

**E79 GOLD MINES LIMITED  
(ACN 124 782 038)**

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**EMPLOYEE INCENTIVE PLAN**

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## 1. DEFINED TERMS AND INTERPRETATION

### 1.1 Definitions

In these Rules, unless the context otherwise requires, the following terms and expressions will have the following meanings:

**5% Limit** has the meaning as set out in clause 4.1(a).

**Acceptance Date** means the date by which acceptance of an offer of an Award must be notified by the Eligible Employee to the Company as set out in the Invitation Letter.

**Acceptance Form** means the Acceptance Form by which an Eligible Employee or Nominated Party (as applicable) accepts an Invitation, in substantially the same form as set out in Schedule 2 or as otherwise approved by the Company from time to time.

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

- (a) the Corporations Act;
- (b) the Listing Rules;
- (c) the Constitution;
- (d) the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth);
- (e) any relevant practice note, policy statement, regulatory guide, class order, declaration, guideline, policy, procedure, ruling, judicial interpretation or other guidance note made to clarify, expand or amend (a), (b), or (d) above; and
- (f) any other legal requirement (including, without limitation, the rules of the general law, including common law and equity, and any judgment, order, decree, declaration or ruling of a court of competent jurisdiction or government agency binding on a person or the assets of that person) that applies to the Plan; and
- (g) in respect of acquisition or disposals of any Shares, any formal policy relating to dealings in Shares adopted by the Board from time to time, including the Share Trading Policy.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means the ASX Limited (ABN 98 008 624 691) trading as the Australian Securities Exchange.

**Award** means:

- (a) an Option; and/or
- (b) an Incentive Share; and/or
- (c) a Performance Right.

**Bad Leaver** means a Participant who ceases employment, engagement or office with any Group Company in any of the following circumstances:

- (a) the Participant's employment or engagement is terminated, or the Participant is dismissed from office, due to:
  - (i) serious and wilful misconduct;
  - (ii) material breach of the terms of any contract of employment, engagement or office entered into by the Company (or another Group Company) and the Participant;
  - (iii) gross negligence; or
  - (iv) other conduct justifying termination of employment, engagement or office without notice either under the Participant's contract of employment, engagement or office, or at common law;
- (b) the Participant ceases his or her employment, engagement or office for any reason and commences employment, engagement or office, or otherwise acts, in breach of any post-termination restrictions contained in his or her contract of employment, engagement or office entered into by the relevant Group Company and the Participant; or
- (c) the Participant is ineligible to hold his or her office for the purposes of Part 2D.6 of the Corporations Act.

**Blackout Period** means a period when the Participant is prohibited from trading in the Company's securities pursuant to the Company's written policies then applicable.

**Board** means the board of directors of the Company, a committee appointed by the board of directors of the Company as constituted from time to time, or any person who is provided with delegated authority by the board from time to time.

**Business Day** means a day on which banks are open for general banking business in Western Australia, excluding Saturdays, Sundays and public holidays in Western Australia.

**Buy-Back** means the purchase by the Company of Awards prior to their exercise, or the buy-back by the Company of Plan Shares, pursuant to clause 17.

**Certificate** means the certificate issued by the Company to a Participant in respect of an Award.

**Change of Control Event** occurs where:

- (a) an offer is made for Shares pursuant to a takeover bid under Chapter 6 of the Corporations Act and is, or is declared, unconditional; or
- (b) the Court sanctions under Part 5.1 of the Corporations Act a compromise or arrangement relating to the Company or a compromise or arrangement proposed for the purposes of or in connection with a scheme for the reconstruction of the Company or its amalgamation with any other company or companies; or

- (c) any other merger, consolidation or amalgamation involving the Company occurs which results in the holders of Shares immediately prior to the merger, consolidation or amalgamation being entitled to 50 per cent or less of the voting shares in the body corporate resulting from the merger, consolidation or amalgamation; or
- (d) any Group Company or Group Companies enter into agreements to sell the main business undertaking or the principal assets (whether or not in the form of shares in a Group Company) of the Group to a person, or a number of persons, none of which are Group Companies and those agreements become unconditional; or
- (e) the Board determines in its reasonable opinion, control of the Company has or is likely to change or pass to one or more persons, none of which are Group Companies.

**Company** means E79 Gold Mines Limited (ACN 124 782 038).

**Constitution** means the constitution of the Company, as amended from time to time.

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

**Director** means a director of any Group Company.

**Eligible Employee** means:

- (a) a Director (whether executive or non-executive) of any Group Company;
- (b) a full or part time employee of any Group Company;
- (c) a casual employee or contractor of a Group Company to the extent permitted by the Class Order; or
- (d) a prospective participant, being a person to whom the Invitation is made but who can only accept the Invitation if an arrangement has been entered into that will result in the person becoming a Participant under clauses (a), (b) or (c) above.

**Employee** means any full-time or part-time employee of any Group Company.

**Exercise Conditions** means any criteria, requirements or conditions, as determined by the Board or under these Rules, which must be met (notwithstanding the satisfaction of any Vesting Conditions and/or Performance Hurdles) prior to a Participant being entitled to exercise vested Awards in accordance with clause 7 or 8.

**Exercise Period** means the period during which a vested Option or vested Performance Right may be exercised, as set out in clause 8.1.

**Exercise Price** means the exercise price payable by a Participant to acquire a Share upon the exercise of an Option, as specified by the Board in the Invitation Letter, and determined by the Board in its sole and absolute discretion.

**Expiry Date** means the earlier of:

- (a) the date 15 years from the Grant Date of any Awards; or

- (b) any other date determined by the Board and as specified in the Invitation, after which the Awards lapse and may no longer be exercised.

**Good Leaver** means a Participant who ceases employment, engagement or office with any Group Company and who is not a Bad Leaver, and includes where a Participant's employment, engagement or office ceases due to death, permanent incapacity, redundancy, resignation, retirement or any other reason the Board determines in its sole and absolute discretion.

**Grant Date** means the date on which Awards are granted to a Participant and specified in the Invitation Letter.

**Group** means the Company and its Related Bodies Corporate and Group Company means any one of them.

**Incentive Share** means a Share issued to a Participant on the terms set out in the Plan subject to the satisfaction of any Vesting Conditions and/or Performance Hurdles.

**Invitation** means an invitation to an Eligible Employee to apply for the grant of Awards under these Rules.

**Invitation Letter** means a letter from the Company to an Eligible Employee, which contains the Invitation, in substantially the same form as set out in Schedule 1 or as otherwise approved by the Company from time to time.

**Issue Price** means the price at which the Company offers to issue a Plan Share to an Eligible Employee in accordance with clause 5.8(c).

**Listing Rules** means the listing rules, market rules or operating rules of a financial market in respect of which the Company's shares are quoted or are the subject of an application for quotation, including but not limited to the official listing rules of the ASX.

**Market Value** means the value of an Award or of a Plan Share as determined by:

- (a) in relation to an Award, a valuation methodology approved by the Board; or
- (b) in relation to Plan Shares, the volume weighted average trading price (**VWAP**) of Shares sold on the ASX over the last 5 trading days immediately before the relevant date.

**Nominated Party** means, in respect of an Eligible Employee:

- (a) that person's spouse;
- (b) that person's biological or legally adopted child of at least 18 years of age;
- (c) a trustee or trustees of a trust set up wholly for the benefit of one or more Eligible Employees or a person mentioned in sub-clauses (a) or (b); or
- (d) a company in which all of the issued Shares are beneficially held by, and all of the voting rights are beneficially held by:
  - (i) the Eligible Employee; and/or



- (ii) a person or persons mentioned in sub-clauses (a), (b) or (c) above.

