



HERBERT
SMITH
FREEHILLS

Neometals Ltd

Performance Rights Plan

Rules



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1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this agreement are set out below.

Term	Meaning
AIM	the Alternative Investment Market sub-market of the London Stock Exchange.
ASX	ASX Limited or the Australian Securities Exchange, as the context requires.
ATO	the Australian Taxation Office.
Board	the board of directors of the Company or a duly authorised committee of the Board.
Company	Neometals Ltd ACN 099 116 631.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Current Market Price	in relation to a Performance Share, unless the Board determines otherwise, the arithmetic average of the daily volume weighted average market price (rounded to the nearest cent) of all ordinary shares in the Company sold on the ASX during the previous five trading days.
Eligible Person	a person who is declared by the Board to be eligible to receive grants of Performance Rights under the Plan.
Employee Participant	a Participant who is an employee of a Group Company (including a director employed in an executive capacity).
Group Company	the Company, its Subsidiaries and any other entity declared by the Board to be a member of the group for the purposes of the Plan.



Term	Meaning
Listing Rules	the official Listing Rules of the ASX as they apply to the Company from time to time.
NED Participant	a Participant who is a non-executive director of the Company.
Participant	a person who holds a Performance Right or Performance Share from time to time.
PAYG WH	the PAYG withholding tax the Company is required to withhold under the <i>Taxation Administration Act 1953</i> (Cth), Schedule 1 Part 2-5.
Performance Condition	one or more conditions which must be satisfied or circumstances which must exist before a Performance Right vests, as determined by the Board.
Performance Right	an entitlement to a Performance Share (or, in certain circumstances, to a cash payment in lieu of a Performance Share) subject to satisfaction of any applicable Performance Conditions (in the case of Performance Rights granted to Employee Participants) and the corresponding obligation of the Company to provide the Performance Share, pursuant to a binding contract made by the Company and an Eligible Person in the manner set out in these rules.
Performance Share	a fully paid ordinary share in the capital of the Company.
Plan	the Neometals Ltd Performance Rights Plan as set out in these rules, subject to any amendments or additions made under rule 11.
Rules	these Performance Rights Plan Rules, as amended from time to time.
Securities Trading Policy	the Company's policy regarding trading in its securities as adopted and updated by the Board from time to time.
Subsidiary	has the meaning given in section 9 of the <i>Corporations Act 2001</i> (Cth).



Term	Meaning
Takeover Bid	has the meaning given in section 9 of the <i>Corporations Act 2001</i> (Cth).
Tax File Number	the unique identifier issued by the ATO to each taxpaying entity.
Trade	any dealing with a Performance Right or a Performance Share (as the case may be), including but not limited to, a sale, transfer, assignment, trust, encumbrance, option, swap, any alienation of all or any part of the rights attaching to the Performance Right or Performance Share, and includes any attempt to so deal.

1.2 Interpretation

In the Plan, the following rules apply unless a contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of the Plan unless the context requires otherwise;
- (b) any reference in the Plan to any enactment or the Listing Rules includes a reference to that enactment or those Listing Rules as from time to time amended, consolidated, re-enacted or replaced;
- (c) any words denoting the singular include the plural and words denoting the plural include the singular;
- (d) any words denoting one gender include the other gender;
- (e) where any word or phrase is given a definite meaning in this Plan, any part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- (f) any reference to the Board includes the Board, any committee of the Board, or any person or body to which the Board has delegated its powers under this Plan.

1.3 Prior Agreements

For the avoidance of doubt, the rules of this Plan are varied or amended by the terms of any prior agreement made by the Board with an executive who participates in this Plan.

2 Grant of Performance Rights

2.1 Grant

- (a) The Board may, from time to time, in its absolute discretion, invite Eligible Persons to participate in a grant of Performance Rights upon the terms set out in the Plan and upon such additional or alternative terms and Performance Conditions as the Board determines (which may include granting Performance Rights in tranches) (an **Offer**).



