



Commissioners Gold Limited

ACN 115 845 942

Employee Share Option Plan

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Terms, unless the contrary intention appears:

Applicable Law means any one or more or all, as the context requires of:

- (a) Corporations Act and the *Corporations Regulations 2001* (Cth);
- (b) Listing Rules;
- (c) the constitution of the Company;
- (d) any practice note, policy statement, class order, declaration, guideline, policy or procedure pursuant to the provisions of which either ASIC or ASX is authorised or entitled to regulate, implement or enforce, either directly or indirectly, the provisions of any of the foregoing statutes, regulations or rules or any conduct of any duly authorised person, pursuant to any of the abovementioned statutes, regulations or rules.

ASIC means the Australian Securities and Investments Commission.

Associate has the same meaning as is ascribed to that term in sections 12 to 16 (inclusive) of the Corporations Act.

ASX means the ASX Limited ACN 008 624 691.

Auditor means the registered auditor of the Company as appointed from time to time.

Bid Period, in relation to an off-market bid or a market bid in respect of Shares, means the period referred to in the definition of that expression in section 9 of the Corporations Act, provided that where a bid is publicly announced prior to the service of a bidder's statement on the Company, the bid period shall be deemed to have commenced at the time of that announcement.

Business Day means a day on which the stock market of ASX is open for trading in securities.

Certificate means the certificate for the Options issued by the Company to a Participant.

Change of Control Event means, if an entity does not have Control of the Company, the event pursuant to which that entity acquires Control of the Company.

Company means Commissioners Gold Limited ACN 115 845 942.

Company Secretary means the secretary of the Company (or his delegate) as appointed from time to time.

Control has the meaning ascribed to that term in section 50AA of the Corporations Act.

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

Directors means the directors for the time being of the Company.

Eligible Employee, Eligible Associate, Eligible Person have the meanings ascribed to those terms in clause 12.

Exercise means an exercise effected under clause 6.

Exercise Date means the date upon which an Option is Exercised in accordance with clause 6.1.

Exercise Notice means a notice given under clause 6.1.

Exercise Period means in relation to a particular grant of Options, the period beginning on the date determined in accordance with the provisions of clause 5.3 and ending on the date of the fifth anniversary of the Issue Date of those Options or as otherwise determined by the Directors at the Relevant Date.

Exercise Price means the price at which an Option may be Exercised in accordance with clause 3.2(b), as varied in accordance with these Terms.

Issue Date means the date upon which Options are issued to an Eligible Person pursuant to this Plan.

Listing Rules means the official listing rules of ASX, as varied from time to time.

Loan Period means in respect of each loan the period determined under clause 13.

Loan Share means a Plan Share acquired with a Loan which has not been repaid in full in respect of that Plan Share.

Loans means loans made pursuant to clause 13 and includes any interest, fees or other charges accrued on that loan or any part thereof.

Offer means an Offer of Options by the Directors to an Eligible Person pursuant to this Plan.

Option means an option over Plan Shares granted pursuant to the Plan.

Option Price means the amount payable for an Option as referred to in clause 3.2(a).

Participant means an Eligible Employee, Eligible Associate or Eligible Person to whom Options have been issued pursuant to the Plan.

Performance Conditions means one or more conditions (if any), as determined by the Directors under clause 5.2 and notified to a Participant in the Offer, which must be satisfied or waived by the Directors before an Option may be Exercised.

Permitted Nominee has the meaning given to it by clause 4.3.

Plan means the Employee Share Option Plan for the Company established in accordance with these Terms.

Plan Share means a Share in the capital of the Company issued upon Exercise of an Option or in respect of which an Option has been granted.

Related Body Corporate has the same meaning as is ascribed to that term in section 50 of the Corporations Act.

Relevant Date means the date on which the Directors resolve to offer an Option or

such other date as the Directors determine.

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

Share Registry means the share registry of the Company from time to time.

Terms means these general terms and conditions, as varied from time to time.