**Notice of Exercise** means a notice in the form determined by the Board from time to time.

**Option** means an option granted to a Participant under this Plan to subscribe for and/or acquire (as determined by the Board in its sole and absolute discretion) one Share on the terms of the Plan and subject to the satisfaction of any Vesting Conditions, Performance Hurdles and/or Exercise Conditions and payment of the relevant Exercise Price.

**Optionholder** means a holder of an Option.

**Participant** means an Eligible Employee who has been offered Awards and who has returned a corresponding written confirmation to the Company that has been accepted by the Company pursuant to these Rules.

**Performance Hurdles** means any conditions relating to the performance of the Group (and the manner in which those conditions will be tested) for the purposes of determining the number of Awards granted to a Participant which may be exercised, as specified in the Invitation Letter and determined by the Board in its sole and absolute discretion.

**Performance Period** means the period set out in the Invitation Letter and determined by the Board in its sole and absolute discretion for the purpose of determining the extent (if any) to which the Performance Hurdles have been met.

**Performance Right** means an entitlement of a Participant granted under this Plan to subscribe for and/or acquire (as determined by the Board in its sole and absolute discretion) one Share on the terms set out in the Plan subject to the satisfaction of any Vesting Conditions, Performance Hurdles and/or Exercise Conditions. For the avoidance of doubt, no consideration is payable for the exercise of a right to subscribe for and/or acquire a Share pursuant to the Performance Right.

**Plan** means the E79 Gold Mines Limited Employee Incentive Plan established and operated in accordance with these Rules.

**Plan Share** means any Share issued to a Participant:

- (a) in respect of which the Participant exercised an Option;
- (b) in respect of being issued an Incentive Share; or
- (c) upon exercise of a Performance Right.

**Related Body Corporate** has the meaning given in section 9 of the Corporations Act.

**Restriction Condition** means a condition in accordance with section 14.1 and as set out in the Invitation that must be satisfied (unless waived by the Board in its absolute discretion) before the Plan Shares to which the condition applies can be sold, transferred, assigned, charged or otherwise encumbered.

**Restriction Period** means, in relation to a Share, Plan Share or Option, the period commencing on the date of issue of the Share, Plan Share or Option and ending

on the date all Restriction Conditions that apply to that Share, Plan Share or Option (if any) are satisfied or waived by the Board.

**Rules** means these rules in respect of the operation of the Plan, as amended from time to time.

**Security Interest** means a mortgage, charge, pledge, lien, encumbrance or other third party interest of any nature.

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

**Share Payment** means, in respect of a Participant, an amount equal to the issue price (as determined by the Board) multiplied by the number of Shares or Plan Shares accepted by the Participant in their Acceptance Form.

**Share Trading Policy** means any Company share trading policy, as amended from time to time.

**Shareholder** means a holder of a Share.

**Shareholder Approval** means any prior consent or affirming resolution that needs to be obtained from Shareholders of the Company before an action is taken or determination made under these Rules.

**Test Date** means, in relation to an Award, the date at which Performance Hurdles are to be measured to determine whether that Award becomes vested, as set out in the Invitation Letter and determined by the Board in its sole and absolute discretion.

**Term** means the period commencing on the Grant Date and ending on the Expiry Date (inclusive).

**Vesting Conditions** means any time based criteria, requirements or conditions (as specified in the Invitation Letter and determined by the Board in its sole and absolute discretion) which must be met prior to Awards vesting in a Participant, which the Board may throughout the course of the period between the grant of an Award and its vesting waive or accelerate as the Board considers reasonably appropriate.

**Vesting Notification** means a notice to a Participant informing the Participant that his or her Options have vested and are exercisable, and/or that his or her Performance Rights have vested and are either exercisable, or will be automatically exercised.

**VWAP** has the meaning given to such term in the definition of Market Value.

## 1.2 Interpretation

In these Rules the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of these Rules;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;

- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
  - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
  - (ii) a document includes all amendments or supplements to that document;
  - (iii) a clause is a reference to a clause of these Rules;
  - (iv) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
  - (v) an agreement other than these Rules includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
  - (vi) a monetary amount is in Australian dollars;
- (g) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day; and
- (h) in determining the time of day, where relevant to these Rules, the relevant time of day is:
  - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or
  - (ii) for any other purpose under these Rules, the time of day in the place where the party required to perform an obligation is located.

### **1.3 Applicable Laws**

These Rules, the offering and granting of any Awards or Plan Shares and the rights attaching to or interests in the Awards or Plan Shares will at all times be subject to all Applicable Laws.

### **1.4 Rounding**

Where any calculation or adjustment to be made pursuant to these Rules produces a fraction of a cent or a fraction of an Award or Plan Share, the fraction will be eliminated by rounding to the nearest whole number.

## 1.5 Constitution

The entitlements of Eligible Employees and Participants under these Rules are subject to the Constitution. In the event of any inconsistency between these Rules and the Constitution, the terms of the Constitution will prevail.

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## 2. PURPOSE

The purpose of the Plan is to:

- (a) assist in the reward, retention and motivation of Eligible Employees;
- (b) link the reward of Eligible Employees to performance and the creation of Shareholder value;
- (c) align the interests of Eligible Employees more closely with the interests of Shareholders by providing an opportunity for Eligible Employees to receive an equity interest in the form of Awards;
- (d) provide Eligible Employees with the opportunity to share in any future growth in value of the Company; and
- (e) provide greater incentive for Eligible Employees to focus on the Company's longer term goals.

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## 3. COMMENCEMENT AND TERM

- (a) The Plan will commence on a date determined by resolution of the Board. If the date of commencement is after ASX Listing, and where Shareholder Approval is required under an applicable Listing Rule, Awards shall not be granted until such Shareholder Approval is obtained.
- (b) The Board may terminate the Plan at any time. Termination shall not affect the rights or obligations of a Participant or the Company which have arisen under the Plan before the date of termination and the provisions of the Plan relating to a Participant's Awards shall survive termination of the Plan until fully satisfied and discharged.

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## 4. MAXIMUM AWARD ALLOCATION

### 4.1 Maximum limit

- (a) The number of Plan Shares to be received on the exercise of the Awards the subject of an Invitation, when aggregated with:
  - (i) the number of Plan Shares which would be issued, were each outstanding offer made or Award granted pursuant to the Plan or any other incentive plan of a Group Company to be accepted or exercised; and
  - (ii) the number of Plan Shares issued during the previous 5 years pursuant to the Plan or any other incentive plan of a Group Company,but disregarding any offer made, or Awards granted or Plan Shares issued by way of or as a result of:

- (iii) an offer to a person situated at the time of receipt of the offer outside Australia;
- (iv) an offer that did not need disclosure to investors because of section 708 of the Corporations Act;
- (v) an offer that did not require the giving of a Product Disclosure Statement because of section 1012D; or
- (vi) an offer made under a Disclosure Document or Product Disclosure Statement,

must not exceed 5% of the total number of issued Shares at the time of the grant of the Awards (**5% Limit**).