- (b) The Board may only grant Performance Rights where an Eligible Person satisfies any relevant conditions imposed by the Board (which may include, without limitation, that the Eligible Person continues to be an employee of a Group Company or holds office as a non-executive director of the Company at the relevant time of grant).
- (c) Unless the Board determines otherwise, no payment is required for the grant of a Performance Right.

2.2 Information to be provided to Eligible Persons

The Board will advise each Eligible Person of the following minimum information regarding an Offer:

- (a) the number of Performance Rights being offered (each entitling its holder to one Performance Share upon vesting of that Performance Right);
- (b) the date(s) or period(s) when Performance Rights may vest;
- (c) the procedure for exercising a Performance Right following vesting and the period or periods during which it may be exercised (including whether the Performance Right will be automatically exercised at a specified time or event);
- (d) the dates and times when Performance Rights lapse or are forfeited;
- (e) for Employee Participants, any applicable Performance Conditions; and
- (f) any other relevant conditions to be attached to the Performance Rights or the Performance Shares (including for example, any restrictions on transfer of the Performance Shares); and
- (g) in the case of offers to non-executive directors of the Company, whether the invitation to participate in a grant of Performance Rights forms part of their remuneration and/or is an invitation for the director to elect to sacrifice part or all of their fees for their services as a director to acquire the Performance Rights.

If the Offer is for monetary consideration, then the Board will advise each Eligible Person of the further following minimum information regarding an Offer:

- (h) the period during which the Eligible Participant may accept the Offer;
- (i) any amount that will be payable upon vesting of a Performance Right, or, if the price will be determined at a future date, the method by which the price payable will be determined;
- (j) general information about the risks of acquiring and holding the Performance Rights being offered;
- (k) a copy of these Rules or a summary of them, and, in the event that a summary is given (rather than a copy), an undertaking that a copy of the Rules will be provided to the Participant within a reasonable time and free of charge;
- (l) where applicable, a copy of the trust deed with a summary of the trust deed and, in the event that a summary is given (rather than a copy), an undertaking that a copy of the trust deed will be provided to the Participant within a reasonable time and free of charge;
- (m) a statement that advice given in relation to the offer does not take into account the Eligible Participant's objectives, financial situation and needs, and suggests that the Eligible Participant obtain personal advice in relation to the Offer; and
- (n) provide a link to any disclosure documents prepared under Part 6D.2 of the Corporations Act in relation to any offer of Shares in the 12 months prior to the period during which the Offer may be accepted (if any).



2.3 Offer to take precedence

To the extent of any inconsistency, the terms and conditions advised to an Eligible Person by the Board in an Offer will prevail over any other provision of these rules.

2.4 Limit

If the Offer of Performance Rights is for monetary consideration, the Board must not make an Offer of Performance Rights unless at the time of making the Offer there are reasonable grounds to believe that:

- (a) the total number of Shares in the Company that are covered by the Performance Rights that may be issued under the Offer; and
- (b) the total number of Shares in the Company that are covered by the Performance Rights that have been issued, or could have been issued, under Offers made in connection with these Rules at any time during the 3 year period ending on the day the Offer is made,

does not exceed the percentage referred to in subsection 1100V(2) of the Corporations Act of the number of those Shares actually issued by the Company (whether in connection with these Rules or otherwise) as at the start of the day the Offer is made.

3 Nature of Performance Rights

3.1 Rights attaching to Performance Rights

- (a) A Performance Right confers no right to vote, attend meetings, participate in a distribution of profit or a return of capital or any other participating rights or entitlements on the Participant unless and until the Performance Right vests.
- (b) The Company will not apply for official quotation of the Performance Rights on the ASX or AIM.

3.2 Forfeiture or lapse of a Performance Right

An unvested Performance Right will lapse or be forfeited (as applicable) upon the earliest to occur of:

- (a) the date specified by the Board for the purposes of rule 2.2(d);
- (b) the Performance Right lapsing or being forfeited in accordance with a rule of this Plan;
- (c) failure to meet any applicable Performance Condition attached to a Performance Right; or
- (d) the day before the 15-year anniversary of the date of grant of the Performance Right (or any other date notified as the expiry date in the Offer).