1.2 Interpretation

In these Terms, unless the context requires otherwise:

- (a) a reference to a word includes the singular and the plural of the word and vice versa;
- (b) a reference to a gender includes any gender;
- (c) if a word or phrase is defined, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
- (d) a term which refers to a natural person includes a company, a partnership, an association, a corporation, a body corporate, a joint venture or a governmental agency;
- (e) headings are included for convenience only and do not affect interpretation;
- (f) a reference to a document includes a reference to that document as amended, novated, supplemented, varied or replaced;
- (g) a reference to a thing includes a part of that thing and includes but is not limited to a right;
- (h) the terms 'included', 'including' and similar expressions when introducing a list of items do not exclude a reference to other items of the same class or genus;
- (i) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to an item of that type in these Terms and includes a reference to the provisions or terms of that part, clause, annexure, exhibit or schedule;
- (j) a reference to these Terms includes each annexure, exhibit and a schedule to these Terms;
- (k) a reference to a party to this document includes the party's successors and permitted assigns and includes any person to whom these Terms are novated;
- (l) a reference to a statute or statutory provision includes but is not limited to:
 - (i) a statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision;
 - (ii) a statute or statutory provision which has been amended, extended, consolidated or replaced by the statute or statutory provision; and
 - (iii) subordinate legislation made under the statute or statutory provision including but not limited to an order, regulation, or instrument;

- (m) a reference to a document is a reference to a document of any kind including but not limited to an agreement in writing, a certificate, a notice, or an instrument;
- (n) reference to '\$', 'A\$', 'Australian Dollars' or 'dollars' is a reference to the lawful tender for the time being and from time to time of the Commonwealth of Australia;
- (o) a provision of these Terms is not to be construed against the Company solely on the ground that the Company is responsible for the preparation of these Terms or a particular provision;
- (p) a reference to an asset includes all property or title of any nature including but not limited to a business, a right, a revenue and a benefit, whether beneficial, legal or otherwise;
- (q) a reference to liquidation includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme composition or arrangement of creditors, insolvency, bankruptcy or any similar procedure or if applicable changes in the constitution of a partnership or the death of a person; and
- (r) a reference to a body which is not a party to these Terms which ceases to exist or whose power or function is transferred to another body, is a reference to the body which replaces or substantially succeeds to the power or function of the first body.

1.3 **Business Day and Day**

- (a) If these Terms require that the day on which a thing must be done is a day which is not a Business Day, then that thing must be done on or by the next Business Day.
- (b) If an event occurs on a day which is not a Business Day, or occurs later than 5.00 pm local time at the place that the event occurs, then the event is deemed to have occurred on the next Business Day in the place that the event occurs.
- (c) A reference to a day is a reference to a time period which begins at midnight and ends 24 hours later.
- (d) A reference to a period of time unless specifically written otherwise, includes the first day of that period.

2. **DIRECTORS' AUTHORITY**

2.1 The Directors will establish and administer the Plan in accordance with these Terms and, subject to any Applicable Law, will have the absolute discretion and power to:

- (a) determine appropriate procedures for administration of the Plan;
- (b) resolve conclusively all questions of fact or interpretation arising in connection with the Plan or these Terms;

- (c) delegate to any one or more persons for such period and subject to such conditions as they may determine, the exercise of their powers or discretions, or of any of them, under these Terms; and
- (d) alter, modify, add to or repeal any of these Terms, even where such alteration, modification, addition or repeal:
 - (i) will or may adversely affect, whether materially or otherwise, any existing right or entitlement of a Participant or otherwise disadvantage an existing Participant; and
 - (ii) occurs either during or after the expiry of the Exercise Period and irrespective of whether or not the Options, or the Plan Share or Plan Shares that have been issued to a Participant pursuant to the Exercise of an Option, have or would have otherwise fully vested in that Participant.

2.2 The Company undertakes to each Participant that the powers and rights available to the Directors under clause 2.1(d) will not be exercised in a capricious, malicious or unreasonable manner.

2.3 Subject to these Terms, the Directors may from time to time in their absolute discretion determine those Eligible Persons to whom an offer to participate in the Plan will be made and the terms of such an offer.

3. **OPTIONS, OPTION PRICE AND EXERCISE PRICE**

3.1 Subject to these Terms, the Directors may determine from time to time to grant Options upon such terms and to such Eligible Persons as they see fit.

3.2 Unless otherwise determined by the Directors:

- (a) the Option Price will be nil;
- (b) the Exercise Price will be the amount determined by the Directors on the Relevant Date and specified in an Offer; and
- (c) the Directors will notify the Participants in writing of the Exercise Price of an Option at the time of making an Offer.

