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# *Tax Exempt Share Plan Rules*

## Alliance Aviation Services Limited

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**PricewaterhouseCoopers, ABN 52 780 433 757**  
2 Riverside Quay, SOUTHBANK VIC 3006  
GPO Box 1331, MELBOURNE VIC 3001  
T: +61 3 8603 1000, F: +61 3 8603 1999, [www.pwc.com.au/legal](http://www.pwc.com.au/legal)

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# ***Alliance Aviation Services Limited Tax Exempt Share Plan Rules***

## **1. Definitions and interpretation**

### **1.1. Definitions**

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

**Acquisition Price** means, in respect of a Plan Share, the amount payable (if any) for that Plan Share.

**Ancillary Documentation** means all documentation which the Board specifies in an Invitation that a Qualifying Employee must enter into and / or provide in connection with an Application.

**Application** means, in respect of a Plan Share, an application for the grant of that Plan Share made physically or electronically by a Qualifying Employee.

**Application Form** means an application form (whether physical or electronic) attached to, or enclosed or otherwise made available with, an Invitation.

**ASX** means ASX Limited (ACN 008 624 691) trading as the Australian Securities Exchange or the securities exchange operated by that entity, as appropriate.

**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, in respect of a particular matter, any person who is provided with delegated authority by the board of directors of the Company in respect of that particular matter from time to time.

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

**Company** means Alliance Aviation Services Limited (ACN 153 361 525).

**Constitution** means the constitution of the Company.

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

**Engagement Arrangement** means, in respect of:

- (a) an employee of a member of the Group, the terms under which the relevant Group member has employed that person;
- (b) a director of a member of the Group that is not also an employee, the terms under which the relevant Group member has appointed that director to their office; or
- (c) a contractor or consultant to a member of the Group, the terms under which the relevant Group member has engaged that contractor or consultant.

**Grant Date** means, in relation to a Plan Share, the date on which that Plan Share is issued, allocated or transferred to, or for the benefit of, a Participant under these Rules. For the avoidance of doubt, this constitutes the date on which a Participant acquires the Plan Shares for the purposes of Division 83A of the ITAA 1997.

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**Group** means the Company and its Subsidiaries.

**Holding Lock** means a mechanism arranged or approved by the Board and administered by the Company (including through the Company's share registry) that prevents a Plan Share being disposed of or dealt with by a Participant during the Holding Lock Period so as to ensure the Reduction Conditions are satisfied.

**Holding Lock Period** means, in relation to a Plan Share, the period from the Grant Date until the earlier of:

- (a) the date three years after the relevant Grant Date of that Plan Share or such date as may be determined by the Board in its discretion so as to satisfy the Reduction Conditions; or
- (b) the day after the date on which the relevant Participant ceases to be employed or engaged by a member of the Group,

and for the avoidance of doubt:

- (c) if there is a change in the employing or engaging entity of a Participant from one member of the Group to another member of the Group, that Participant will be considered, for the purposes of this Plan, as not having ceased to be employed or engaged by a member of the Group; or
- (d) if a Participant has been granted an approved leave of absence and that Participant exercises the right to return to work, under any applicable award, enterprise agreement, other agreement, statute or regulation, that Participant will be considered, for the purposes of this Plan, as not having ceased to be employed or engaged by a member of the Group.

**Invitation** means an invitation to a Qualifying Employee to apply for the grant of a Plan Share made in accordance with clause 3.2 of these Rules.

**ITAA 1997** means the *Income Tax Assessment Act 1997* (Cth) as amended from time to time.

**Listing Rules** means the listing rules, market rules and 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.

**Participant** means a Qualifying Employee who has been granted one or more Plan Shares under this Plan.

**Plan** means the Alliance Aviation Services Limited Tax Exempt Share Plan.

**Plan Share** means a Share granted to a Participant pursuant to this Plan.<sup>1</sup>

**Qualifying Employee** means:

- (a) a full-time or part-time employee of a member of the Group (including an executive director); or
- (b) such other individual employed or engaged by a member of the Group and who falls, or whose Engagement Arrangement falls, within the "relationships similar to employment" categories under section 83A-325 of the ITAA 1997,

who is eligible to receive grants of Plan Shares under the Plan.

