares (as the case may be), must be reconstructed to the extent necessary to comply with the Listing Rules as they apply at the relevant time, and in a manner that does not result in any additional benefits being conferred on Participants that are not conferred on Shareholders. However in all other respects, the terms for the conversion of Rights or Options will remain unchanged.

8.3 Bonus issues

If, prior to the exercise of an Option, the Company makes a bonus issue to the holders of its Shares, and the Option is not exercised prior to the record date in respect of that bonus issue, the Option 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 Option had been exercised prior to the record date.

8.4 Pro-rata Issues

If, prior to the exercise of an Option, the Company makes a pro-rata offer of Shares to Shareholders, and the Option is not exercised prior to the record date in respect of that offer, the exercise price of the Option will be adjusted in accordance with the formula in the Listing Rules.

9. CHANGE OF CONTROL

9.1 Board discretion upon a Control Event

If a Control Event occurs, the Board may determine the treatment of the Participant's Plan Interests and/or Plan Shares and the timing of such treatment, which may include determining that the Plan Interests and/or Plan Shares:

- (a) vest in full or in part;
- (b) remain subject to the applicable Vesting Conditions and/or Performance Period(s);
- (c) become subject to substitute or varied Vesting Conditions and/or Performance Period(s) which, in the view of the Board, are no more difficult to achieve than the original Vesting Conditions and/or no longer than the original Performance Period(s) (as applicable);
- (d) in respect of Rights or Options, convert to Shares on a particular date; or
- (e) may only be settled in cash pursuant to clause 6.3, or with securities/shares other than Shares; or
- (f) are no longer subject to a Disposal Restriction (applicable to Plan Shares only);

having regards to any matter the Board considers relevant, including, without limitation, the circumstances of the Control Event (including the value proposed to Shareholders), the extent to which the applicable Vesting Conditions have been satisfied (or estimated to have been satisfied) at the time of the Control Event, the proportion of the Performance Period that has passed at the time of the Control Event, and/or the Tax Law as it applies to the Plans.

9.2 Default treatment upon a Change of Control

Where the Board does not exercise its discretion pursuant to clause 9.1, and subject to the Board's discretion to determine an alternative treatment, upon a Change of Control, a pro-rata number of the Participant's unvested Plan Interests (based on the proportion of the Performance Period elapsed) will vest. Any Plan Interests which do not vest under this clause 9.2 will lapse immediately.

Where a Participant holds a vested Plan Interest at the date of the Change of Control (including those that vest pursuant to this clause 9.2), unless the terms of the relevant offer of Rights, Options or Plan Shares provide otherwise:

- (a) for each vested Right or Option requiring exercise, the Participant shall have 30 days from the date of the Change of Control, or such other period as the Board determines, in which to exercise the vested Right or Option. Any vested Rights or Options not exercised within this period will immediately lapse.
- (b) for each vested Right or Option not requiring exercise, the Company shall have 30 days from the date of the Change of Control, or such other period as the Board determines, in which to settle each vested Right or Option; or
- (c) for each Plan Share to which a Disposal Restriction applies, the Company shall have the Disposal Restrictions lifted within 30 days from the date of the Change of Control, or such other period as the Board determines.

Unless the Board determines otherwise, the default treatment in clause 9.2 will only apply to the extent allowed under the Tax Law as it applies to the Exempt Share Plan or Salary Sacrifice Plan.

9.3 Notification to Participants

If a Change of Control occurs, or the Board exercises its discretion pursuant to clause 9.1, the Company must notify all affected Participants as soon as practicable.

10. ADMINISTRATION OF THE PLAN

0.1 **Amendment**

Subject to clause 4.1, these Terms & Conditions may be amended at any time and from time to time by the Board, in the Board's absolute unfettered discretion.

10.2 **Powers of the Board**

Subject to clause 4.1, a Plan will be managed by the Board which will have power to:

- (1) amend existing terms and conditions and/or make and amend additional rules and/or procedures for the operation, control and administration of the Plans and any matter incidental to a Plan;
- (2) resolve conclusively all questions of fact or interpretation arising in connection with a Plan;
- (3) determine matters falling for determination in connection with a Plan;
- (4) delegate to any one or more persons (for such period and on such conditions as it may determine) the exercise of any of its functions, powers or discretions arising under a Plan;
- (5) establish a trust (by way of a separate trust deed) to acquire and hold Plan Shares or Shares (as the case may be); and
- (6) appoint (and remove) an Administrator (by way of a separate agreement) to administer a Plan and determine the terms and conditions of the Administrator's appointment (and removal).

