

# **PERFORMANCE RIGHTS PLAN RULES**

**ARCHER EXPLORATION LIMITED  
ACN 123 993 233**

**Adopted by resolution of the Board on 18 September 2013**

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## 1. DEFINITION AND INTERPRETATION

### 1.1 Definition

In these Rules, and any information booklet, Invitation, notice or document issued or given in connection with the Plan by the Company unless the contrary intention appears:

“**Associate**” has the meaning given under the Corporations Act;

“**Associated Body Corporate**” means a:

- 1.1.1 related body corporate of the Company under section 50 of the Corporations Act;
- 1.1.2 body corporate that has voting power in the Company of not less than 20%; or
- 1.1.3 body corporate in which the Company has voting power of not less than 20%;

“**ASX**” means ASX Limited ABN 98 008 624 691;

“**Board**” means all or some of the directors of the Company acting as a board;

“**Business Day**” means any day that is not Saturday, Sunday or a public holiday in South Australia;

“**Event**” means:

- 1.1.4 in the case of a Takeover Bid or otherwise, a person together with his or her associates acquires Shares which, when aggregated with Shares already acquired by such person and their associates, comprise more than 50% of the issued Shares of the Company and such acquisition is, or has become, unconditional;
- 1.1.5 pursuant to an application made to the court under section 411 of the Corporations Act, the 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 amalgamation with any other company, the resolution to effect such proposed compromise or arrangement is passed, and the court approves such a compromise or arrangement;
- 1.1.6 the Company passes a resolution for voluntary winding up; or
- 1.1.7 an order is made for the compulsory winding up of the Company;
- 1.1.8 in any other case, a person obtains voting power in the Company which the Board (which for the avoidance of doubt will comprise those directors holding office immediately prior to the person acquiring that voting power) determines, acting in good faith and in accordance with their fiduciary duties, is sufficient to control the composition of the Board;

“**Class Order**” means a class order published by the Australian Securities and Investments Commission;

**“Company”** means Archer Exploration Limited ACN 123 993 233;

**“Company Group”** means the Company and each Associated Body Corporate of the Company;

**“Company Secretary”** means the company secretary of the Company;

**“Constitution”** means the constitution of the Company, as amended or replaced from time to time;

**“Control”** has the meaning given to that term in section 50AA of the Corporations Act;

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

**“Dispose”** includes:

1.1.9 sell, assign, offer, dispose of, transfer or deal in any way with any right, title or interest in any Share (whether legal or beneficial and whether for valuable consideration or not); and

1.1.10 to agree to sell, assign, offer, dispose of, transfer or deal in any way with any right, title or interest in any share (whether legal or beneficial and whether for valuable consideration or not); and

1.1.11 create, declare or allow to be created any trust over any Share,

but does not include a buy-back or transfer of Shares undertaken pursuant to a Share buy-back by the Company under the Corporations Act, and Disposed, Disposal and Disposing will be construed accordingly;

**“Eligible Employee”** means a director, senior executive or employee of a member of the Company Group who is concerned, or takes part, in the management of a member of the Company Group, as determined by the Board from time to time;

**“Essential Terms”** means the terms of grant of Performance Rights set out in the Schedule;

**“Exercise Period”**, in relation to a Performance Right, means:

1.1.12 a 12-month period;

1.1.13 the period otherwise determined by the Board in its absolute discretion to be the exercise period and set out in the Invitation for that Performance Right; or

1.1.14 the period otherwise determined by the Board to be the exercise period under 4 of the Schedule or rule 13 of the Schedule from time to time,

starting on the date on which the Performance Right becomes a Vested Performance Right or the date as set out in the Invitation for that Performance Right;

**“Exercise Price”** means the amount (if any) which is payable on the exercise of a Vested Performance Right, as determined by the Board and set out in the

Invitation for that Performance Right or, if no determination is made the applicable exercise price is nil.

**“Expiry Date”** means in relation to an Unvested Performance Right, the date and time that it will lapse if before that date the Unvested Performance Right does not become a Vested Performance Right;

**“Holding Lock”** has the meaning given to that term in the Listing Rules;

**“Invitation”** means an invitation made to an Eligible Employee made in respect of a Performance Right under clause 3.1;

**“Listing Rules”** means the Listing Rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any waiver by ASX;

**“Nominee”** means a nominee of an Eligible Employee as permitted by the Board under these Rules;

**“Official List”** means the official list of entities that ASX has admitted and not removed;

**“Participant”** means an Eligible Employee who holds a Performance Right or, following the death or bankruptcy of the Eligible Employee, his or her personal representative or trustee in bankruptcy;

**“Performance Condition”** means one or more conditions which must be satisfied or circumstances which must exist before a Performance Right vests, as determined by the Board and specified in the Invitation;

**“Performance Period”** means, in relation to a Performance Right, the financial year of the Company or other period determined by the Board in respect of which the Board will assess the performance of the Eligible Employee and/or the Company Group against the Performance Conditions;

**“Performance Right”** means entitlement right to acquire a Share (by transfer or issue at the Board’s election) granted under the Plan subject to these Rules;