3.3 Refund of monies paid on a lapse or forfeiture of a Performance Right

Unless a rule of this Plan otherwise applies, where a Performance Right is forfeited or lapses, the Company will repay the Participant the price paid for the grant (if any) of the Performance Right.



4 Transfer of Performance Rights

- (a) A Performance Right granted under the Plan is only transferable:
 - (1) with the consent of the Board; or
 - (2) by force of law upon death to the Participant's legal personal representative or upon bankruptcy to the Participant's trustee in bankruptcy.
- (b) Where the Participant purports to transfer a Performance Right other than in accordance with rule 4(a) the Performance Right is immediately forfeited.

5 Vesting of Performance Rights – Employee Participants

5.1 Vesting pre-conditions

- (a) Subject to rules 5.2 , 9 and 15.3, a Performance Right granted under the Plan to an Employee Participant will not vest and become exercisable unless the Performance Conditions advised to the Employee Participant by the Board pursuant to rule 2.2 have been satisfied.
- (b) The vesting of a Performance Right will constitute satisfaction of the condition precedent to performance of the Company's obligation to provide a Performance Share to the Employee Participant on exercise of that Performance Right pursuant to rule 7.1.
- (c) The vesting of any Performance Right granted under the Plan will be effected in the form and manner determined by the Board.

5.2 Cessation of Employment

- (a) Unless the Board determines otherwise, where an Employee Participant ceases to be an employee of a Group Company before a Performance Right has vested by reason of his death, disability, bona fide redundancy or other reason with the approval of the Board and at that time the Employee Participant continues to satisfy any other relevant conditions imposed by the Board at the time of grant, the Board may determine the extent to which Performance Rights granted to the Employee Participant vest (or will vest) and the period for exercise of the vested Performance Rights. If no determination is made by the Board all Performance Rights held by the Employee Participant will be forfeited.
- (b) Unless the Board determines otherwise, where an Employee Participant ceases to be an employee of a Group Company for the reasons set out in rule 5.2(a), any vested but unexercised Performance Rights (including any rights that vest under this rule 5.2) held by the Employee Participant must be exercised within the later of 90 days following cessation of employment or vesting as relevant. Performance Rights not exercised within this period will lapse.
- (c) If the Employee Participant ceases to be an employee of a Group Company for any reason other than one set out in rule 5.2(a) or ceases to satisfy any other relevant conditions imposed by the Board at the time of grant, all Performance Rights held by the Employee Participant will be forfeited unless the Board determines otherwise.



- (d) For the purposes of this Plan, an Employee Participant will not be treated as ceasing to be an employee of a Group Company until such time as the Participant is no longer an employee of any Group Company. Subject to applicable laws, at the discretion of the Board, an Employee Participant who is granted an approved leave of absence and who exercises their right to return to work under any applicable award, enterprise agreement, other agreement, statute or regulation before the exercise of a Performance Right under the Plan will be treated for those purposes as not having ceased to be such an employee.