**Reduction Conditions** means the reduction conditions set out in section 83A-35 of the ITAA 1997.

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<sup>1</sup> Note to Company: Before inviting a person to participate in this Plan, you will need to consider if that person (particularly casual employees and contractors) meets the requirements of ASIC Class Order 14/1000 in order to rely on the exemptions to disclosure under the Corporations Act.

**Rules** means the rules of the Plan which are set out in this document.

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

**Securities Trading Policy** means any securities trading policy of the Company.

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

**Subsidiary** has the same meaning as in Division 6 of Part 1.2 of the Corporations Act.

**Trustee** means the person or entity appointed to act as trustee of any employee share trust established by the Company from time to time to hold contributions from the Group and Plan Shares on trust for staff of the Group generally and for participants in staff equity incentive plans (including the Plan).

## 1.2. Interpretation

In these Rules, unless otherwise stated or the contrary intention appears:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes all genders;
- (c) a reference to a document, agreement, plan or rules includes that document, agreement, plan or rules as novated, altered, supplemented, replaced or amended from time to time;
- (d) headings are for convenience only and do not affect the interpretation of these Rules;
- (e) a reference to any thing (including any amount) includes any part of that thing and a reference to a group of things or persons includes each thing or person in that group;
- (f) a reference to any legislation includes any modification or replacement of it and all regulations and statutory instruments issued under it and a reference to any provision of any legislation includes any modification or substitution of it;
- (g) a reference to these Rules includes all recitals, annexures, addendums and schedules to these Rules;
- (h) a reference to a person includes a reference to the person's executors, administrators and successors or a body corporate including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (i) the expression "person" includes an individual, the estate of an individual, the legal personal representative of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (j) a monetary amount is a reference to Australian Dollars;
- (k) any reference to include means to include without limitation;
- (l) where any word is given a defined meaning, any other part of speech or other grammatical form in respect of such word or phrase has a corresponding meaning;
- (m) a reference to the "grant" or "granting" of Plan Shares shall be a reference to the issue, transfer and/or allocation of Plan Shares (whichever is the applicable method of delivery determined by the Board under these Rules);

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- (n) nothing in these Rules is intended to create a mortgage or other security over Plan Shares; and
  - (o) any capitalised terms in these Rules that are not defined in clause 1.1 have the meaning given to them in the Corporations Act.

### **1.3. Inconsistencies**

Notwithstanding anything to the contrary in any Engagement Arrangement with a Participant, but subject at all times to these Rules, if there is any inconsistency between these Rules and an Engagement Arrangement, these Rules prevail.

## **2. Introduction**

### **2.1. Purpose**

The purpose of the Plan is to:

- (a) assist in the reward, retention and motivation of Qualifying Employees; and
- (b) align the interests of Qualifying Employees with the Company's shareholders by providing an opportunity to Qualifying Employees to receive an equity interest in the Company.

### **2.2. Commencement**

The Plan will commence on a date determined by the Board.

### **2.3. Rules are binding**

The Company and each Participant are bound by these Rules.

## **3. Eligibility and grant**

### **3.1. Eligibility**

The Board may from time to time determine that a Qualifying Employee may participate in the Plan.

### **3.2. Invitation**

- (a) Following determination that a Qualifying Employee may participate in the Plan, the Board may make an Invitation to the Qualifying Employee.<sup>2</sup>
- (b) An Invitation to a Qualifying Employee to apply for Plan Shares may be made on such terms and conditions as the Board decides from time to time, including as to:
  - (i) the date of the Invitation;
  - (ii) the name of the Qualifying Employee to whom the Invitation is made;
  - (iii) the number of Plan Shares for which that Qualifying Employee may apply;
  - (iv) the Grant Date;

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<sup>2</sup> Note to Company: Before inviting a person to participate in this Plan, you will need to consider if that person (particularly if they are casual employees or contractors) meets the requirements of ASIC Class Order 14/1000 in order to rely on the exemptions to disclosure under the Corporations Act.