**“Plan”** means this Performance Rights Plan established and operated under these Rules;

**“Record Date”** has the meaning given to that term in the Listing Rules;

**“Rules”** means these rules, as adopted by the Board, and as amended from time to time and includes the Essential Terms;

**“Schedule”** means the schedule to, and forming part of, these Rules;

**“Share”** means a fully paid ordinary share in the capital of the Company;

**“Takeover Bid”** has the meaning given to that term in section 9 of the Corporations Act;

**“Total and Permanent Disablement”** means, in relation to an Eligible Employee, that the Eligible Employee has, in the reasonable opinion of the Board, become permanently incapacitated to such an extent as to render the

Eligible Employee unlikely to engage in the Eligible Employee's usual occupation again;

**"Unvested Performance Right"** means a Performance Right that has not vested in accordance with these Rules and which is not a vested Performance Right; and

**"Vested Performance Right"** means a Performance Right which has vested in accordance with these Rules and which is exercisable under these Rules.

## 1.2 Interpretation

For the purposes of these Rules, unless the contrary intention appears:

- 1.2.1 the singular includes the plural and vice-versa;
- 1.2.2 words denoting a gender include all genders;
- 1.2.3 if a word or phrase is defined cognate words and phrases have corresponding definitions;
- 1.2.4 a reference to a related body corporate of the Company is a reference to a body corporate which is so related within the meaning of the Corporations Act;
- 1.2.5 a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements or any of them; and
- 1.2.6 any power, authority or discretion vested in the Company or the Board may be exercised at any time and from time to time and unless expressed otherwise, in their absolute discretion.

## 2. APPLICATION OF RULES

### 2.1 Performance Rights Subject To Rules

Performance Rights may be granted by the Company from time to time under the Plan in accordance with, and subject to, these Rules.

### 2.2 Performance Rights do not affect certain relationships

Nothing in these Rules:

- 2.2.1 confers on any person any expectation to become an Eligible Employee;
- 2.2.2 confers on any person the right to be invited to apply for, to be offered or to receive any Performance Rights;
- 2.2.3 confers on any person the right to continue as an employee of any member in the Company Group;
- 2.2.4 affects any termination rights which any member in the Company Group may have in respect of the employment of any person employed by a member of the Company Group; or

- 2.2.5 may be used to increase damages in any action brought against any member in the Company Group in respect of any termination of employment.

### **3. INVITATION TO APPLY FOR PERFORMANCE RIGHTS**

#### **3.1 Invitation to Eligible Employees**

Subject to clause 3.2 and any approvals of the Company's shareholders required by law or the Listing Rules, the Board may, at any time, in its absolute discretion, invite an Eligible Employee to apply for Performance Rights, after having regard, in each case, to:

- 3.1.1 the contribution to the Company Group which has been made by the Eligible Employee;
- 3.1.2 the period of employment or engagement of the Eligible Employee with the Company Group, including (but not limited to) the years of service by that Eligible Employee;
- 3.1.3 the potential contribution of the Eligible Employee to the Company Group; and
- 3.1.4 any other matters which the Board considers in its absolute discretion to be relevant.

#### **3.2 Maximum Number of Performance Rights**

Performance Rights must not be granted under this Plan if, immediately following the proposed grant, the number of Shares that would be issued by the Company if all of the Performance Rights were exercised plus:

- 3.2.1 the number of Shares that have been or would have been issued by the Company if all Performance Rights granted under this Plan and all rights to acquire Shares under every other employee incentive scheme in the period of 5 years preceding the time of the proposed issue of Performance Rights under this Plan were exercised (excluding those Performance Rights or options which have lapsed or which have already been exercised); and
- 3.2.2 the number of Shares issued by the Company for every other employee incentive scheme of the Company in the period of 5 years preceding the time of the proposed issue of the Performance Rights under this Plan,

less any offer for options or rights to acquire Shares, or Shares issued by way of, or as a result of:

- 3.2.3 an offer to a person situated at the time of receipt of the offer outside Australia;
- 3.2.4 an offer that did not need disclosure to investors because of section 708 of the Corporations Act; or
- 3.2.5 an offer made under a disclosure document under the Corporations Act,



would exceed 5% of the total number of Shares immediately following the proposed grant of the Performance Rights.

### 3.3 **Variation of Maximum Number of Performance Rights**

Subject to the Listing Rules, the Corporations Act, and any applicable class orders issued by the Australian Securities and Investments Commission, the Board may, in its absolute discretion, vary this percentage.

### 3.4 **Essential Terms and Information to be Provided in the Invitation**

Any Invitation may be on such terms and conditions as the Board determines for such Invitation including without limitation as to:

- 3.4.1 criteria;
- 3.4.2 the number of Performance Rights that the relevant Eligible Employee may apply for;
- 3.4.3 when, and in what circumstances (including Performance Periods), a Performance Right may become a Vested Performance Right and any other criteria to be satisfied;
- 3.4.4 the applicable Exercise Period;
- 3.4.5 the applicable Exercise Price (if any);
- 3.4.6 the applicable Performance Conditions (if any),

provided that the terms and conditions outlined in such Invitation is in accordance with the Essential Terms.