5.3 Fraudulent or dishonest actions

- (a) Unless varied by prior agreement with the Board, where, in the opinion of the Board, an Employee Participant:
- (1) acts fraudulently or dishonestly; or
 - (2) is in breach of his or her obligations to any Group Company,
- then the Board may:
- (3) deem any Performance Rights of the Participant to be forfeited; and/or
 - (4) deem all or any Performance Shares held by the Employee Participant to be forfeited – in which event the Employee Participant is deemed to have agreed to sell his shares to the Company pursuant to an Employee Share Scheme Buy-Back (as defined in the Corporations Act) for no consideration or be deemed to have appointed any officer of the Company as his or her agent to sell the Performance Shares on market; and/or
 - (5) require the Employee Participant to pay or repay (as the case may be) to the Company as a debt:
 - (A) where any Performance Shares have been sold by the Employee Participant, all or part of the net proceeds of that sale to the Company; and/or
 - (B) any cash payment received in lieu of an allocation of Performance Shares pursuant to rule 7.1(b).
- (b) Unless varied by prior agreement with the Board, where, in the opinion of the Board, an Employee Participant's Performance Rights vest as a result of the fraud, dishonesty or breach of obligations of another person and, in the opinion of the Board, the Performance Rights would not otherwise have vested, the Board may determine that the Performance Rights have not vested and may, subject to applicable laws, determine:
- (1) where Performance Rights have vested but not been exercised, that the Performance Rights have not vested and reset the Performance Conditions applicable to the Performance Rights;
 - (2) where Performance Rights have vested and been exercised, that the Performance Shares allocated on exercise are forfeited by the Employee Participant (as described in rule 5.3(a)(4)) and may, at the discretion of the Board, reissue any number of Performance Rights to the Employee Participant subject to new Performance Conditions in place of the forfeited Performance Shares; or
 - (3) any other treatment in relation to Performance Rights or Performance Shares (or any cash payment received in lieu of an allocation of Performance Shares pursuant to rule 7.1(b)) to ensure no unfair

benefit is obtained by an Employee Participant as a result of such actions of another person.

6 Vesting of Performance Rights – NED Participants

6.1 Vesting

- (a) Subject to rules 6.2 and 15.3, a Performance Right granted to a NED Participant under the Plan will vest and become exercisable on the date advised to the NED Participant by the Board pursuant to rule 2.2.
- (b) The vesting of a Performance Right will constitute satisfaction of the condition precedent to performance of the Company's obligation to provide a Performance Share to the NED Participant on exercise of that Performance Right pursuant to rule 7.1.
- (c) The vesting of any Performance Right granted under the Plan will be effected in the form and manner determined by the Board.

6.2 NED Participant ceasing to hold office

- (a) Where a NED Participant ceases to hold office before a Performance Right has vested and at that time the NED Participant continues to satisfy any other relevant conditions imposed by the Board at the time of grant, the Board may determine the extent to which Performance Rights granted to the NED Participant vest (or will vest) and the period for exercise of the vested Performance Rights. If no determination is made by the Board, all Performance Rights held by the NED Participant will continue on their existing terms.
- (b) Unless the Board determines otherwise, where a NED Participant ceases to hold office, any vested but unexercised Performance Rights (including any rights that vest under this rule 6.2) held by the NED Participant may still be exercised in accordance with their terms.

7 Issue of Performance Shares

7.1 Exercise of Performance Right

- (a) The exercise of any Performance Right will be effected in the form and manner determined by the Board and specified in the Offer pursuant to rule 2.2(c). If an amount is payable on exercise of the Performance Right, the exercise of the Performance Right will be accompanied by payment of the relevant amount advised to the Participant by the Board pursuant to rule 2.2.
- (b) Upon the valid exercise of a vested Performance Right, the Company must issue to or procure the transfer to the Participant or his or her personal representative (as the case may be) of the number of Performance Shares in respect of which Performance Rights have vested, unless the Board, in its discretion, determines to satisfy the Participant's entitlement through a cash payment in lieu of an allocation of Performance Shares.



- (c) Where the Board exercises its discretion under rule 7.1(b) to make a cash payment to a Participant in lieu of an allocation of Performance Shares, the Company must pay to the Participant:
- (1) an amount in Australian dollars (or any other currency determined by the Board in its absolute discretion) equivalent to the number of Performance Shares which the Participant would otherwise have been allocated under rule 7.1(b) multiplied by the Current Market Price; less
 - (2) any PAYG WH from the cash payment, which the Company will withhold and remit to the ATO,
- unless the Board determines otherwise.
- (d) When a Participant exercises their Performance Right but fails to provide the Company with their Tax File Number, the Company will be able to sell an amount of the Performance Shares accruing to such Participant to cover the PAY WH.