- (v) the Acquisition Price (if any) or how it is calculated, and how it is to be paid by the Qualifying Employee;
- (vi) whether the Company must deliver a Plan Share by acquiring that Plan Share on-market (as that term is defined in the Corporations Act) or may deliver the Plan Share by any means (including, without limitation, the acquisition of the Plan Shares on-market, off-market or by way of issue or allocation); and
- (vii) any other supplementary terms and conditions.

### **3.3. Form of Application**

The Invitation to a Qualifying Employee must be accompanied by an Application Form and the Ancillary Documentation (if any).

### **3.4. Qualifying Employee agrees to be bound**

Each Qualifying Employee is, by submitting a completed Application Form, deemed to have agreed to be bound by:

- (a) the terms of the Invitation and the Application Form;
- (b) the Ancillary Documentation (if any);
- (c) these Rules; and
- (d) the Constitution.

### **3.5. Who may apply**

On receipt of an Invitation, a Qualifying Employee may apply for the Plan Share(s) the subject of the Invitation by sending the completed Application Form to the Company (or its designated officer as set out in the Application Form) by the time and date specified in the Invitation, unless otherwise determined by the Board.

### **3.6. Acceptance of Application**

- (a) The Company may not grant a Plan Share to a Qualifying Employee unless it has received the duly completed Application Form together with all applicable Ancillary Documentation from that Qualifying Employee.
- (b) The Application Form and, where applicable, the Ancillary Documentation must be in the form included with the Invitation, and may not be made on the basis that it is subject to any terms and conditions other than those specified in the Invitation.
- (c) The Board may accept an Application from a Qualifying Employee in whole or in part.

### **3.7. When applications will not be accepted**

An Application will not be accepted, unless otherwise determined by the Board, if at the time the Company received the duly completed Application Form together with all Ancillary Documentation:

- (a) the applicant is not a Qualifying Employee;
- (b) the applicant has given notice of termination of their Engagement Arrangement;

- (c) the applicant has been given notice of termination of their Engagement Arrangement by the relevant member of the Group; or
- (d) the Board has determined that the applicant is no longer eligible to participate in the Plan.

### **3.8. Right to nominate**

A Qualifying Employee may only submit an Application in the Qualifying Employee's name and not on behalf of any other person or entity.

### **3.9. Multiple Invitations**

The Board may invite a Qualifying Employee to apply for any number of Plan Shares, notwithstanding that the Qualifying Employee has previously been invited to apply for Plan Shares.

## **4. Delivery of Plan Shares**

### **4.1. Company to grant Plan Shares**

Following receipt of the duly completed Application Form, the Ancillary Documentation and the Acquisition Price (if applicable) for the relevant Plan Shares, the Company will, to the extent that it has accepted such Application, procure that the relevant number of Plan Shares are:

- (a) issued to the Participant; or
- (b) if an employee share trust arrangement is used in conjunction with grants made under this Plan:
  - (i) acquired by the Trustee and held for and on behalf of the Participant;
  - (ii) allocated to and held by the Trustee for and on behalf of the Participant; or

a combination of (a), (b)(i) and/or (b)(ii) as determined by the Board.

### **4.2. Dividends**

A Participant will have an absolute and indefeasible entitlement to any dividend declared and paid or payable by the Company on any Plan Share held by or on behalf of a Participant, as at the books closing date for determining an entitlement to the dividend.

### **4.3. Plan Shares to rank pari passu**

All Plan Shares granted to a Participant in accordance with clause 4.1 will rank pari passu in all respects with the shares of the same class of the Company for the time being on issue except to the extent that rights attach to shares of that class by reference to a record date prior to the date of issue or transfer of the Plan Shares.