- (b) The 5% Limit shall be subject to adjustment or increase pursuant to the provisions of clause 16.1 or as may otherwise be permitted by applicable law and the applicable rules of each stock exchange on which the Shares are then listed or quoted for trading.
- (c) Where an Award lapses without being exercised, the Plan Shares which would otherwise have been received on the exercise of the Award are ignored when calculating the limits in this clause.

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## **5. ELIGIBILITY AND GRANT**

### **5.1 Eligibility**

The Board may from time to time in its sole and absolute discretion determine that an Eligible Employee may participate in the Plan.

### **5.2 Invitation**

- (a) Following determination that an Eligible Employee may participate in the Plan, the Board may at any time and from time to time make an Invitation to the Eligible Employee.
- (b) Subject to clause 6, the manner, form, content, timing and frequency of an Invitation Letter will be as determined by the Board in its sole and absolute discretion.

### **5.3 Acceptance**

- (a) Subject to clause 5.3(b), an Eligible Employee may accept an Invitation of an Award made by the Company in whole or in part by signing and returning the Acceptance Form to the Company no later than the Acceptance Date together with payment in full of the Share Payment (if any) for those Awards.
- (b) If written confirmation is not received prior to the Acceptance Date, the Board may nevertheless in its sole and absolute discretion agree to permit such Eligible Employee to participate.

### **5.4 Company's right to reject**

- (a) The Company may accept or reject any Acceptance Form in its absolute discretion.

- (b) Before accepting or rejecting the Acceptance Form, the Company may require the Eligible Employee to provide any information that the Board requests concerning the person's entitlement to lodge an Acceptance Form under this Plan.
- (c) The Company must promptly notify an Eligible Employee if an Acceptance Form has been rejected, in whole or in part and must promptly refund any Share Payment paid by the Applicant to the extent an Acceptance Form is rejected.

#### **5.5 Nominated Party**

- (a) The Board may, in its sole and absolute discretion, determine that an Eligible Employee to whom an Invitation is made may give notice that they would prefer such Invitation be made to a Nominated Party.
- (b) The Board may in its sole and absolute discretion determine whether it will make the Invitation to the Nominated Party and on what conditions it will agree to do so.

#### **5.6 Multiple Invitations**

Unless otherwise determined by the Board in its sole and absolute discretion, the Board may grant any number of Awards to Eligible Employees, as set out in any Invitation Letter, notwithstanding that a grant or grants may have previously been made to any Eligible Employee.

#### **5.7 Participation**

Following receipt of a written confirmation and subject to clause 5.4, and provided that the Eligible Employee is then still an Eligible Employee of a Group Company, the Eligible Employee will be entitled to participate in the Plan and will be bound by these Rules.

#### **5.8 Grant**

- (a) On the Grant Date, the Company will grant to the relevant Eligible Employee the number of Awards as set out in the Invitation and issue the Participant a notice confirming the grant of the Awards together with a Certificate.
- (b) An Eligible Employee will not pay anything for the grant of any Options or Performance Rights.
- (c) The Board will determine, at its absolute discretion, the issue price of any Incentive Shares granted to the Eligible Employee and may be nil.

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### **6. TERMS OF AWARDS**

#### **6.1 Board determination**

- (a) The terms and conditions of Awards offered or granted under these Rules to each Eligible Employee will be set out in an Invitation Letter delivered to the Eligible Employee and determined by the Board in its sole and absolute discretion and must include as a minimum:
  - (i) the date of the Invitation;
  - (ii) the Acceptance Date;

- (iii) either the full terms or a summary of the terms of this Plan;
  - (iv) an explanation of how an Eligible Employee could, from time to time, ascertain the market price of the underlying Plan Shares to which the Awards relate in Australian dollars;
  - (v) the Issue Price of the Plan Shares in Australian dollars or, where the Issue Price is to be worked out in the future under a formula, an explanation of how an Eligible Employee could calculate the Issue Price of the Plan Shares in Australian dollars were that formula applied at the date of the offer;
  - (vi) general information about the risks of acquiring and holding an Award being offered under this Plan;
  - (vii) the name of the Eligible Employee to whom the Invitation is made;
  - (viii) the number and type of Award(s) which are capable of becoming exercisable if the Vesting Conditions (if any), the Performance Hurdles (if any), and/or Exercise Conditions (if any) are met;
  - (ix) the Vesting Conditions (if any), the Performance Hurdles and Performance Period (if any), the Test Dates (if any) and/or Exercise Conditions (if any);
  - (x) the Grant Date;
  - (xi) in the case of an Option, the Exercise Price;
  - (xii) in the case of an Option, the Exercise Period;
  - (xiii) the Term and Expiry Date (if any);
  - (xiv) any disposal or other Restriction Condition/s attaching to the Awards and/or Plan Shares;
  - (xv) any rights attaching to the Awards and/or Plan Shares;
  - (xvi) agreement with the Eligible Employee of the Company to supply details to third parties where required by law; and
  - (xvii) any other information required by law or the Listing Rules or considered by the Board to be relevant.
- (b) Invitations may be made by the Board on a differential basis to Eligible Employees, different classes of Eligible Employees or to Eligible Employees within the same class, as the case may be.

## 6.2 Award entitlements

Subject to the Board determining otherwise prior to an Invitation, and subject to these Rules:

- (a) each Option entitles (subject to the satisfaction of any Vesting Conditions, Performance Hurdles and/or Exercise Conditions) the Participant holding

the Option to subscribe for, or to be transferred in accordance with clause 8, one Plan Share;

- (b) each Performance Right entitles (subject to the satisfaction of any Vesting Conditions, Performance Hurdles and/or Exercise Conditions) the Participant holding the Performance Right to receive, in accordance with clause 7, one Plan Share;
- (c) any Incentive Share issued pursuant to the Plan ranks pari passu with all existing Shares from the date of the award; and
- (d) any Plan Share issued pursuant to an exercise of an Award will rank pari passu with all existing Shares from the date of issue.

### **6.3 Method of delivery of Plan Shares**

Upon exercise of Awards, Plan Shares may be delivered to the Participant in the following ways, as determined by the Board from time to time in its sole and absolute discretion by:

- (a) way of allotment and issue of Shares;
- (b) acquiring Shares from a third party; or
- (c) any combination of the methods set out in subclauses (a) or (b).

### **6.4 Participant rights – Options and Performance Rights**

A Participant who holds an Option or Performance Right is not entitled to:

- (a) notice of, or to vote or attend at, a meeting of the Shareholders of the Company; or
- (b) receive any dividends declared by the Company and participate in any dividend reinvestment plan operated by the Company,

unless and until any Award is exercised and the Participant holds Plan Shares as a result thereof.

### **6.5 Participant rights – Plan Shares**

A Participant who holds a Plan Share is entitled to:

- (a) notice of, or to vote or attend at, a meeting of the Shareholders of the Company; and
- (b) receive any dividends declared by the Company and take part in any dividend reinvestment plan operated by the Company.

### **6.6 No Adjustment of Awards to reflect payment of dividends and distributions**

No adjustment will be made to the number of Performance Rights or Options granted to a Participant under the Plan if dividends or other distributions are paid on Shares before Options are exercised or the Performance Rights vest.

### **6.7 Conditions for vesting and exercise**

- (a) The Board will determine prior to an Invitation being made, and specify in the Invitation Letter, any Vesting Conditions, Performance Hurdles and



Performance Period, and/or Exercise Conditions attaching to the Awards. For greater certainty, the Board may apply different Vesting Conditions, Performance Hurdles or Performance Periods to one or more portions of any Award.