### 3.5 **Variation of Terms**

Despite anything to the contrary in these Rules, to the full extent permissible by the Listing Rules and law, the Board may from time to time vary the terms and conditions to which a Performance Right is subject to or any of them.

### 3.6 **Performance Conditions**

- 3.6.1 When granting Performance Rights the Board may make its vesting conditional on the satisfaction of a Performance Condition.
- 3.6.2 Subject to rule 5, the Board may at any time waive or change a Performance Condition in accordance with its terms or if anything happens which causes the Board reasonably to consider it appropriate to do so.

## 4. **APPLICATIONS TO PARTICIPATE**

### 4.1 **Form of Application**

An Eligible Employee who has received an Invitation and wants to apply for the Performance Rights set out in the Invitation must make an application in the manner and in such form as specified in that Invitation and in accordance with these Rules.

#### **4.2 Agreement to be bound by Rules and Constitution**

In making an application for Performance Rights, the relevant Eligible Employee agrees, and is taken to have agreed, to be bound by these Rules and by the Constitution.

#### **4.3 Acceptance Time Period**

An Eligible Employee may only accept an Invitation within the time period specified in the Invitation.

#### **4.4 No Payment**

Unless the Board determines otherwise, no payment is required to acquire a Performance Right.

#### **4.5 Applications Not Accepted**

An application under clause 4.1 will not be accepted, and no Performance Rights will be granted to the Eligible Employee in respect of that application if, at the date the Performance Rights would otherwise be granted had the application been accepted, that person:

- 4.5.1 is not an Eligible Employee;
- 4.5.2 has given their employer within the Company Group notice of his or her resignation as an Eligible Employee; or
- 4.5.3 has been given notice of dismissal from employment as an Eligible Employee or if, in the opinion of the Board, he or she has tendered his or her resignation to avoid such dismissal.

#### **4.6 Board's Determination**

The Board may determine for any reason that an application under clause 4.1 will not be accepted and is not obliged to give any reasons for its determination.

#### **4.7 Grant of Performance Rights**

Subject to rules 4.5 and 4.6, where the relevant Eligible Employee makes a valid application for Performance Rights in accordance with clause 4.1, the Company:

- 4.7.1 will grant Performance Rights to the Participant on the terms of these Rules; and
- 4.7.2 may give the Participant a certificate or statement in respect of those Performance Rights.

#### **4.8 Overriding Restrictions on Grant and Exercise**

Notwithstanding anything else in these Rules or any Invitation, a Performance Right may not be offered, granted or exercised if to do so:

- 4.8.1 would contravene the Corporations Act or the Listing Rules; or

- 4.8.2 would contravene the local laws of, or the rules or requirements of any regulatory or statutory body in, a Participant's country of residence or in the opinion of the Board compliance with those local laws, rules or requirements would be impractical or result in any unnecessary or unreasonable expense in the circumstances.

## 5. AMENDMENT OF RULES

### 5.1 Board's Powers

Subject to this rule 5, the Listing Rules and the law, the Board may, at any time, by written instrument, or by resolution of the Board, amend or add to all or any of the provisions of the Plan and these Rules (including this rule 5.1) for the operation of the Plan.

### 5.2 Restrictions on Amendments

5.2.1 Participant consent is required for any change to the Rules or terms of any Performance Rights which prejudicially affects, or otherwise reduces, the existing rights of any Participant in relation to any Performance Rights granted to that Participant prior to the date of the amendment.

5.2.2 Notwithstanding rule 5.2.1, the Board may amend the Rules and/or the terms of any Performance Rights granted under it and need not obtain Participant consent where the amendment is introduced primarily:

5.2.2.1 to benefit the administration of the Plan;

5.2.2.2 to comply with or take account of current, new, or changes to the, provisions of any proposed or existing legislation, Listing Rules, or regulatory practice or any other State, Territory or Commonwealth legal requirements governing, regulating or affecting the maintenance or operation of the Plan or like plans;

5.2.2.3 to correct any manifest error or mistake;

5.2.2.4 to obtain or maintain favourable tax, exchange control or regulatory treatment of the Company, any Associated Body Corporate or any present or future Participant or to address possible adverse tax implications for Participants generally or any member of the Company Group arising from a ruling of any relevant taxation authority, change to tax legislation (including an official announcement by any relevant taxation or government authority) or a change in interpretation of legislation by a court of competent jurisdiction or by any relevant authority; or

5.2.2.5 to enable the Company or any member of the Company Group to comply with the Corporations Act or the Listing Rules or to take advantage of any exemption or modification granted from time to time by the Australian Securities and Investments Commission in respect of employee share plans.

### **5.3 Notice**

The Board is not required to give written notice of any changes made to any Participant affected.

## **6. COMPANY'S RIGHTS NOT WAIVED**

### **6.1 Right to terminate**

The Company's right to terminate or vary the terms of employment or engagement of any Participant shall not be prejudiced in any way by the Company or any Participant participating in the Plan or anything contained in these Rules or both.

### **6.2 Damages**

Participation in the Plan and the rights or benefits of a Participant under these Rules shall not be used as grounds for granting or increasing damages in any action brought by any Participant against the Company whether in respect of any alleged wrongful dismissal or otherwise.