7.2 Performance Share ranking

Any shares issued under the Plan upon vesting of a Performance Right will rank equally in all respects with other ordinary shares for the time being on issue except as regards any rights attaching to such shares by reference to a record date prior to the date of their allotment.

7.3 Listing of Shares on ASX and AIM

The Company will apply for quotation of shares issued under the Plan within the periods required by ASX and AIM.

7.4 Trading restrictions

- (a) A Participant must ensure that any Trading in the Performance Shares is in compliance with the Company's Securities Trading Policy where applicable.
- (b) The Board may, at its discretion, impose restrictions on Trading in the Performance Shares allocated to Employee Participants upon exercise of vested Performance Rights.
- (c) The Board must provide the Participant with details of any restrictions in accordance with rule 2.2(f).
- (d) The Company may implement any procedure it considers appropriate to restrict Employee Participants from Trading in Performance Shares in accordance with this rule 7.4.

8 Forfeiture Condition

8.1 Forfeiture condition

- (a) When granting Performance Rights under rule 2, the Board may at its absolute discretion determine that the Performance Rights granted and Performance Shares to be delivered in respect of the Performance Rights are subject to the provisions of this rule 8 for a period of up to 15 years from the date the



Performance Rights are granted or the Performance Shares delivered in respect of the Performance Rights.

- (b) The Board may determine at any time, or upon request of a Participant under rule 8.2, at its absolute discretion, that any such Performance Rights or Performance Shares are no longer subject to the provisions of this rule 8 and will notify the Participant of such a determination in writing.

8.2 Participant may request removal of forfeiture conditions

Upon the application of a Participant in writing who wishes to transfer Performance Rights or Performance Shares in respect of which the Board has determined that the provisions of this rule 8 apply, the Board may, in its absolute discretion, make a determination that the provisions of this rule 8 no longer apply to the Performance Rights or Performance Shares proposed to be transferred.

8.3 Board determination

While Performance Rights or Performance Shares held by a Participant are subject to this rule 8, if the Board determines that the Participant has committed any act of fraud or defalcation or gross misconduct in relation to the affairs of the Company or a Group Company, the Participant shall, subject to this rule 8, forfeit any right or interest in the Performance Rights or Performance Shares or other entitlements of the Participant under the Plan.

8.4 Dealing with Performance Rights or Performance Shares forfeited under rule 8

The Board, in its absolute discretion, may determine whether Performance Shares forfeited under rule 8.3 are to be sold, transferred or otherwise disposed of and how any proceeds from them are to be applied. Performance Rights which are forfeited under rule 8.3 will cease to exist upon the Board making a determination under rule 8.3.

8.5 Dealing in rights of Performance Shares forfeited under rule 8

Pending a determination under rule 8.4 in respect of Performance Shares, the Board shall have the absolute discretion as to how any rights or entitlements of such Performance Shares are to be dealt with.

8.6 Participant to have no rights to proceeds

Except as the Board may, in its absolute discretion, otherwise determine a Participant will have no rights to the proceeds from any forfeited Performance Shares dealt with under rule 8 and releases and must hold harmless the Company, each Group Company and the Board from and indemnify the Company, each Group Company, and the Board against any claim in respect of any forfeited Performance Share and from any claim that might otherwise arise from the forfeiture of a Performance Right or other entitlement of a Participant under the Plan.

8.7 No transfer

Other than as provided by these rules, the Company must not register or permit the Share Registry to register or transfer a Performance Right or a Performance Share to which this rule applies until the Board determines that this rule 8 no longer applies to that Performance Right or Performance Share and for that purpose the Company may do



such things and enter into such arrangements with the Share Registry or otherwise as it considers necessary to enforce such restrictions on the transfer of such Performance Rights or Performance Shares and Participants will upon request by the Company do all things necessary to give effect to and will be bound by such arrangements.