- (b) Awards will only vest if any applicable Vesting Conditions and/or Performance Hurdles have been satisfied, waived by the Board, or are deemed to have been satisfied under these Rules.
- (c) Vested Awards will only be exercisable when any applicable Exercise Conditions have been satisfied, waived by the Board, or are deemed to have been satisfied under these Rules.

#### **6.8 No transfer of Awards**

Awards granted under this Plan may not be assigned, transferred, novated, encumbered with a Security Interest in or over them, or otherwise disposed of by a Participant, other than in accordance with clause 5.5, unless:

- (a) the prior consent of the Board is obtained, which consent may impose such terms and conditions on such assignment, transfer, novation, encumbrance or disposal as the Board sees fit in its sole and absolute discretion; or
- (b) such assignment or transfer occurs by force of law upon the death of a Participant to the Participant's legal personal representative or upon bankruptcy to the Participant's trustee in bankruptcy.

#### **6.9 New issues**

An Option and Performance Right does not confer on a Participant the right to participate in new issues of Shares by the Company, including by way of bonus issue, rights issue or otherwise.

#### **6.10 Awards to be registered**

Awards will be registered in the appropriate register of the Company to facilitate the efficient management and administration of the Plan and to comply with regulatory reporting requirements.

#### **6.11 Deferred Taxation**

Subdivision 83A-C of the Income Tax Assessment Act 1997 applies to the Plan unless the Invitation provides otherwise.

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### **7. EXERCISE AND SETTLEMENT OF PERFORMANCE RIGHTS**

#### **7.1 Vesting Notification**

- (a) Performance Rights shall vest if and when any Vesting Conditions, Performance Hurdles and/or Exercise Conditions applicable to a Participant's Performance Rights have been satisfied, have been waived by the Board, or are deemed to have been satisfied under these Rules, and where the Company has issued a Vesting Notification to the Participant informing them that some or all of their Performance Rights have vested and will be exercised automatically.

- (b) The Board must notify a Participant in writing within 10 Business Days of becoming aware that any Vesting Condition attaching to a Performance Right has been satisfied.

## **7.2 Method of exercise of Performance Rights**

At the sole and absolute discretion of the Board, following the issuing of a Vesting Notification to a Participant, a vested Performance Right must be exercised by the Participant within the Exercise Period, and by delivery to the registered office of the Company or such other address as determined by the Board of:

- (a) a signed Notice of Exercise; and
- (b) the Certificate, or documentary evidence satisfactory to the Board that the Certificate was lost or destroyed.

## **7.3 Actions on exercise**

On completion of the exercise of Performance Rights:

- (a) the Performance Rights will automatically lapse;
- (b) the Company will, within ten (10) Business Days, allot and issue, or transfer, the number of Plan Shares for which the Participant is entitled to subscribe for or acquire through the exercise of the Performance Rights; and
- (c) the Company will issue a substitute Certificate for any remaining Performance Rights.

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## **8. EXERCISE OF OPTIONS**

### **8.1 Exercise Period for Options**

The Exercise Period for Options will commence when the Options have vested and any Exercise Conditions have been satisfied, waived by the Board, or are deemed to have been satisfied under these Rules, and will end on the Expiry Date, subject to these Rules.

### **8.2 Vesting Notification**

Options are deemed to have vested if and when any Vesting Conditions, Performance Hurdles and/or Exercise Conditions applicable to a Participant's Options have been satisfied, have been waived by the Board, or are deemed to have been satisfied under these Rules, and where the Company has issued a Vesting Notification to the Participant informing them that some or all their Options have vested and are exercisable.

### **8.3 Method of exercise of Options**

At the sole and absolute discretion of the Board, following the issuing of a Vesting Notification to a Participant, a vested Option must be exercised by the Participant within the Exercise Period, and by delivery to the registered office of the Company or such other address as determined by the Board of:

- (a) a signed Notice of Exercise;

- (b) a cheque or cash or such other form of payment determined by the Board in its sole and absolute discretion as satisfactory for the amount of the Exercise Price; and
- (c) the Certificate, or documentary evidence satisfactory to the Board that the Certificate was lost or destroyed.

#### **8.4 Minimum exercise of Options**

Options must be exercised in multiples of 1,000 unless fewer than 1,000 Options are held by a Participant, or the Board otherwise agrees.

#### **8.5 No issue unless cleared funds**

Where a cheque is presented as payment of the Exercise Price on the exercise of Options, the Company will not, unless determined otherwise by the Board, allot and issue, or transfer, Plan Shares until after any cheque delivered in payment of the Exercise Price has been cleared by the banking system.

#### **8.6 Actions on exercise of Options**

On completion of the exercise of Options:

- (a) the Options will automatically lapse;
- (b) the Company will, within ten (10) Business Days, allot and issue, or transfer, the number of Plan Shares for which the Participant is entitled to subscribe for or acquire through the exercise of the Options; and
- (c) the Company will issue a substitute Certificate for any remaining Options.

#### **8.7 Cashless Exercise Facility**

- (a) If an Optionholder wishes to exercise some or all of the Optionholder's Options, it may do so by either paying an amount equal to the Exercise Price in accordance with clause 8.3, or subject to Board approval at that time, by electing to use the cashless exercise facility provided for by this clause 8.7 (**Cashless Exercise Facility**).
- (b) The Cashless Exercise Facility entitles an Optionholder to set-off the Exercise Price against the number of Shares which the Optionholder is entitled to receive upon exercise of the Optionholder's Options. By using the Cashless Exercise Facility, the Optionholder will receive Shares to the value of the surplus after the Exercise Price has been set-off.
- (c) If an Optionholder elects to use the Cashless Exercise Facility, the Optionholder will only be issued that number of Shares (rounded down to the nearest whole number) as are equal in value to the difference between the Exercise Price otherwise payable for the Options and the then market value of the Shares at the time of exercise (determined as the weighted average closing price of Shares on the ASX over the 5 trading days prior to exercise).
- (d) For example, if an Optionholder holds 1,000 Options each with an Exercise Price of \$0.27, and they elect to exercise all of their Options in accordance with clause 8.3, they would pay the Company \$270 and receive 1,000 Shares. If however the Optionholder elects to use the Cashless Exercise Facility and the Company's Share price is, for example,

\$0.40, the Optionholder will pay no cash and receive 325 Shares (being  $(1,000 \times (\$0.40 - \$0.27)) / \$0.40 = 325$ ).

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## **9. LEAVERS**

### **9.1 Good Leaver – Options and Performance Rights**

Where a Participant who holds an Option and/or Performance Right becomes a Good Leaver, unless the Board in its sole and absolute discretion determines otherwise:

- (a) unvested Options and Performance Rights will lapse in accordance with clause 12; and
- (b) vested Options that have not been exercised will continue in force and remain exercisable, subject to the satisfaction of any applicable Exercise Conditions, for a period of 3 months from the date of termination of the employment of the Good Leaver.

### **9.2 Good leaver – Plan Shares**

Notwithstanding clauses 14 and 17, where a participant becomes a Good Leaver the Board may elect to waive any of the Restriction Conditions applying to the Participant's Plan Shares and permit the Participant (or their personal legal representative) to retain, sell, transfer, assign, mortgage, charge or otherwise encumber the Participant's Plan Shares.