4. **OFFER OF OPTIONS**

4.1 Subject to these Terms, the Company (acting through the Directors) may make an Offer at such times and on such terms as the Directors consider appropriate. Each Offer must state:

- (a) that the Eligible Person to whom it is addressed may accept the whole or any lesser number of Options offered. The Offer may stipulate a minimum number of Options and any multiple of such minimum or any other number which may be accepted;
- (b) the period within which the Offer may be accepted and the Exercise Period;
- (c) the method of calculation of the Exercise Price; and

- (d) any other matters which the Directors may determine or is required under any Applicable Law.
- 4.2 Upon receipt of an Offer of Options, an Eligible Person may, within the period specified in the Offer:
- (a) accept the whole or any lesser number of Options offered by notice in writing to the Directors; or
 - (b) nominate a nominee in whose favour the Eligible Person wishes to renounce the Offer by notice in writing to the Directors. The Directors may, in their absolute discretion, resolve not to allow such renunciation of an Offer in favour of a nominee without giving any reason for such decision.
- 4.3 Upon:
- (a) receipt of the acceptance referred to in paragraph 4.2(a); or
 - (b) the Directors resolving to allow a renunciation of an Offer in favour of a nominee (**Permitted Nominee**) and the Permitted Nominee accepting the whole or any lesser number of Options offered by notice in writing to the Directors,
- the Eligible Person or the Permitted Nominee, as the case may be, will be taken to have agreed to be bound by these Terms and will be issued Options subject to these Terms.
- 4.4 Certificates for Options will be dispatched within 10 Business Days after their Issue Date.
- 4.5 If Options are issued to a Permitted Nominee of an Eligible Person, the Eligible Person must, without limiting any provision in these Terms, ensure that the Permitted Nominee complies with these Terms.

5. VESTING AND ENTITLEMENT

- 5.1 At the time of making an Offer of Options, the Directors may impose such vesting conditions (if any) as they consider appropriate.
- 5.2 At the time of making an Offer of Options, the Directors may impose such Performance Conditions (if any) as they consider appropriate.
- 5.3 No Option can be Exercised until:
- (a) it has vested under the vesting conditions (if any) applicable to the Option in accordance with clause 5.1 or the vesting conditions have been waived by the Directors; and
 - (b) the Performance Conditions (if any) applicable to the Option in accordance with clause 5.2 have been satisfied or waived by the Directors.
- 5.4 Once an Option is able to be exercised in accordance with clause 5.3, it:
- (a) may be Exercised during the Exercise Period; and
 - (b) entitles the Participant to subscribe for and be allotted 1 Plan Share at the Exercise Price.

- 5.5 Notwithstanding these Terms, while the Shares are listed on the ASX, the Company must allot and issue Plan Shares upon Exercise of an Option in accordance with the Applicable Laws.
- 5.6 Plan Shares issued upon the Exercise of Options will rank equally with all existing Shares in the capital of the Company from their respective issue date.

6. EXERCISE OF OPTIONS

- 6.1 An Option is Exercised by:
- (a) the Participant lodging with the Company an Exercise Notice;
 - (b) the receipt by the Company of a payment by or on behalf of a Participant and in immediately available funds, of the Exercise Price for each of the Options the subject of such Exercise Notice; and
 - (c) the Participant lodging with the Company the Certificate for those Options, for cancellation by the Company.
- 6.2 Subject to clause 6.1, within 15 Business Days after the later of the following:
- (a) receipt by the Company of an Exercise Notice given in accordance with these terms and conditions and payment of the Exercise Price for each Option being exercised if the Company is not in possession of excluded information (as defined in section 708A(7) of the Corporations Act); and
 - (b) the date the Company ceases to be in possession of excluded information in respect to the Company (if any) following the receipt of the Exercise Notice and payment of the Exercise Price for each Option being exercised by the Company,
- the Company will
- (c) allot and issue the Plan Shares pursuant to the exercise of the Options;
 - (d) give ASX a notice that complies with section 708A(5)(e) of the Corporations Act or lodge a prospectus with ASIC that qualifies the Plan Shares for resale under section 708A(11) of the Corporations Act; and
 - (e) apply for official quotation on ASX of the Plan Shares issued pursuant to the exercise of the Options.
- 6.3 Subject to the provisions of clause 6.4, Exercise of some only of the Options held by a Participant does not prevent Exercise of any remaining vested unExercised Options.
- 6.4 Options may not be Exercised in parcels of less than 1,000. Holders of less than 1,000 Options may Exercise those Options in full but not in part.
- 6.5 Notwithstanding any other provision of this clause 6 or clause 5 but subject to the written consent of the Directors, all Options may be Exercised:
- (a) during a Bid Period;
 - (b) at any time after a Change of Control Event has occurred; or

- (c) if, on an application under section 411 of the Corporations Act, a court orders a meeting to be held concerning a proposed compromise or arrangement for the purposes of or in connection with a scheme for the reconstruction of the Company or its amalgamation with any other company.