9 Takeover, Scheme of Arrangement and Winding-up

9.1 Takeovers

- (a) In the event of a Takeover Bid, any unvested Performance Rights granted (or that the Company is contractually obligated to grant to an Eligible Person):
 - (1) to an Employee Participant will vest, where, in the Board's absolute discretion, pro rata performance is in line with the Performance Condition applicable to those Performance Rights over the period from the date of grant to the date of the Takeover Bid; and
 - (2) to a NED Participant will vest.
- (b) The Board must promptly give written notice to each Participant of:
 - (1) the occurrence of a Takeover Bid; and
 - (2) where applicable, the number of Performance Rights that vest pursuant to rule 7.1(a).
- (c) Any Performance Right referred to in rule 9.1(a)(1) in respect of which the Board does not make a determination or which the Board determines does not vest will automatically be forfeited, unless the Board determines otherwise.
- (d) In the event of a Takeover Bid, unless the Board determines otherwise:
 - (1) all vested but unexercised Performance Rights (including any rights that vest under rule 9.1(a)) will be exercisable for a period of 30 days from the date of the Takeover Bid and will lapse if not exercised within that period; and
 - (2) any restrictions on Trading imposed by the Board on vested Performance Rights under rule 7.4(b) will cease to have effect.

9.2 Compromise or arrangement

- (a) The Board may, in its absolute discretion, determine that all or a specified number of a Participant's Performance Rights (as referred to in rule 9.1) vest where the Board is satisfied that the Performance Condition applicable to those Performance Rights has been satisfied on a pro rata basis over the period from the date of grant to the relevant date where:
 - (1) a Court orders a meeting to be held in relation to a proposed compromise or arrangement for the purposes of or in connection with a scheme for the reconstruction of the Company or its merger or amalgamation with any other company or companies;
 - (2) any person becomes bound or entitled to acquire shares in the Company under:
 - (A) section 414 of the Corporations Act (upon a scheme of arrangement being approved); or



- (B) Chapter 6A of the Corporations Act (compulsory acquisition following a takeover bid);
 - (3) the Company passes a resolution for voluntary winding up; or
 - (4) an order is made for the compulsory winding up of the Company.
- (b) Where:
 - (1) a Court orders a meeting to be held in relation to a proposed compromise or arrangement for the purposes of or in connection with a scheme for the reconstruction of the Company or its merger or amalgamation with any other company or companies;
 - (2) any person becomes bound or entitled to acquire shares in the Company under:
 - (A) section 414 of the Corporations Act (upon a scheme of arrangement being approved); or
 - (B) Chapter 6A of the Corporations Act (compulsory acquisition following a takeover bid);
 - (3) the Company passes a resolution for voluntary winding up; or
 - (4) an order is made for the compulsory winding up of the Company, then any unvested Performance Rights granted to a NED Participant (as referred to in rule 9.1) will vest.
- (c) Any Performance Right referred to in rule 9.2(b) in respect of which the Board does not make a determination or which the Board determines does not vest will automatically be forfeited, unless the Board determines otherwise.
- (d) If an event specified in rule 9.2(a)(2) occurs, then the Board must promptly give written notice to each Participant of the occurrence of the event and, where applicable, the number of Performance Rights that vest pursuant to rule 9.2(a) and, unless the Board determines otherwise:
 - (1) all vested but unexercised Performance Rights (including any rights that vest under this rule 9.2) will be exercisable for a period of 30 days from the date of the relevant event and will lapse if not exercised within that period; and
 - (2) any restrictions on Trading imposed by the Board on vested Performance Rights under rule 7.4(b) will cease to have effect.

9.3 Acquisition of shares in Acquiring Company

If a company (**Acquiring Company**) obtains control of the Company as a result of:

- (a) a Takeover Bid; or
- (b) a proposed scheme of arrangement between the Company and its shareholders,

and the Company, the Acquiring Company and the Participant agree, a Participant may, upon vesting and/or exercise of Performance Rights, be provided with shares of the Acquiring Company or its parent in lieu of Performance Shares, on substantially the same terms and subject to substantially the same conditions as the Performance Shares, but with appropriate adjustments to the number and kind of shares.