### **9.3 Bad Leaver**

Where a Participant who holds an Option and/or Performance Right and/or Incentive Share becomes a Bad Leaver:

- (a) unvested Awards will lapse in accordance with clause 12; and
- (b) subject to the discretion of the Board, vested Options and vested Performance Rights that have not been exercised will lapse on the date of the cessation of employment, engagement or office of such Participant in accordance with clause 12.

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## **10. BREACH, FRAUD OR DISHONESTY**

Where, in the reasonable opinion of the Board, a Participant:

- (a) acts fraudulently or dishonestly; or
- (b) is in material breach of his or her duties or obligations to any Group Company,

then the Board may in its sole and absolute discretion determine that all unvested Awards and vested Options of the Participant will lapse.

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## **11. AWARDS MAY BE CANCELLED IF PARTICIPANT CONSENTS**

Notwithstanding any other provisions of these Rules, and subject to the Listing Rules, if a Participant and the Board agree in writing that some or all of the unvested Awards or vested Options granted to that Participant may be cancelled on a specified date or on the occurrence of a particular event, then the Board

may cancel those Awards on the relevant date or on the occurrence of the particular event (as the case may be).

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## **12. LAPSE OF AWARDS**

### **12.1 Lapsing events**

Subject to clause 15(b), unless the Board determines otherwise in its sole and absolute discretion, unvested Awards will lapse on the earlier of:

- (a) the cessation of employment, engagement or office of a Participant;
- (b) the day the Board makes a determination that the Awards lapse in accordance with clause 10;
- (c) the day on which any applicable Vesting Conditions and/or Performance Hurdles are not achieved by the relevant time;
- (d) the day on which the Board determines in its sole and absolute discretion that any applicable Vesting Conditions, Performance Hurdles and/or Exercise Conditions have not been met and cannot be met prior to the Expiry Date; or
- (e) the Expiry Date.

Notwithstanding the foregoing, if the Term of an Option held by any Participant would otherwise expire during, or within 10 Business Days of the expiration of a Blackout Period applicable to such Participant, then the term of such Option shall be extended to the close of business on the 10th Business Day following the expiration of the Blackout Period.

### **12.2 What happens on lapsing**

Where a Participant's Awards have lapsed under clause 12.1, the Company will:

- (a) notify the Participant that the Awards held by them have lapsed;
- (b) arrange for the Participant or the Participant's agent or attorney to sign any transfer documents required to transfer or otherwise deal with the Awards; and
- (c) not be liable for any damages or other amounts to the Participant in respect of the Awards.

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## **13. LISTING**

### **13.1 Options and Performance Rights**

Unless determined otherwise by the Board in its sole and absolute discretion, Options and Performance Rights granted under the Plan will not be quoted on any stock exchange.

### **13.2 Plan Shares**

While the Company remains listed on the ASX, the Company will:

- (a) apply for the official quotation of Plan Shares on the ASX within (10) Business Days of the Plan Shares being allotted to a Participant; and

- (b) issue, where required to enable Plan Shares to be freely tradeable on the ASX from the date of issue, a cleansing statement under Section 708A(5) of the Corporations Act at the time Plan Shares are issued. Where a cleansing statement is required, but cannot be issued, the Company will have a prospectus available in relation to the Plan Shares which complies with the requirements of the Corporations Act.

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## **14. DISPOSAL RESTRICTIONS**

### **14.1 Board determines**

The Board may, in its sole and absolute discretion, determine prior to an Invitation being made, whether there will be any Restriction Conditions imposed in relation to a Plan Share.

### **14.2 No transfer**

Plan Shares or any beneficial or legal interest in Awards may not be transferred, encumbered or otherwise disposed of, or have a Security Interest granted over them, by a Participant unless:

- (a) all Restriction Conditions (if any) have been satisfied or waived by the Board;
- (b) the prior consent of the Board is obtained which consent may impose such reasonable terms and conditions on such transfer, encumbrance or disposal as the Board sees fit; or
- (c) by force of law upon death to the Participant's legal personal representative or upon bankruptcy to the Participant's trustee in bankruptcy.

### **14.3 Company actions**

The Company may do such things and enter into such arrangements with the Company's share registry or otherwise as it considers necessary to enforce the Restriction Conditions. Participants will be bound by any action by the Company under this clause 14.3.

### **14.4 Overriding restrictions on dealing with Plan Shares**

Plan Shares must not be dealt with under this Plan if to do so would contravene Applicable Laws.

### **14.5 Plan Shares entitlements**

For the avoidance of doubt, the imposition of a Restriction Condition on the Plan Shares held by a Participant pursuant to clause 14.1 will not affect the Participant's entitlement to receive a notice of, or to vote or attend at, a meeting of the members of the Company or Shareholders, and to receive any dividends declared by the Company during the relevant Restriction Period.

### **14.6 Company's Share Trading Policy**

At all times Participants must comply with any Securities Trading Policy.

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**15. CHANGE OF CONTROL EVENT**

- (a) On the occurrence of a Change of Control Event:
- (i) all unvested Options will vest and become exercisable in accordance with clause 15(b); and
  - (ii) all unvested Performance Rights will vest and become exercisable provided that where an unvested Performance Right has a Vesting Condition based on a Share price hurdle, that Performance Right will only vest where the consideration per Share for the Change in Control Event is at least equivalent to the Share price hurdle,

with such vesting deemed to have taken place immediately prior to the effective date of the Change of Control Event, regardless of whether or not the employment, engagement or office of the Participant is terminated or ceases in connection with the Change of Control Event.

- (b) The Company shall give written notice of any Change of Control Event to each Participant. Upon the giving of any such notice:
- (i) a Participant may exercise any of their vested Options or Performance Rights within the Exercise Period by delivery to the registered office of the Company or such other address as determined by the Board of:
    - (A) a signed Notice of Exercise;
    - (B) a cheque or cash or such other form of payment determined by the Board in its sole and absolute discretion as satisfactory for the amount of the Exercise Price (if any); and
    - (C) the Certificate, or documentary evidence satisfactory to the Board that the Certificate was lost or destroyed; and
  - (ii) all unvested Performance Rights that do not automatically vest under clause 15(a)(ii) will immediately lapse, expire and cease to have any further force or effect, subject to the completion of the relevant Change of Control Event.

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**16. CAPITAL EVENTS****16.1 Variation of capital**

If there are variations to the share capital of the Company including a variation or rights issue, sub-division, consolidation, reduction, return or cancellation of share capital, a demerger (in whatever form) or other distribution in specie, the Board shall:

- (a) adjust the number of Options to which a Participant is entitled, and/or the Exercise Price (if any) of the Options in accordance with the Listing Rules and in a manner consistent with the Corporations Act; and
- (b) adjust the number of Performance Rights to which a Participant is entitled in accordance with the Listing Rules and in a manner consistent with the Corporations Act.

## 16.2 Notice of variation

As soon as reasonably practicable after making any adjustment under clause 16.1, the Board will give notice in writing of the adjustment to any Participant affected by it.

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## 17. RESTRICTION AGREEMENT AND BUY-BACK

### 17.1 Restriction Agreement and Holding Lock

Where the Board imposes a Restriction Condition on the issue of Plan Shares, a Participant agrees to (if requested by the Board):

- (a) execute an ASX restriction agreement in relation to the Plan Shares reflecting any Restriction Period applying to the Plan Shares under this Plan;
- (b) the Company lodging the share, option or performance right certificates for Plan Shares (where issuer sponsored) with a bank or recognised trustee to hold until the expiry of any Restriction Period applying to the Plan Shares or until the Plan Shares are otherwise released from restrictions (at which time the Company shall arrange for the share certificates to be provided to the Participant); and
- (c) the application of a holding lock over Plan Shares until any Restriction Period applying to the Plan Shares under the Plan has expired (at which time the Company shall arrange for the holding lock to be removed).