## **7. SUSPENSION OR TERMINATION OF THE PLAN**

### **7.1 Suspend or terminate**

The Board may suspend the operation of, or terminate, the Plan at any time from time to time, subject to such suspension or cancellation of the Plan not prejudicing the existing rights (if any) of Eligible Employees, and where the Plan is suspended or cancelled, the Company shall not make any further grants of Performance Rights under the Plan during the suspended period or after termination.

### **7.2 Period of suspension or termination**

During a period of suspension or termination the Board shall otherwise continue to administer the Plan in accordance with these Rules until all Performance Rights have vested or lapsed.

## **8. ADMINISTRATION OF THE PLAN**

### **8.1 Delegation**

8.1.1 The Plan will be administered by the Board or a committee of the Board in accordance with these Rules.

8.1.2 The Board may delegate any power or discretion which is conferred on the Board by these Rules to a committee consisting of such directors, officers, secretarial or executives or staff or other persons of the Company, or any combination of such person as the Board determines, a member of the Company Group, or a third party, for such periods and on such terms as the Board determines.

### **8.2 Procedures**

8.2.1 Subject to these Rules, the Board may make such regulations and establish such procedures for the administration and management of the Plan as it considers appropriate.

- 8.2.2 If any disagreement or dispute with respect to the interpretation of these Rules or the terms of grant of any Performance Right arises, such disagreement or dispute shall be referred to the Board and the decision of the Board shall, in the absence of manifest error, be final and binding on all parties.
- 8.2.3 The Board may from time to time require an Eligible Employee to complete and return such documents as may be required by law to be completed by that Eligible Employee, or such other documents which the Board considers should, for legal, taxation, administrative or other reasons, be completed by that Eligible Employee. If so requested, such Eligible Employee must complete and return such documents within the time period specified by the Board.

### **8.3 Covenant, Power or Exercise of Discretion**

Except as expressly provided by these Rules, the Listing Rules, or any other applicable law to the contrary, where the Rules provide for any power, act, decision, determination, interpretation, approval, opinion or resolution of the Company or the Board in relation to any matter under or in connection with these Rules, the Board is the sole and final arbiter in relation to such matters, and any power, act, decision, determination, interpretation, approval, opinion or resolution in relation to such matter will be final and will be in the absolute discretion of the Board, subject only to such discretion being exercised in the interests or for the benefit of the Company. The Board, in exercising any such discretion, is not under any fiduciary or other obligation to any person other than the Company, and is not obliged to give reasons for so doing.

## **9. GENERAL**

### **9.1 Waiver of Terms and Conditions**

Despite 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.

### **9.2 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 Associated Body Corporate in relation to the Performance Right.

### **9.3 Governing Law**

This Plan and these Rules shall in all respects be governed by and shall be construed in accordance with the laws of South Australia.

### **9.4 Severance**

If any provision in these Rules is void, voidable by any party or illegal, it shall be read down so as to be valid and enforceable or, if it cannot be so read down, the provision (or where possible, the offending words) shall be severed from these Rules without affecting the validity, legality or enforceability of the

remaining provisions (or parts of those provisions) of these Rules, which shall continue in full force and effect.

**9.5 Notices**

Notices may be given by the Company to the Participant in the manner prescribed by the Constitution for the giving of notices to members of the Company and the relevant provisions of the Constitution apply with all necessary modification to notices to Participants.

**9.6 Right to Accounts**

The Company is not obliged to give a Participant copies of any notices, circulars and other documents sent by the Company to its shareholders until that Participant becomes a shareholder by the exercise of any Vested Performance Rights.

## **SCHEDULE**

### **TERMS OF GRANT OF PERFORMANCE RIGHTS**

#### **1. ENTITLEMENT**

- 1.1 Upon the grant of Performance Rights, a certificate or an uncertified holding statement for the Performance Rights may be issued by the Company to the Participant.
- 1.2 Each Performance Right is a right of a Participant to subscribe for and be issued one fully paid Share (whether by issue or transfer, at the Board's election), subject to these Rules.
- 1.3 The Performance Conditions applicable to a Performance Right shall be as determined by the Board (in its discretion) on or before the date of the Invitation.

#### **2. Cessation of Membership**

A person ceases to be a Participant when all Shares to which the Participant is entitled to under the Plan have been issued or transferred in accordance with the Plan Rules.

#### **3. VESTING**

##### **3.1 Vesting**

An Unvested Performance Right granted under the Plan that has not lapsed under these Rules vests, and becomes a Vested Performance Right, if:

- 3.1.1 the Board, in its absolute discretion, determines that the Performance Conditions determined by the Board and set out in the Invitation made in relation to that Unvested Performance Right have been met within the Performance Period;
- 3.1.2 an Event occurs and the Board, in its absolute discretion, determines that Participant's performance is in line with the Performance Conditions applicable to those Performance Rights as assessed on pro rata basis during the period from the date of grant of those Performance Rights to the date the Event occurs, and that the Unvested Performance Right becomes a Vested Performance Right; or
- 3.1.3 the Board, in its absolute discretion, determines that an Unvested Performance Right becomes a Vested Performance Right,

and the Board gives the Participant who holds the Unvested Performance Right notice in writing that the Unvested Performance Right has become a Vested Performance Right and confirms the number of the Unvested Performance Rights held by the Participant which have become Vested Performance Rights, and that it may be exercised on and from the date the Participant receives such notice, except in the case of rule 3.1.2 of

this Schedule where no such written notice from the Board is required, in which case the Unvested Performance Right becomes a Vested Performance Right effective on the occurrence of the Event.