7. LAPSE OF OPTIONS

7.1 Subject to clause 5.3, if the Participant is a Director or the Permitted Nominee of a Director, an Option may be Exercised by that Participant at any time prior to the first to occur of:

- (a) the expiry of the Exercise Period;
- (b) the expiry of 30 days after the person ceases to be a Director; and
- (c) a determination by the other Directors that that Director has acted fraudulently, dishonestly or in breach of that Director's obligations to the Company and that the Option is to be forfeited.

If such a Participant fails, for any reason, to Exercise all the Options registered in his name prior to such occurrence, those Options that the Participant would have been entitled to Exercise and that have not been Exercised, and any right or entitlement of a Participant to have those Options vested in that Participant, will lapse and be of no further force or effect.

7.2 If a resolution of a general meeting of the Company to remove a person as a Director is passed, that person or the Permitted Nominee of that person who is a Participant may only Exercise a proportion of the Options that are registered in that Participant's name as is equal to the proportion that the period from the Issue Date of those Options to the date of passage of the resolution bears to the Exercise Period and the balance of those Options will be wholly and unconditionally forfeited, lapse and be of no further force or effect upon and from the date of passage of the resolution.

7.3 Unless otherwise determined by the Directors and subject to clause 5.3, if a Participant is an employee or the Permitted Nominee of an employee, an Option may be Exercised by that Participant at any time prior to the first to occur of:

- (a) the expiry of the Exercise Period;
- (b) the expiry of 30 days after termination of the employee's employment where such termination has either been voluntary on the employee's part or otherwise has occurred without cause; and
- (c) termination of the employee's employment with cause.

If such a Participant fails, for any reason, to Exercise all the Options registered in his or her name prior to such occurrence, those Options that the Participant would have been entitled to Exercise and that have not been Exercised, and any right or entitlement of a Participant to have those Options vested in that Participant, will lapse and be of no further force or effect.

8. TRANSFER

Except with the consent of Directors, Options may not be transferred and will not be quoted on or by the ASX. The Directors may in their discretion allow the transfer of Options to an Associate or Related Body Corporate of a Participant.

9. QUOTATION OF PLAN SHARES

The Company will apply to the ASX for official quotation of Plan Shares issued on the Exercise of Options, if the Company is, at the time of issue of those Plan Shares, admitted to the official list of the ASX.

10. PARTICIPATION IN FUTURE ISSUES

10.1 New Issues

Participants may only participate in new issues of securities to holders of Shares if an Option has been exercised and Plan Shares allotted in respect of the Option before the record date for determining entitlements to the issue. The Company must give at least nine Business Days' notice (or such greater period of notice (if any) as may be required by the Listing Rules) to Participants of any new issue before the record date for determining entitlements to the issue in accordance with the Listing Rules.

10.2 Bonus Issues

If there is a bonus share issue (**Bonus Issue**) to the holder of Shares, the number of Plan Shares over which an Option is exercisable will be increased by the number of Shares which the Participant would have received if the Option had been exercised before the record date for the Bonus Issue (**Bonus Shares**). Upon issue the bonus Shares will rank pari passu in all respects with the other shares of the Company on issue at the date of issue of the bonus Shares.

10.3 Pro Rata Issue

If there is a pro rata issue (other than a Bonus Issue) to the holders of Shares, the Exercise Price of an Option will be reduced according to the following formula:

$$A = O - \frac{E [P - (S+D)]}{N + 1}$$

A = the new exercise price of the Option.

O = the old exercise price of the Option.

E = the number of Plan Shares into which one Option is exercisable.

P = the value of a Share at the time the pro rata rights issue is made as determined by an accountant independent of the Company, but if the Shares are quoted on the ASX, the average closing sale price per Share (weighted by reference to volume) recorded on the stock market of ASX during the 5 trading days ending on the day immediately before the ex rights date or ex entitlements date (excluding special crossings, overnight sales and exchange traded option exercises).