### 17.2 Buy back where Restriction Condition not satisfied

Subject to clause 9.2, where a Restriction Condition in relation to Plan Shares is not satisfied by the due date, or becomes incapable of satisfaction in the reasonable opinion of the Board, the Company must, unless the Restriction Condition is waived by the Board, and subject to the Corporations Act and the ASX Listing Rules either:

- (a) buy back and cancel the relevant Plan Shares from the Participant within 6 months of the date the Restriction Condition was not satisfied (or became incapable of satisfaction) under Part 2J.1 of the Corporations Act at a price equal to the Share Payment paid by the Participant for the Plan Shares; or
- (b) arrange to sell the Plan Shares as soon as reasonably practicable either on the ASX or to an investor who falls within an exemption under Section 708 of the Corporations Act, provided that the sale must be at a price that is no less than 80% of the volume weighted average price at which Shares were traded on the ASX on the 10 trading days before the sale date, and apply the sale proceeds in the following priority:
  - (i) first, to the extent the sale proceeds are sufficient, to repay the Participant any Share Payment paid by the Participant for Plan Shares. The Participant acknowledges that the Company is not liable to repay the Participant any Share Payment except to the extent covered by the Sale Proceeds; and
  - (ii) secondly, any remainder to the Company to cover its costs of managing the Plan.



### **17.3 Ceasing Employment before Restriction Conditions satisfied**

Subject to clause 9.2, where a Participant holds Plan Shares and ceases to be an Participant and, at that time, there are Restriction Conditions in relation to those Plan Shares that are unsatisfied, or are incapable of satisfaction, in the opinion of the Board (and they are not waived), the Company must, subject to the Corporations Act and the ASX Listing Rules, use its best endeavours to buy back or sell the Plan Shares in accordance with clause 17.2 of this Plan.

### **17.4 Power of Attorney**

For the purposes of clause 17.2, the Participant irrevocably appoints each of the Company and each director of the Company as his or her attorney to do all things necessary to give effect to the buy-back of the Participant's Plan Shares, Options and/or Performance Rights including executing all documents and seeking or providing all necessary approvals and the Participant acknowledges and agrees that the power of attorney is given for valuable consideration (in the form of the Plan Shares, Options and/or Performance Rights).

### **17.5 Fraud**

Where, in the opinion of the Board, acting reasonably, the Participant has acted fraudulently or dishonestly or is (or has been) in material breach of his or her obligations to the Company:

- (a) the Company may, by written notice to the Participant (or their Nominated Party if their Nominated Party has been issued Plan Shares in lieu of an issue to the Participant), buy back the Plan Shares issued to the Participant (or their Nominated Party as the case may be), whether or not the Restriction Period for those Plan Shares has ended, in accordance with clause 17.2(a) of this Plan regardless of whether the Participant (or their Nominated Party as the case may be), has paid cash consideration for the Plan Shares; and
- (b) where the Company has issued the Participant (or their Nominated Party as the case may be) with a written notice under clause 17.5(a), and the Restriction Period for those Plan Shares has ended, the Participant (or their Nominated Party as the case may be) may not sell, transfer, assign, mortgage, charge or otherwise encumber any of the Plan Shares the subject of the written notice without the prior written consent of the Company.

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## **18. CONTRAVENTION OF APPLICABLE LAWS**

- (a) No act will be done or determination made in accordance with these Rules where to do so would be a breach of any Applicable Laws, and where any such act is done or determination made it will be considered void and to the extent possible be unwound and of no effect in respect of unexercised Awards or Plan Shares.
- (b) Notwithstanding any of the provisions contained in this Plan or in any Invitation Letter, the Company's obligation to issue or procure Plan Shares upon the exercise of an Award shall be subject to the following:
  - (i) completion of such registration or other qualification of such Shares and the receipt of any approvals of governmental authority or stock exchange as the Company shall determine to

be necessary or advisable in connection with the authorisation, issuance or sale thereof;

- (ii) the admission of such Shares to listing on any stock exchange(s) or over-the-counter market on which the Shares may then be listed or quoted; and
  - (iii) the receipt from the Participant of such representations, agreements and undertakings, including as to future dealings in such Shares, as the Company or its counsel determines to be necessary or advisable in order to safeguard against the violation of the securities laws of any applicable jurisdiction.
- (c) In connection with clause 18(b), the Company shall, to the extent necessary, take all steps determined by the Board, in its discretion, to be reasonable to obtain such approvals, registrations and qualifications as may be necessary for the issuance or procurement of such Shares in compliance with applicable securities laws and for the listing or quotation of such Shares on any stock exchange(s) on which the Shares are then listed or quoted.

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## **19. ADMINISTRATION OF THE PLAN**

### **19.1 Administration by Board**

The Plan will be administered by the Board.

### **19.2 Regulations**

The Board may make such regulations for the operation of the Plan as it considers necessary, provided such regulations are consistent with these Rules.

### **19.3 Delegation**

- (a) The Board may delegate any of its powers or discretions conferred on it by these Rules to a committee of the Board or to any one or more persons selected by it, including but not limited to the company secretary.
- (b) Any delegation will be for such period and upon such terms and conditions as determined by the Board from time to time.

### **19.4 Board may engage specialist service providers**

The Board may at any time appoint or engage specialist service providers for the operation and administration of the Plan.

### **19.5 Decisions final**

Every exercise of a discretion by the Board (or its delegates) and any decision by the Board (or its delegates) regarding the interpretation, effect or application of these Rules will be final, conclusive and binding.

### **19.6 Attorney and agent**

- (a) Each Participant hereby authorises and appoints the company secretary holding office at the relevant time (or their delegate) as their agent or attorney with power to do all things necessary in the name of and on behalf of the Participant to give effect to these Rules, including and

without limitation, signing Award or Plan Share transfers, and signing all documents and doing all acts necessary to effect a Buy-Back, and accounting for the proceeds of the sale of forfeited shares, but expressly excluding the power to exercise Awards granted to the Participant under the Plan.

- (b) Each Participant agrees to indemnify and hold harmless any person acting as their agent or attorney in accordance with these Rules in respect of all costs, damages or losses of whatever nature arising from so acting.

## **19.7 Notice**

- (a) Address for service
  - (i) Any notice required to be given to the Participants under the Plan or the terms of the Awards granted will be sent to the address of the Participant as entered in the register unless delivered in person.
  - (ii) Any notice required to be given to the Company under the Plan or the terms of the Awards granted will be sent to the registered office of the Company or such other address as is notified to Participants from time to time.
- (b) Delivery of notices
  - (i) Any notice to be given to Participants may be delivered by hand to the Participant or by any other means specified in the Constitution for delivery of notices to members.
  - (ii) Any notice to be given to the Company may be delivered by hand or by prepaid post. Notices may also be given to the Company by means of facsimile, e-mail or other mode of electronic delivery to such address as is notified by the Company to the Participant.
  - (iii) Notices delivered to Participants in accordance with the Constitution will be taken to be delivered in accordance with the Constitution. Notices delivered to the Company by pre-paid post will be taken to be delivered if properly addressed and stamped, 48 hours after mailing in Australia and 7 days after mailing outside Australia. Notices delivered by facsimile, e-mail or other mode of electronic delivery will be taken to be delivered on receipt of a successful transmission notice, return receipt or such other confirmation by which the sender can reasonably verify delivery.