### **3.1.4 Event**

In making its determination under rule 3.1.2 of this Schedule, the Board may declare that the number of Unvested Performance Rights granted to a Participant which have not lapsed under these Rules that will vest.

## **3.2 Internal reconstruction, reorganisation or acquisition**

3.2.1 If there is any internal reconstruction, reorganisation or acquisition of the Company which does not involve a significant change in the identity of the ultimate shareholders of the Company, this rule 3 of this Schedule applies to any Unvested Performance Right held on the day the reconstruction takes effect.

3.2.2 The Board may declare in its sole discretion whether and to what extent Performance Rights will vest.

3.2.3 The Board may amend (or waive) any Performance Condition as it considers appropriate, subject to all applicable laws.

## **4. LAPSE OF PERFORMANCE RIGHTS**

### **4.1 Unvested Performance Rights**

Any Unvested Performance Right will immediately and automatically lapse if the Performance Conditions are not satisfied prior to its Expiry Date.

### **4.2 Unvested Performance Rights and Vested Performance Rights**

4.2.1 Any Unvested Performance Right and any Vested Performance Right that has not been exercised within the applicable Exercise Period (as may be revised in accordance with these Rules) will immediately and automatically lapse:

4.2.1.1 upon notice of resignation being given by the Participant in respect of the Participant's employment with a member of the Company Group;

4.2.1.2 subject to rule 4.3 of this Schedule, the day which is 30 days following the date the Participant ceases to be employed or engaged by a member of the Company Group for any reason other than a reason set out in rules 4.2.1.1 and 4.2.1.3 unless the Board determines otherwise;

4.2.1.3 subject to rule 5 of this Schedule, termination of the Participant's employment or engagement within the Company Group for the Participant's misconduct, fraud, dishonesty, breach of obligations or for any



other reason justifying termination without cause;  
and

4.2.1.4 at the time of the Disposal or purported Disposal (as the case may be) of the Performance Right where the Performance Right is Disposed of, or purported to have been Disposed of, in breach of rule 7 of this Schedule;

4.2.1.5 close of business on the last day of the Exercise Period, if the Performance Right is not exercised prior to that day.

4.3 Where a Participant ceases to be employed or engaged by a member of the Company Group by reason of his or her death, Total and Permanent Disablement, bona fide redundancy, or for any other reason determined by the Board, then:

4.3.1 rules 4.2.1.1 and 4.2.1.3 will not apply to that Participant's Performance Rights;

4.3.2 that Participant's Vested Performance Rights that have not been exercised will remain exercisable by that Participant's estate or legal personal representative who has been recognised by the Board as the holder of the Participant's Vested Performance Rights in accordance with rule 7.2 of this Schedule until the end of the Exercise Period applicable to those Performance Rights;

4.3.3 the Board will determine as soon as reasonably practicable after the date of the Participant's death, Total and Permanent Disablement, bona fide redundancy or otherwise cessation of employment (as applicable), how many (if any) of that Participant's Unvested Performance Rights will become Vested Performance Rights, and if any become Vested Performance Rights, and the Exercise Period applicable to those Performance Rights commences after the date of the Participant's death, Total and Permanent Disablement, bona fide redundancy or otherwise cessation of employment (as applicable) and notify the Participant's estate or legal personal representative of that determination; and

4.3.4 the balance of the Participant's Unvested Performance Rights will lapse immediately upon the Board making its determination under rule 4.3.3 of this Schedule.

#### 4.4 **Effect of Lapse**

Upon the lapse of a Performance Right under these Rules, the Company will repay to the Participant the price paid for the acquisition (if any) of the Performance Right and the Participant will have no further rights or entitlements in relation to that Performance Right.

## 5. FRAUDULENT OR DISHONEST ACTIONS

### 5.1 Fraud or dishonesty by Participant

Where in the opinion of the Board, a Participant:

5.1.1 acts fraudulently or dishonestly; or

5.1.2 is in breach of his or her obligations,

then:

5.1.3 where the Participant has exercised its Vested Performance Rights and has been issued Shares, such Shares are forfeited in accordance with rules 9.6 to 9.9 (inclusive) of this Schedule; or

5.1.4 the Board may, in its absolute discretion:

5.1.4.1 where the Participant has any Unvested Performance Rights, or any unexercised Vested Performance Rights, determine such Performance Rights of the Participant to have lapsed; and/or

5.1.4.2 where any Shares issued or transferred (as the case may be) under the Plan have been sold by the Participant, require the Participant to pay all or part of the net proceeds of that sale to the Company.