S = the subscription price for a Share under the pro rata issue.

D = the dividend due but not yet paid on existing Shares which will not be payable in respect of new Shares issued under the pro rata issue.

N = the number of Shares with rights or entitlements that must be held to receive a right to 1 new Share.

10.4 **Reorganisation of Capital**

If, prior to the expiry or lapse of any Options, there is a reorganisation of the issued capital of the Company, those Options will be reorganised to the extent necessary to comply with the Listing Rules.

10.5 **Aggregation**

If Options are Exercised simultaneously then the Participant may aggregate the number of Plan Shares or fractions of Plan Shares to which the Participant is entitled to subscribe for under those Options. Fractions in the aggregate number only will be disregarded in determining the total entitlement to subscribe.

10.6 **Advice**

In accordance with the Listing Rules, the Company must give notice to each Participant of any adjustment to the number of Shares for which the Participant is entitled to subscribe or to the Exercise Price pursuant to the provisions of clauses 10.2, 10.3 or 10.4.

11. **MAXIMUM NUMBER**

11.1 The Company shall not offer or issue Options to any Eligible Person in accordance with this Plan if the total number of shares the subject of Options, when aggregated with:

- (a) the number of shares in the same class which would be issued were each outstanding offer or invitation or option to acquire unissued shares in the Company, being an offer or invitation made or option acquired pursuant to this Plan or any other employee share scheme extended only to employees (including salaried executive directors) of the Company and its Related Bodies Corporate, to be accepted or exercised (as the case may be); and
- (b) the number of shares in the same class issued during the previous five years pursuant to the Plan or any other employee share scheme extended only to employees (including salaried executive directors) of the Company and its Related Bodies Corporate,

(disregarding any offer or invitation made, or option acquired or share issued following the making of an offer or invitation, to a person situated at the time of receipt of the offer or invitation outside Australia or any offer or invitation which, pursuant to Chapter 6D of the Corporations Act, does not need disclosure to investors), would exceed 5% of the total number of issued shares in that class of the Company as at the time of the proposed offer or issue.

12. **ELIGIBLE PERSONS**

12.1 **Eligible Employee** means:

- (a) a person who is engaged in the full time or part time employment of the Company or a Related Body Corporate of the Company and includes any Director holding a salaried employment or office in the Company or a Related Body Corporate of the Company; and

- (b) any person acquiring and holding any Plan Share or Options for the benefit of any such employee (other than any employee who is a Director), provided that the Plan Share and Options are acquired and held on such terms and conditions as have been previously approved by the Directors, including, without limitation, any trustee of a trust established by the Company to hold Plan Shares or Options for the benefit of such employees.

12.2 **Eligible Associate** means:

- (a) any Director, including non-executive Director or officer, of the Company; and
- (b) any person or entity acquiring and holding any Plan Share for the benefit of any Eligible Employee who is a Director or officer of the Company at the time of such acquisition or any person referred to in clause 12.2(a), and provided that the Plan Share is acquired and held on such terms and conditions as have been previously approved by the Directors.

12.3 An Eligible Employee may also be an Eligible Associate.

12.4 **Eligible Persons** means Eligible Employees and Eligible Associates.

13. **LOANS**

13.1 Subject to the terms of the Plan, the Directors may from time to time determine that the Company makes loans to Eligible Employees in connection with Plan Shares to be issued pursuant to the Exercise of Options under the Plan.

13.2 No Loans shall be made to persons other than Eligible Employees.

13.3 Loans may be made for the Exercise Price payable upon Exercise of Options issued under the Plan and on such terms and conditions as the Directors see fit.

13.4 A Participant who accepts a Loan in respect of some or all of the Plan Shares pursuant to clause 13.1, will upon and by such acceptance, irrevocably authorise the Company to apply the Loan on behalf of the Participant by way of payment of the Exercise Price of the Plan Shares in respect of which the Loan was accepted and the payment of any duties payable by the Participant in respect of the Loan.

13.5 The Loan Period is the period commencing when the Loan is made and ending on the first to occur of the following dates:

- (a) the Participant ceasing to be employed by the Company or a Related Body Corporate of the Company;
- (b) the Company agreeing to sell the Loan Shares as requested by an Eligible Employee in accordance with clause 15.2; or
- (c) the Loan being repaid in full.