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## **20. AMENDMENT**

### **20.1 Amendment of Plan**

- (a) Subject to clauses 20.1(b) and 20.1(c), the Listing Rules and the Constitution, the Board may at any time amend these Rules or the terms upon which any Awards have been granted under the Plan. Without limiting the scope of the foregoing, the Board may make the following amendments to the Plan without Shareholder approval:
  - (i) amendments of the type described in clause 20.1(b)(i);

- (ii) amendments of a "housekeeping" nature, which include amendments relating to the administration of the Plan or to eliminate any ambiguity or correct or supplement any provision herein which may be incorrect or incompatible with any other provision hereof;
  - (iii) changing the vesting and exercise provisions of the Plan or any Award in a manner which does not entail an extension beyond the originally scheduled expiry date for any applicable Award, including to provide for accelerated vesting and early exercise of any Awards deemed necessary or advisable in the Board's discretion;
  - (iv) changing the termination provisions of the Plan or any Award which, in the case of an Award, does not entail an extension beyond an Award's originally scheduled expiry date for that Award;
  - (v) changing the provisions on transferability of Awards for normal estate settlement purposes;
  - (vi) changing the process by which a Participant who wishes to exercise his or her Award can do so, including the required form of payment for the Shares being purchased, the form of exercise notice and the place where such payments and notices must be delivered; and
  - (vii) adding a conditional exercise feature which would give Participants the ability to conditionally exercise in certain circumstances determined by the Board in its discretion, at any time up to a date determined by the Board in its discretion, all or a portion of those Awards granted to such Participants which are then vested and exercisable in accordance with their terms, as well as any unvested Awards which the Board has determined shall be immediately vested and exercisable in such circumstances.
- (b) No amendment to these Rules or to the terms of any Awards granted under the Plan may be made if the amendment reduces the rights of any Participant in respect of Awards granted to them prior to the date of the amendment, other than:
- (i) an amendment introduced primarily:
    - (A) for the purposes of complying with or conforming to present or future legislation governing or regulating the Plan or like plans;
    - (B) to correct any manifest error or mistake;
    - (C) for the purpose of complying with Applicable Laws; and
    - (D) to take into consideration possible adverse taxation implications in respect of the Plan or the Awards granted, including as a result of changes to applicable taxation legislation or the interpretation of that legislation by any taxation authority or a court of

competent jurisdiction or any rulings from taxation authorities administering such legislation; or

- (ii) an amendment agreed to in writing by the Participant(s).
- (c) Notwithstanding anything contained herein to the contrary, no amendment to the Plan requiring the approval of the Shareholders of the Company under any applicable securities laws or requirements shall become effective until such approval is obtained. Without limitation of the foregoing, the approval of a majority of the Shareholders of the Company present in person or by proxy and entitled to vote at a meeting of Shareholders shall be required for the following matters, to the extent required by applicable securities laws and regulatory requirements:
  - (i) any amendment to the provisions of this clause 20.1;
  - (ii) any amendment to increase the Plan Limit (other than pursuant to clause 16.1); and
  - (iii) any reduction in the Exercise Price of an outstanding Option (including a cancellation and re-grant of an Option, constituting a reduction of the Exercise Price of an Option) or extension of the period during which an Option may be exercised,

in each case, unless the change results from the application of clause 16.

- (d) Subject to the Listing Rules and, if applicable, any Shareholder approval, the Board may determine that any amendment to these Rules or the terms of Awards granted under the Plan be given retrospective effect.
- (e) Amendment of these Rules or the terms upon which Awards are granted under the Plan by the Board will be of immediate effect unless otherwise determined by the Board.
- (f) As soon as reasonably practicable after making any amendment to these Rules or the terms of Awards granted under the Plan, the Board will give notice of the amendment to any Participant affected by the amendment. Failure by the Board to notify a Participant of any amendment will not invalidate the amendment as it applies to that Participant.

## **20.2 Amendment by addendum**

Subject to any other provision of these Rules, the Board may from time to time amend the terms of this Plan as they will apply in particular jurisdictions or circumstances by means of an addendum to these Rules.

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## **21. RIGHTS OF PARTICIPANTS**

Nothing in these Rules, participation in the Plan or the terms of any Award:

- (a) confers upon an Eligible Employee a right to a grant or offer of a grant of Awards;
- (b) confers on an Eligible Employee or a Participant the right to continue as an employee or officer of any Group Company (as the case may be) or participate in the Plan;

- (c) affects the rights of any Group Company to terminate the employment, engagement or office of an Eligible Employee or a Participant (as the case may be);
- (d) affects the rights and obligations of any Eligible Employee or Participant under the terms of their employment, engagement or office with any Group Company;
- (e) confers any legal or equitable right on an Eligible Employee or a Participant whatsoever to take action against any Group Company in respect of their employment, engagement or office;
- (f) confers on an Eligible Employee or a Participant any rights to compensation or damages in consequence of the termination of their employment, engagement or office by any Group Company for any reason whatsoever including ceasing to have rights under the Plan as a result of such termination; or
- (g) confers any responsibility or liability on any Group Company or its directors, officers, employees, representatives or agents in respect of any taxation liabilities of the Eligible Employee or Participant.

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## **22. ASIC RELIEF**

Notwithstanding any other provisions of the Plan, every covenant or other provisions set out in an exemption or modification granted from time to time by ASIC in respect of the Plan or which applies to the Plan pursuant to its power to exempt and modify the Corporations Act and required to be included in the Plan in order for that exemption or modification to have full effect, is deemed to be contained in the Plan. To the extent that any covenant or other provision deemed by this clause 22 to be contained in the Plan is inconsistent with any other provision in the Plan, the deemed covenant or other provision will prevail.

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## **23. NON-EXCLUSIVITY**

### **23.1 Non-exclusivity**

This Plan will not be deemed to be the exclusive method of providing incentive compensation to Eligible Employees, nor will it preclude any Group Company from authorising or approving other forms of incentive compensation for employees or consultants of any Group Company.

### **23.2 Relationship to other equity plans**

Participation in this Plan will not affect or be affected by any participation in any other employee equity plan operated by any Group Company, except as specifically provided in the terms of that other plan.

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## **24. GENERAL**

### **24.1 Costs and Expenses**

The Company will pay all expenses, costs and charges in relation to the establishment, implementation and administration of the Plan, including all costs incurred in or associated with the issue or purchase of Shares (except for the exercise price (if any) for Options) for the purposes of the Plan.

## 24.2 Data protection

By providing a written confirmation in accordance with clause 5.3, each Participant consents to the holding and processing of personal data provided by the Participant to any Group Company for all purposes relating to the operation of the Plan. These include, but are not limited to:

- (a) administering and maintaining Participants' records;
- (b) providing information to trustees of any employee benefit trust, registrars, brokers or third party administrators of the Plan;
- (c) providing information to future purchasers of the Company or the business in which the Participant works; and
- (d) transferring information about the Participant to a country or territory outside Australia.