### 5.2 Fraud or Dishonesty by third party

Where in the opinion of the Board, a Participant's Unvested Performance Rights become a Vested Performance Right as a result of the fraud, dishonesty or breach of obligations of another person and, in the opinion of the Board, the Unvested Performance Rights would not have otherwise have become Vested Performance Rights, the Board may determine that the Vested Performance Rights are in fact Unvested Performance Rights and, subject to applicable laws:

5.2.1 where Shares have not been issued or transferred upon the exercise of a Vested Performance Right, reset the vesting conditions applicable to the Unvested Performance Rights; or

5.2.2 where Vested Performance Rights have been exercised by the Participant, that the Shares are forfeited by the Participant in accordance with rules 9.6 to 9.9 (inclusive) of this Schedule and may, at the discretion of the Board, reissue any number of Performance Rights to the Participant, subject to any new vesting conditions; or

5.2.3 any other treatment in relation to Performance Rights or Shares to ensure no unfair benefit is obtained by a Participant as a result of such actions of another person.

### 5.3 **Misstatement of financial statements**

Where in the opinion of the Board, a Participant's Unvested Performance Rights become a Vested Performance Right as a result of omissions or otherwise material misstatements in the Company's financial statements and in the opinion of the Board, the Unvested Performance Rights would not have otherwise have become Vested Performance Rights, the Board may determine that the Vested Performance Rights are Unvested Performance Rights and, subject to applicable laws may choose to take undertake the actions as outlined in clauses 5.2.1 to 5.2.3.

## 6. **EXERCISE OF PERFORMANCE RIGHTS**

### 6.1 **Entitlement to a Share on exercise**

Each Vested Performance Right entitles the Participant to acquire one Share (subject to any adjustment under rule 10) when exercised in accordance with this rule 6 of this Schedule.

### 6.2 **Exercise of Vested Performance Rights**

A Vested Performance Right may be exercised at any time during the Exercise Period applicable to that Performance Right, or as otherwise permitted by the Board under these Rules, by the relevant Participant:

6.2.1 lodging a notice exercising the Vested Performance Right (in the form and manner determined by, and acceptable to, the Board); and

6.2.2 making payment of the applicable Exercise Price (if any) to the Company.

### 6.3 **Minimum Number**

A Participant may only exercise their Vested Performance Rights in multiples of 1,000, with a minimum of 1,000, unless the Participant exercises all of the Vested Performance Rights he or she holds. The exercise of only some Vested Performance Rights does not affect the Participant's right to exercise other Vested Performance Rights at a later time, subject to these Rules.

### 6.4 **Issue or Transfer of Shares**

6.4.1 Upon the valid exercise of Vested Performance Rights and subject to the Corporations Act and the Listing Rules, the Company must procure the issue or transfer (at the Board's election) of the Shares the subject of an exercise of Vested Performance Rights in accordance with these Rules, directly to the relevant Participant or a Nominee of that Participant advised in writing to, and accepted by, the Company prior to the transfer or issue of the Shares (as the case may be).

6.4.2 Subject to these Rules, the Company must transfer or issue (as the case may be) the Shares under rule 6.4.1 of the Schedule in accordance with any applicable timeframes specified in the

Listing Rules and, in any event, no later than 30 days after the date of exercise of the Vested Performance Right and shall either issue a certificate, or cause a holding statement to be issued, for Shares so transferred or issued (as the case may be) within 5 Business Days after the date the Shares are issued or transferred (as the case may be).

#### **6.5 Shares Rank Equally**

Shares issued or transferred on the exercise of Vested Performance Rights will rank equally in all respects with all other Shares from the date of transfer or issue (as the case may be) of the Shares to the Participant or a Nominee of the Participant, and that Participant or Nominee will be entitled to receive any dividends that have a Record Date for determining entitlements on and from the date of transfer or issue (as the case may be) of the Shares to that Participant or Nominee (as applicable) but will not rank for any rights attaching to Shares by reference to a Record Date preceding the date of issue.

#### **6.6 Tax and Duties**

If a Participant is liable to tax, duties or other amounts on the vesting of any Performance Rights and the Company is liable to make a payment to the appropriate authorities on account of that liability, the Board may (in its discretion) reduce the number of Shares that would otherwise be issued to the Participant by such number of Shares necessary to fully offset the payment which the Company is required to make to the appropriate authorities.

### **7. DISPOSAL RESTRICTIONS ON PERFORMANCE RIGHTS**

#### **7.1 Board consent**

Subject to clause 7.2, a Participant may only Dispose of a Performance Right granted under the Plan with the consent of the Board.

#### **7.2 Death, mental incapacity or bankruptcy**

On production to the Board of documents or other evidence which the Board may require to establish to its satisfaction the entitlement of the legal personal representative or trustee in bankruptcy (as the case may be), the Board may recognise a legal personal representative of a Participant as a holder of the Participant's Performance Right in circumstances where either the Participant has died or the Participant's estate is liable to be dealt with under the laws relating to mental health or a Participant's trustee in bankruptcy in circumstances where the Participant is bankrupt.

### **8. QUOTATION OF PERFORMANCE RIGHTS AND SHARES**

Performance Rights will not be quoted on the ASX, however, if Shares are issued rather than transferred to the Participant on the exercise of Vested Performance Rights, the Company will apply as soon as reasonably convenient for official quotation of such Shares with the ASX and to each other stock exchange on which the Shares are quoted at that time.