13.6 A Participant may repay all or part of a Loan at any time before the expiration of the Loan Period.

13.7 Unless otherwise determined by the Directors and subject to clause 13.8, the Company will apply and each Participant will, by virtue of their acceptance of the Loan, be

deemed to have irrevocably directed the Company to so apply all dividends paid in cash on the Plan Shares towards repayment of the Loan.

- 13.8 The amount of the dividend applied pursuant to clause 13.7 shall not exceed the after tax value of the dividends computed on the assumption that the Participant is assessable to tax at the highest personal marginal rate of income tax in Australia applicable to Australian residents (including for this purpose the Medicare Levy but not the Medicare Surcharge) on the whole of the dividend and after allowing for any franking rebate to which the Participant is entitled in relation to the dividend.
- 13.9 Without restricting the discretion of the Directors, Loans may be made on terms and conditions which provide that:
- (a) no interest or a less than commercial rate of interest be payable in respect of the Loan;
 - (b) the interest payable on the Loan may be variable and may vary in accordance with the length of employment of the Eligible Employee either before or during the term of the Loan;
 - (c) where the Exercise Price paid pursuant to the Exercise of Options has been financed in whole or in part by the provision of a Loan by the Company to a Participant, that Participant will encumber in favour of, and lodge with, the Company or its nominee as security for repayment of the Loans all its right title and interest in the Plan Shares that have been issued to the Participant as a result of such Exercise; or
 - (d) the total amount of principal and interest repayable under the Loan be limited to the proceeds of the sale of Plan Shares acquired with the Loan less any costs of sales.

14. **RIGHTS ATTACHING TO LOAN SHARES**

- 14.1 Subject to clauses 13.7 and 13.8, a Participant is entitled to all dividends declared or paid on the Loan Shares held by the Participant.
- 14.2 A Participant is entitled to any bonus Shares which accrue to Loan Shares held by the Participant in accordance with clause 10.2.
- 14.3 Upon allotment of the bonus Shares to the Participant, any bonus Shares which accrue to Loan Shares are deemed, for the purposes of the Plan, to be Loan Shares until such time as the Loans in respect of the Loan Shares to which the bonus Shares accrued had been repaid in full.

15. **RESTRICTION ON TRANSFER OF LOAN SHARES**

- 15.1 Other than as provided by these Terms:
- (a) a Participant must not sell, encumber or otherwise deal with a Loan Share prior to the repayment of the Loan used to acquire that Loan Share; and
 - (b) the Company must not register or permit the Share Registry to register a transfer of a Loan Share until the Loan used to acquire that Loan Share has been repaid 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 a Loan Share and Participants will be bound by such arrangements.

- 15.2 A Participant who holds a Loan Share may request the Company in writing to sell that Loan Share on behalf of the Participant and apply the proceeds in accordance with clause 15.5.
- 15.3 For the purpose of the sale of the Loan Shares pursuant to clause 15.2, the Participant will be deemed to have irrevocably appointed, as a result of that Participant's request pursuant to clause 15.2, the Company Secretary as that Participant's agent and attorney to sign all documents and do all acts necessary to sell the Loan Shares and account for the proceeds in accordance with clause 15.5 and shall indemnify the Company Secretary and the Company in respect of all costs, damages or losses arising from the sale of the Loan Shares.
- 15.4 The Company and the Company Secretary will have complete discretion in respect of the sale of the Loan Shares under this clause 15 and will not be liable to the Participant in respect of the timing of or price obtained on or any other circumstances relating to such sale.
- 15.5 Upon the Company selling the Loan Shares in accordance with a request made by a Participant in accordance with clause 15.2:
- (a) the proceeds of the sale will be applied in the following order:
 - (b) in payment of any costs and expenses of the sale incurred by the Company;
 - (c) in reduction of the outstanding amount of the Loan;
 - (d) the balance (if any) in payment to the Participant; and
 - (e) subject to the terms of a Loan as determined in accordance with the provisions of clause 13.9(d) if applicable, the Participant shall be liable to the Company for any shortfall between the proceeds of such sale and the outstanding amount of the Loan.