## 24.3 Error in Allocation

If any Award is provided under this Plan in error or by mistake to a person (**Mistaken Recipient**) who is not the intended recipient, the Mistaken Recipient shall have no right or interest, and shall be taken never to have had any right or interest, in that Award and any such Awards will immediately lapse.

## 24.4 Dispute

Any disputes or differences of any nature arising under the Plan will be referred to the Board for determination.

## 24.5 No fiduciary capacity

The Board may exercise any power or discretion conferred on it by these Rules in the interest or for the benefit of the Company, and in so doing the Board is not required to act in the interests of another person or as requested by another person and will not be under any fiduciary obligation to another person.

## 24.6 Listing Rules

While the Company remains admitted to the ASX, the provisions of the Listing Rules of the ASX will apply to the Plan, and to the extent that the Plan and the Listing Rules are inconsistent, the provisions of the Listing Rules will prevail.

## 24.7 Enforcement

These Rules, any determination of the Board made pursuant to the Rules, and the terms of any Awards granted under the Plan, will be deemed to form a contract between the Company and the Participant.

## 24.8 Governing law

This Plan and any Awards granted under it will be governed by, and must be construed according to, the laws of the State of Western Australia and the Commonwealth of Australia.

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## SCHEDULE 1 – INVITATION LETTER

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[Name and address of Eligible Employee]

Dear [insert name of employee]

### **EMPLOYEE INCENTIVE PLAN**

[Comment: Amend as appropriate]

The board of directors of E79 Gold Mines Limited (**Company**) is pleased to make an offer to you of [insert Options, Performance Rights or Shares] pursuant to its Employee Incentive Plan (**Plan**).

In accordance with ASIC Class Order 14/1000, the Company informs you of the following:

- (a) accompanying this letter is a [full copy/summary] of the terms of the Plan;
- (b) this offer remains open for acceptance by you for 14 days from the date of this letter (**Offer Period**);
- (c) the [insert Options, Performance Rights or Incentive Shares] under the Plan will be granted to you for [nil consideration or insert consideration];
- (d) the exercise price of each of the Options is \$[insert] and the expiry date is [insert];
- (e) the [Options and/or Performance Rights] are subject to the following [Vesting/Exercise Conditions]:
  - (i) [insert]
  - (ii) [insert];
- (f) the [Options, Incentive Shares or Plan Shares issued on exercise of the Options or upon vesting of the Performance Rights] are subject to the following Restriction Conditions:
  - (i) [insert]
  - (ii) [insert];
- (g) the [Options, Incentive Shares or Plan Shares issued on exercise of the Options or upon vesting of the Performance Rights] are subject to the following risks:
  - (i) [insert]
  - (ii) [insert];
- (h) the Company undertakes that during the period commencing on the date of this letter and expiring at the end of the Offer Period, it will within a reasonable period of you so requesting, make available to you the current market price of the Company's shares;
- (i) the Company will issue, where permitted, a cleansing statement under Section 708A(5) of the Corporations Act at the time of the issue of the Plan Shares. Where a cleansing statement cannot be issued, the Company will have a prospectus available in relation to the Plans Shares which complies with the requirements of the Corporations Act;



- (j) any advice given by the Company in relation to an Award offered under the Plan does not take into account an Eligible Employee's objectives, financial situation and needs;
- (k) Eligible Employees should consider obtaining their own financial product advice from a person who is licensed by ASIC to give such advice;
- (l) employees cannot exercise the Options being offered unless either a current prospectus is available to them or the Plan Shares the subject of the Options are in the same class as securities which have been quoted on the financial market operated by Australian Securities Exchange (ASX), an approved foreign market throughout the 12 month period immediately preceding the exercise date of the options without suspension for more than a total of 5 trading days during that period; and
- (m) Subdivision 83A-C of the *Income Tax Assessment Act 1997*, which enables tax deferral on Options, [will/will not] apply (subject to the conditions in that Act) to Options granted to you under this Offer.

#### Comment

For the above paragraph, choose "will apply" if the Company wants the taxing point on Options deferred. Choose "will not apply" if tax is intended to be paid on grant and not deferred. The Company should obtain tax advice to confirm that deferral/upfront taxation will be available as intended.

As deferred taxation will automatically arise if there is a real risk of forfeiture (e.g. there is a vesting period), this reference is not required.

Where Awards vest immediately and it is intended that tax will be payable in the year of grant, the following statement should be inserted:

"Notwithstanding clause 6.11 of the Plan, Subdivision 83A-C of the Income Tax Assessment Act 1997 will not apply for this particular offer."

In applying for the grant of [Incentive Shares, Options and/or Performance Rights] under the Offer, the person below acknowledges and agrees:

- (a) to be entered on the register of performance rights, share and/or option holders of the Company as the holder of the [Performance Rights, Incentive Shares and/or Options] applied for, and any Plan Shares issued on the exercise of the Performance Rights or Options;
- (b) to be bound by the terms of the Constitution of the Company;
- (c) to be bound by the terms and conditions of the Plan;
- (d) to be bound by the terms and conditions of the Offer;
- (e) a copy of the full terms of the Plan has been provided to it;
- (f) that, by completing this Acceptance Form, you agree to appoint the Company Secretary as your attorney to complete and execute any documents and do all acts on your behalf which may be convenient or necessary for the purpose of giving effect to the provisions of the Plan (if applicable);

- (g) that any income tax liability arising from the Company accepting your application for [Incentive Shares, Performance Rights or Options] under the Plan or the issue of Plan Shares on exercise of the Performance Rights or Options is your responsibility and not that of the Company; and
- (h) to the extent required by the terms of the Plan and the ASX Listing Rules, to enter into any necessary restriction agreements in relation to any Plan Shares provided under this Plan and the placing of a holding lock on those Shares.

This letter and all other documents provided to you at the time of this offer contain general advice only and you should consider obtaining your own financial product advice from an independent person who is licensed by ASIC to give such advice.

Could you please confirm your acceptance of the offer set out in this letter by signing in the appropriate place below and returning it to the Company on facsimile number [insert] **by no later than [insert date] (Acceptance Date)**.

If you wish to renounce the offer in favour of your Associate, both you and your Associate should complete the **attached** Acceptance Form.

Yours faithfully

**[insert name]**  
**For and on behalf of**  
**E79 Gold Mines Limited**

Encl.

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**SCHEDULE 2 - ACCEPTANCE FORM**

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I agree to the terms and conditions set out above and accept the offer of options as contained in the letter set out above in accordance with the following:

(a) I agree to accept the following percentage (%) of the number of [Incentive Shares, Performance Rights and/or Options] offered to me:

(i) 100%

(ii) Other, please specify

(b) I advise that I will be nominating the following Associate to take the following percentage of the [Incentive Shares, Performance Rights and/or Options] which I have accepted:

Associate (name/address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(i) 100%

(ii) Other, please specify

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

If the offer is being renounced in favour of an Associate, the Associate agrees to the terms and conditions set out above and accepts the offer of options as contained in the letter set out above.

If the Associate is a corporation:

**EXECUTED BY** )  
 )  
**ACN** )  
in accordance with the Corporations Act: )

\_\_\_\_\_  
(Sole) Director

\_\_\_\_\_  
Director/Secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

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If Associate is an individual:

**SIGNED** by \_\_\_\_\_ )

in the presence of: \_\_\_\_\_ )

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Full Name of Witness  
(BLOCK LETTERS)

\_\_\_\_\_  
Address:

Date: \_\_\_\_\_