10 Bonus Issues, Rights Issues and Reconstruction

10.1 Board's discretion

If:

- (a) shares are issued pro rata to the Company's shareholders generally by way of bonus issue (other than an issue in lieu of dividends or by way of dividend reinvestment) involving capitalisation of reserves or distributable profits; or
- (b) any reorganisation (including consolidation, subdivision, reduction or return) of the issued capital of the Company is effected,

the number of Performance Rights to which each Participant is entitled, or any amount payable on vesting of the Performance Rights, or both as appropriate, will be adjusted in the manner required by the ASX Listing Rules and otherwise as determined by the Board to ensure that no advantage or disadvantage accrues to the Participant as a result of such corporate actions.

10.2 Limited right to participate

Subject to rule 10.1, during the currency of the Performance Rights and prior to their vesting, Participants are not entitled to participate in any new issue of securities of the Company as a result of their holding Performance Rights.

11 Amendments

11.1 Power to amend Plan

Subject to rule 11.2 and the Listing Rules, the Board may at any time by resolution amend or add to (**amend**) all or any of the provisions of the Plan, or the terms or conditions of any Performance Right granted under the Plan.

11.2 Restrictions on amendments

Without the consent of the Participant, no amendment may be made to the terms of any granted Performance Right which reduces the rights of the Participant in respect of that Performance Right, other than an amendment introduced primarily:

- (a) for the purpose of complying with or conforming to present or future State or Commonwealth legislation governing or regulating the maintenance or operation of the Plan or like plans;
- (b) to correct any manifest error or mistake; or
- (c) to take into consideration possible adverse tax implications in respect of the Plan arising from, amongst others, adverse rulings from the Commissioner of Taxation, changes to tax legislation (including an official announcement by the Commonwealth of Australia) and/or changes in the interpretation of tax legislation by a court of competent jurisdiction.



11.3 Notice of amendment

As soon as reasonably practicable after making any amendment under rule 11.1, the Board will give notice in writing of that amendment to any Participant affected by the amendment.

11.4 Retrospectivity

Subject to the provisions of this rule 11, any amendment made pursuant to rule 9 may be given such retrospective effect as is specified in the written instrument or resolution by which the amendment is made.

12 Trust

- (a) The Board may at any time:
 - (1) establish a trust by trust deed for the sole purpose of acquiring and holding Performance Shares in respect of which a Participant may or has exercised vested Performance Rights, including for the purpose of enforcing the trading provisions under rule 7.4 and the forfeiture provisions under rule 8; and
 - (2) appoint a trustee to act as trustee of the trust.
- (b) The trustee will hold the Performance Shares as trustee for and on behalf of a Participant as beneficial owner upon the terms of the trust.
- (c) The trust deed must comply with the requirements set out at section 1100S of the Corporations Act.
- (d) Without limiting rule 11, the Board may at any time by written instrument or by resolution of the Board, amend all or any of the provisions of these rules to effect the establishment of a trust and the appointment of a trustee as detailed in this rule.

13 No Representation or Warranty

The Company makes no representation or warranty as to the future value of the Shares or with respect to any tax matters affecting any Eligible Employee or Participant resulting from the making of the Offer, grant of Performance Rights, allocation of any Shares upon the vesting of any Performance Rights or transactions in the Shares.

To the maximum extent permitted by law, neither the Company, any trustee (where applicable), nor any of their respective directors, officers or employees are liable for anything done or omitted to be done by such person or any other person with respect to price, time, quantity or other conditions and circumstances of the acquisition of Performance Rights, vesting of Performance Rights or the allocation or acquisition of Shares hereunder.

A person mentioned in section 1100Z(2) of the Corporations Act is not liable for any loss or damage suffered by a Participant because of a contravention of a term of any Offer covered by, to the extent applicable, 1100Z(1)(a) to 1100Z(1)(c) of the Corporations Act in the circumstances set out in section 1100Z(3) of the Corporations Act.