## 9. DISPOSAL ON SHARES

### 9.1 Restriction

Subject to rule 9.2 of this Schedule, any Share acquired by a Participant on the exercise of a Vested Performance Right is subject to restriction in accordance with this rule, and must not be Disposed of by that Participant until the earlier of:

- 9.1.1 where a period is set out in the Invitation to the Participant to acquire the Performance Right, the expiration of that period;
- 9.1.2 the time the Participant is not employed by the Company or a member within the Company Group;
- 9.1.3 the Board, in its sole and absolute discretion, providing its approval that the restriction on Disposal in rule 9.1 of this Schedule is released; and
- 9.1.4 the end of two years commencing on the day the Performance Right became a Vested Performance Right.

### 9.2 Waiver of Restriction

The Board may determine, at its absolute discretion, to waive the restrictions under rule 9.1 of this Schedule if the Participant makes a written request to the Board at the same time the exercise notice is provided in accordance with rule 6.2.

### 9.3 Enforcement

The Board may make such arrangements as it considers necessary to enforce the restriction on Disposal of Shares under rule 9.1 of this Schedule and the Participant agrees and is taken to have agreed to such arrangements, including without limitation the execution of any escrow or restriction agreement in a form required by the Board.

### 9.4 Holding Locks

Without limiting rule 9.3, and subject to the Listing Rules, the Company may procure that a Holding Lock be put on any Shares that are subject to the restriction on Disposal under rule 9.1 of this Schedule.

### 9.5 Removing the restriction

As soon as reasonably practicable after the restriction on Disposal of a Share under rule 9.1 of this Schedule no longer applies, the Company must procure that any restriction on Disposing of that Share pursuant to these Rules no longer applies, including without limitation, removing any Holding Lock.

### 9.6 Risk of forfeiture

- 9.6.1 A Share issued to a Participant on the exercise of a Performance Right is issued to a Participant on the terms that it

will be forfeited upon the Participant perpetrating fraud as against the Company or the Company Group, acting dishonestly or committing a breach of the Participant's obligations to the Company or the Company Group.

9.6.2 The right of the Company to cause a Share held by a Participant to be forfeited under rule 9.6 of this Schedule extinguishes:

9.6.2.1 upon the termination of employment of the Participant other than for fraud, dishonesty or a breach of the Participant's obligations to the Company or the Company Group;

9.6.2.2 upon the sale or transfer of the Share by the Participant to a third party; or

9.6.2.3 on the day after a period of 7 years from the date of grant of the Performance Right upon the exercise of which the Share was granted.

## 9.7 **Forfeiture of Shares**

9.7.1 When a Share is forfeited under rule 9.6 of this Schedule, the Company must:

9.7.1.1 notify the Participant that the Share is forfeited; and

9.7.1.2 record the forfeiture and date of forfeiture in the register of shareholders.

9.7.2 A failure to do this does not invalidate the forfeiture.

9.7.3 The forfeiture of a Share extinguishes:

9.7.3.1 the Participant's interest in the Share; and

9.7.3.2 all claims against the Company in respect of the Share, including (without limitation) all dividends presently payable by the Company on the Share.

## 9.8 **Disposal of forfeited Share**

Subject to the Listing Rules:

9.8.1 the Participant grants to the Board an irrevocable power of attorney to sell, dispose, transfer or otherwise deal with a forfeited Share on any terms and in any way the Board may decide, with such power able to be exercised by the Board in the event that the Share is liable to be forfeited; and

9.8.2 if the Board sells, disposes, transfers or otherwise deals with a forfeited Share pursuant to rule 9.8.1 of this Schedule, then the Participant acknowledges and agrees that they are not entitled to any proceeds in respect of such dealing, and the Board and

the Company is not under any obligation to act in the interests of the Participant in respect of such dealing and the Company may retain all net proceeds (if any) of any such dealing.

#### 9.9 **Waiver by Board**

The Board may:

9.9.1 waive any of the rights of the Company under this rule 9 of this Schedule; or

9.9.2 before any sale, disposal, transfer or other dealing of a forfeited Share, declare the forfeiture void on any terms the Board decides.

### 10. **FUTURE ISSUES OF SECURITIES**

#### 10.1 **Participation**

An Unvested Performance Right does not entitle the holder to participate in any new issues of securities to holders of Shares unless before the Record Date for determining entitlements to securities under the new issue, that Unvested Performance Right has become a Vested Performance Right and has been exercised, and a Share has been issued or transferred to the Participant in respect of that Vested Performance Right.

#### 10.2 **Notice**

The Company must give to Participants who hold Vested Performance Rights, notice of any new issues of securities in which holders of Shares are entitled to participate, which notice must be given not less than 6 Business Days before the Record Date for determining entitlements to securities under the new issue.