16. **LOAN NOT REPAID**

- 16.1 If the Participant has not repaid the outstanding amount of a Loan at the end of the Loan Period, the Company may, at its discretion, on behalf of the Participant, sell the Loan Shares and apply the proceeds in accordance with clause 16.4.
- 16.2 For the purpose of the sale of the Loan Shares pursuant to clause 16.1, the Participant will be deemed to have irrevocably appointed, as a result of that Participant's acceptance of the issue of the Loan Shares, the Company Secretary as that Participant's agent and attorney to sign all documents and do all acts necessary to sell the Loan Shares and account for the proceeds in accordance with clause 16.4 and shall indemnify the Company Secretary and the Company in respect of all costs, damages or losses arising from the sale of the Loan Shares.
- 16.3 The Company and the Company Secretary will have complete discretion in respect of the sale of the Loan Shares under clause 16.1 and will not be liable to the Participant in respect of the timing of or price obtained on or any other circumstances relating to such sale.
- 16.4 If the Company sells the Loan Shares in accordance with clause 16.1:

- (a) the proceeds of the sale will be applied in the following order:
- (b) in payment of any costs and expenses of the sale incurred by the Company; and
- (c) in reduction of the outstanding amount of the Loan; and
- (d) the balance (if any) in payment to the Participant; and
- (e) subject to the terms of a Loan as determined in accordance with the provisions of clause 13.9(d) if applicable, the Participant shall be liable to the Company for any shortfall between the proceeds of such sale and the outstanding amount of the Loan.

17. **ATTORNEY**

For the avoidance of doubt the Participant, in consideration of the grant of the Loan and by virtue of that Participant's acceptance of any or all Loan Shares, will be deemed to have irrevocably appointed the person who from time to time occupies the position of Company Secretary, that Participant's attorney to complete and execute any documents including share transfers and to do all acts or things in his or her name on his or her behalf which may be convenient or necessary for the purpose of giving effect to the provisions of clauses 15 and 16 of this Plan and the Participant covenants that the Participant shall ratify and confirm any act or thing done pursuant to this power and shall indemnify the attorney (or their delegate) and the Company in respect thereof.

18. **NOTICES**

Notices must be given by the Company to the Participant in the manner prescribed by the constitution of the Company for the giving of notices to members of the Company and the relevant provisions of the constitution of the Company apply with all necessary modifications to notices to any Participant.

19. **RIGHT TO ACCOUNTS**

Participants will be sent all reports and accounts required to be laid before members of the Company in general meeting and all notices of general meetings of members but, unless otherwise entitled, will not have any right to attend or vote at those meetings.

20. **OVERRIDING RESTRICTIONS ON GRANT AND EXERCISE**

- 20.1 Notwithstanding any other provision of these Terms, all rights and entitlements attaching to an Option or of a Participant under this Plan will be changed or amended to the extent necessary to comply with the Listing Rules that apply to a reorganisation of the capital of the Company, at the time that that re-organisation becomes effective.
- 20.2 No Option may be Exercised if to do so would contravene the Applicable Law.
- 20.3 Without limitation to the provisions of this clause 20:
 - (a) the Option terms and conditions must allow the rights of a Participant to comply with the Listing Rules applying to a reorganisation of capital of the Company at the time of the reorganisation; and
 - (b) subject to the provisions of clause 20.3(a), any reorganisation of capital of the Company must not be done in a manner or with the effect that will prejudice

the rights or interests, or the value of the rights or interests, of Participants in the Options they hold, immediately prior to the time of any such reorganisation.

21. **RIGHT OF PARTICIPANTS**

21.1 Nothing in these Terms:

- (a) confers on a Participant the right to receive any Shares;
- (b) confers on a Participant who is a Director the right to continue as a Director;
- (c) confers on a Participant the right to continue as an employee of the Company or a Related Body Corporate of the Company;
- (d) affects any rights which the Company, or a Related Body Corporate of the Company, may have to terminate the appointment of a Participant who is a Director or terminate the employment of an employee; or
- (e) may be used to increase damages in any action brought against the Company or a Related Body Corporate in respect of any such termination.

22. **TERMINATION AND SUSPENSION OF THE PLAN**

The Directors may resolve at any time to terminate or suspend the operation of the Plan.

23. **GOVERNING LAW**

The Plan is governed by and shall be construed and take effect in accordance with the laws of New South Wales.

24. **SHAREHOLDER APPROVAL**

Clauses 13 to 17 only come into effect on the passing of an appropriate shareholders' resolution to authorise the granting of financial assistance to a Participant.