14 Attorney

- (a) Each Participant, in consideration of a grant of Performance Rights, will be deemed to irrevocably appoint the Company and any person nominated from time to time by the Board (each “**an Attorney**”), severally, as the Participant’s attorney to complete and execute any documents including without limitation:
 - (1) applications for Performance Shares and Performance Share transfers;
 - (2) an agreement as referred to in rule 9.3; or
 - (3) any other document or agreement to give effect to rule 9; and
 - (4) to do all acts or things on behalf of and in the name of the Participant which may be convenient or necessary for the purpose of giving effect to the provisions of these rules.
- (b) The Participant will be deemed to covenant that the Participant will ratify and confirm any act or thing done pursuant to the power granted in rule 14(a) and will release the Company, the Board, each Group Company and each attorney from any liability arising from the exercise of the powers conferred by rule 14(a) and will indemnify and hold harmless the Company, the Board, each Group Company and the attorney from any liability arising from the exercise of the powers conferred by rule 14(a) .

15 Miscellaneous

15.1 Rights and obligations of Participant

- (a) Unless the subject of an express provision in an employment contract, the rights and obligations of any Eligible Person under the terms of their office, employment or contract with a Group Company are not affected by their participating in the Plan.
- (b) These rules will not form part of and are not incorporated into any contract of any Eligible Person (whether or not they are an employee of a Group Company).
- (c) No Participant will have any rights to compensation or damages in consequence of the termination of their office, employment or other contract with a Group Company for any reason whatsoever in so far as those rights arise or may arise from their ceasing to have rights under the Plan as a result of such termination.

15.2 Power of the Board

- (a) The Plan is administered by the Board which has power to:
 - (1) determine appropriate procedures for administration of the Plan consistent with these rules; and
 - (2) delegate to any one or more persons for such period and on such conditions as it may determine the exercise of any of its powers or discretions arising under the Plan.



- (b) Except as otherwise expressly provided in the Plan, the Board has absolute and unfettered discretion to act or refrain from acting under or in connection with the Plan or any Performance Rights under the Plan and in the exercise of any power or discretion under the Plan.

15.3 Waiver of terms and conditions

Notwithstanding any other provisions of the Plan, the Board may at any time waive in whole or in part any terms or conditions (including any Performance Condition) in relation to any Performance Rights granted to any Participant.

15.4 Dispute or disagreement

In the event of any dispute or disagreement as to the interpretation of the Plan, or as to any question or right arising from or related to the Plan or to any Performance Rights granted under it, the decision of the Board is final and binding.

15.5 Termination

The operation of the Plan may be suspended or terminated at any time at the absolute discretion of the Board.

15.6 Non-Australian residents

When a Performance Right is granted under the Plan to a 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 any Group Company in relation to the Performance Right.

15.7 Communication

- (a) Any notice or other communication under or in connection with the Plan may be given by personal delivery or by sending the same by post or facsimile, in the case of a company to its registered office, and in the case of an individual to the individual's last notified address, or, where a Participant is a director or employee of a Group Company, either to the Participant's last known address or to the address of the place of business at which the Participant performs the whole or substantially the whole of the duties of the Participant's office or employment.
- (b) Where a notice or other communication is given by post, it is deemed to have been received 48 hours after it was put into the post properly addressed and stamped. Where a notice or other communication is given by facsimile, it is deemed to have been received on completion of transmission.

15.8 Compliance with applicable law

Notwithstanding anything in this Plan, the terms of Performance Rights granted under the Plan and all things done under the Plan must comply with all applicable requirements of the Corporations Act and the ASX Listing Rules and any other applicable laws.



15.9 Laws governing Plan

The Plan and any Performance Rights issued under it are governed by the laws of Western Australia and the Commonwealth of Australia.

15.10 Deferred taxation

Subdivision 83A-C of the *Income Tax Assessment Act 1997* (Cth) applies to the Plan except to the extent the Board advises a Participant otherwise under rule 2.2.