#### 10.3 **Bonus Issues**

If:

10.3.1 the Company makes a bonus issue of Shares or other securities pro rata to holders of Shares (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment); and

10.3.2 a Vested Performance Right has not been exercised and a Share has not been issued or transferred in respect of that Vested Performance Right before the Record Date for determining entitlements under the bonus issue,

then the terms of that Vested Performance Right will be altered as follows:

10.3.3 the number of Shares to which the Participant who holds the Vested Performance Right is entitled on exercise of the Vested Performance Right will be increased by the number of Shares

that the Participant would have received if the Participant had exercised the Vested Performance Right and acquired a Share in respect of that Vested Performance Right before the Record Date for the bonus issue; and

10.3.4 the Exercise Price (if any) of the Vested Performance Right will not be altered.

#### 10.4 **Reconstruction Of Capital**

In the event of any reconstruction (including a consolidation, subdivision, reduction or return) of the issued capital of the Company prior to the vesting of any Performance Rights, the number of Shares to which a Participant is entitled on exercise of a Performance Right will be reconstructed as required by the Listing Rules in force at the time of the reconstruction and in a manner that will not result in any benefits being conferred on the Participant that are not conferred on shareholders (subject to the provisions with respect to rounding of entitlements as sanctioned by any meeting of shareholders approving the reconstruction of capital), but in all other respects the terms for the exercise of the Performance Rights will remain unchanged.

#### 10.5 **Rounding**

Before a Performance Right is exercised, all adjustment calculations are to be carried out in accordance with rule 12 of this Schedule. On the exercise by a person of a number of Performance Rights, the aggregate number of Shares acquired by that person as a result of that exercise will be rounded in accordance with rule 12 of this Schedule.

### 11. **NATURE OF RIGHTS**

- 11.1 A Participant does not have a legal or beneficial interest in any Shares by virtue of acquiring or holding a Performance Right.
- 11.2 A Participant's rights, as a result of acquiring or holding a Performance Right are purely contractual and personal, which cannot be Disposed of unless otherwise specifically provided under these Rules.
- 11.3 A Participant is not entitled to participate in or receive any dividend or other shareholder benefits in respect of a Performance Right held by the Participant until Shares have been issued or transferred (as the case may be) to the Participant as a result of the Performance Right becoming a Vested Performance Right under these Rules and the subsequent exercise of that Vested Performance Right.



## 12. CALCULATIONS

### 12.1 Force of calculations and determinations

All calculations and determinations made by the Board for the purpose of determining whether Performance Rights have become Vested Performance Rights will be final, conclusive and binding on all Participants, in the absence of manifest error.

### 12.2 Fractions

If a calculation performed in accordance with the steps set out in clauses 13 or 14 above results in a fractional number in respect of Performance Rights, the fraction will be eliminated in the following manner:

12.2.1 if the resulting fraction has a value of 0.5 or more, the fraction will be rounded up to the nearest whole number; and

12.2.2 if the resulting fraction has a value of less than 0.5, the fraction will be rounded down to the nearest whole number.

### 12.3 Notice of a determination

If the Board determines that particular Performance Rights are Vested Performance Rights, that determination will take effect on the date that the Participant who holds those Performance Rights is given notice that the Performance Rights are Vested Performance Rights, and the first day on which the Vested Performance Rights can be exercised will be the first day immediately after notice is given by the Board under this Rule.

## 13. CHANGE OF TAX RESIDENCY

If a Participant ceases to be an Australian resident for the purposes of the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth):

13.1 that Participant's Vested Performance Rights will remain exercisable by the Participant until the end of the Exercise Period applicable to those Performance Rights;

13.2 the Board will:

13.2.1 determine as soon as reasonably practicable after the Participant ceases to be an Australian resident for tax purposes how many (if any) of that Participant's Unvested Performance Rights will become Vested Performance Rights and, if any become Vested Performance Rights, the Exercise Period applicable to those Performance Rights commencing after the Participant ceases to be an Australian resident for tax purposes; and

13.2.2 notify the Participant of that determination in accordance with rule 12.3 of this Schedule; and

13.3 the balance of the Participant's Unvested Performance Rights will lapse immediately after the determination in rule 13.2 of this Schedule is made.

#### 14. PERFORMANCE RIGHTS REGISTER

- 14.1 The Company must open and maintain a register in respect of each Participant which contains at least the following information:
  - 14.1.1 details of the Invitation in respect of the person;
  - 14.1.2 the date on which the relevant person became a Participant;
  - 14.1.3 the performance criteria and Performance Periods applicable to the relevant person;
  - 14.1.4 the number of Performance Rights that the relevant person may become entitled to apply for;
  - 14.1.5 the number of Performance Rights (if any) which the relevant person has been granted and the date of each grant (if more than one);
  - 14.1.6 the time when a Performance Right that has been granted to the relevant person may become a Vested Performance Right and any relevant criteria for that to occur;
  - 14.1.7 the Exercise Period applicable to that Performance Right (as may be revised in accordance with these Rules);
  - 14.1.8 the Exercise Price (if any) applicable to the Performance Right; and
  - 14.1.9 any other related information which the Board considers appropriate to include in the register.
- 14.2 Each Participant may request a summary of his or her record with respect to the Plan in the register by sending a notice to the Company Secretary during normal business hours. That summary will be provided to the requesting Participant free of charge within a reasonable time of receiving that request.