10.3 **Discretion**

A determination, decision, approval or opinion of the Board under these Terms & Conditions (or any additional rules made under clause 10.2(1)) will be in the absolute unfettered discretion of the Board.

10.4 **Decision Final**

In the absence of manifest error, the determination, decision, approval or opinion of the Board will be final. Any calculations or adjustments which are required to be made under the Plans will be made by the Board and will, in the absence of manifest error, be final and conclusive and binding on the Participants.

10.5 **Commencement of a Plan**

A Plan will take effect on and from such date/s as the Board may resolve.

10.6 **Termination or suspension of a Plan**

The Board may terminate or suspend the operation of any one or more of the Plans at any time provided that the termination or suspension does not affect or prejudice the existing rights of Participants at that time.

10.7 **Eligible Persons resident overseas**

When a Plan Interest is granted under a Plan to an Eligible Person who is not a resident of Australia, the provisions of the Plan apply subject to such alterations or additions as the Board determines having regard to any applicable or relevant laws, matters of convenience and desirability and similar factors which may have application to the Participant or to the Company in relation to the Plan Interest.

11. **EMPLOYMENT RIGHTS**

11.1 **Discretion of the Board**

It is a condition of these Terms & Conditions that a Plan may be terminated or suspended at any time at the discretion of the Board and that no compensation under any employment contract will arise as a result.

11.2 **Calculation of employee benefits**

The value of Plan Interests allocated under a Plan does not increase a Participant's income for the purpose of calculating any employee benefits.

11.3 **No right to future employment**

Participation in a Plan does not confer on any Participant any right to continue as an employee of the Group.

11.4 **Termination of employment**

Participation in a Plan does not affect any rights which the Group may have to terminate the employment of any Participant. Nothing in the Terms & Conditions, including participation in a Plan, may be used to increase damages in any action brought against the Group in respect of any termination of employment with the Group.

12. **NOTICES**

12.1 **Notice to Participants**

Any notice or direction given under these Terms & Conditions is validly given to a Participant if it is handed to the Participant concerned or sent by ordinary prepaid post to the Participant's last known address or sent to the email address last notified by the Participant or given in any reasonable manner which the Board from time to time determines.

12.2 **Notice to the Company**

Any notice given by a Participant to the Company under these Terms & Conditions must be in writing and directed to the address or email address notified at the time of offer of Plan Interests. Notices may be hand delivered or sent by prepaid post or electronic mail to the specified address.

12.3 **Receipt of notices**

Notices are taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, five Business Days after the date of posting;
- (c) if by electronic mail, when the electronic communication enters the relevant information system(s).

13. **PLAN COSTS AND EXPENSES**

13.1 **Costs of the Company**

Subject to clauses 13.2 and 13.3, unless otherwise determined by the Board, the Company must pay all costs relating to the establishment and operation of a Plan, including all costs and expenses in relation to the delivery of the Plan Interests except that the Company is not responsible for any Taxes which may become payable in connection with the Plan Interests or any other dealing with the Plan Interests.

13.2 **Costs of Participants**

Each Participant will pay all costs and expenses in relation to the sale, transfer or other disposal of any Plan Shares or Shares (as the case may be).

14. **LOAN ARRANGEMENTS**

Subject to compliance with all applicable laws, the Company may (but is not obliged to) provide to any Eligible Person any loan or facility or other form of financial accommodation for the purpose of facilitating participation by the Eligible Person in a Plan.

15. **FINANCIAL ASSISTANCE**

Subject to the Corporations Act, the Company may (but is not obliged to) financially assist a person to acquire Plan Interests under a Plan.

16. **BUY BACKS**

Subject to the Corporations Act, the Company may (but is not obliged to) buy back any Plan Shares.

17. WITHHOLDING TAX

The Company or any Group company may withhold from amounts otherwise owing to a Participant, or require the Participant to remit to it, an amount sufficient to satisfy all withholding tax obligations and any government imposts, in respect of any or all of the Shares issued or transferred under a Plan.

18. INCONSISTENCY

To the extent that the Terms and Conditions of an invitation are inconsistent with these Terms and Conditions, these Terms and Conditions will prevail.

19. GOVERNING LAW AND JURISDICTION

The laws of the State of Victoria, Australia, govern these Terms & Conditions and the rights of the Participants thereunder.

Each Participant irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the State of Victoria, Australia and courts entitled to hear appeals from those courts.