### **4.4. Listing**

If any Plan Shares are the same class as those shares of the Company which are listed on the ASX, the Company will apply for quotation of the Plan Shares issued (or any unquoted Plan Shares transferred) within the time required by the Listing Rules after the Grant Date.



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## **5. Disposal Restrictions on Plan Shares**

### **5.1. Holding Lock Period**

- (a) During the Holding Lock Period, unless otherwise permitted by the Board by express written notice (whether physical or electronic), the Participant will not:
  - (i) transfer, encumber or otherwise dispose of, or have a Security Interest granted over the relevant Plan Shares; or
  - (ii) take any action or permit another person to take any action to remove or circumvent the disposal restrictions over the relevant Plan Shares.
- (b) For the purpose of clause 5.1(a)(i), the Board may implement any procedure it deems appropriate to ensure the compliance by the Participant with this restriction, including but not limited to imposing a Holding Lock (where applicable) on the Plan Shares and/or using an employee share trust to hold the Plan Shares during the relevant restriction period.

### **5.2. Expiry of restriction**

Subject at all times to the Securities Trading Policy, upon the expiry of the Holding Lock Period in respect of a Plan Share, the Company will take all actions necessary to ensure that the Participant can deal with that Plan Share.

### **5.3. Share entitlements**

- (a) For the avoidance of doubt, the imposition of restrictions on a Plan Share held by a Participant during the Holding Lock Period 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, and to receive any dividends declared by the Company during the relevant Holding Lock Period on that Plan Share.
- (b) If an employee share trust arrangement is implemented in respect of this Plan, the Board may implement such procedures it deems appropriate to give effect to the intention of clause 5.3(a).

## **6. Adjustment Shares**

### **6.1. Bonus issues**

- (a) If Shares are issued by the Company pro rata to shareholders generally by way of bonus issue (other than an issue in lieu of dividends or by way of dividend reinvestment), the number of Plan Shares held by a Participant will be increased in the same ratio as other Shares.
- (b) Where an Invitation specifies that a Participant's legal interest in a Plan Share is to be held by the Trustee, the Company must instruct the Trustee to allocate any bonus shares received by the Trustee in respect of a Participant's Plan Shares to that Participant.
- (c) Bonus shares issued to, or for the benefit of, a Participant will be subject to the same conditions as the Plan Shares in respect of which the bonus shares were issued and will be subject to these Rules.

### **6.2. Rights Issue**

- (a) If the Company announces a rights issue:
  - (i) the Company will notify each Participant of the rights issue, and offer each Participant an opportunity to exercise those rights in respect of Plan Shares;

- (ii) if the Participant wants to exercise the relevant rights, they must give written direction to the Company to this effect and pay the price to the Company to acquire the rights by the time and in the manner specified in the notice referred to in clause 6.2(a)(i);
  - (iii) unless the Participant agrees otherwise, any Shares allotted to the Participant as a result of the Participant exercising such rights in accordance with this clause 6.2 will not be subject to these Rules; and
  - (iv) if the rights are renounceable and a Participant declines, or does not respond to, the offer made by the Company under clause 6.2(a)(i), the Company may sell or otherwise deal with the Participant's rights.
- (b) Where a Participant's legal interest in a Plan Share is held by the Trustee:
- (i) the Company will give notice of the rights issue under clause 6.2(a)(i) directly to the Trustee who will in turn notify the Participant and then act as the intermediary between the Company and the Participant in terms of the procedure set out in this clause 6.2;
  - (ii) any shares received by the Trustee in respect of a Participant's participation in the rights issue are to be deemed for the purposes of these Rules to have been allocated to that Participant at the same time as the relevant Plan Share was allocated to the Participant in accordance with clause 4.1; and
  - (iii) shares issued to, or for the benefit of, a Participant pursuant to a rights issue will be subject to the same conditions as the Plan Shares in respect of which the right issue shares were issued and will be subject to these Rules.

### **6.3. Fairness in application**

In the application of this clause 6, the Board may as far as possible (subject to the Corporations Act, the Listing Rules and any other applicable laws and regulations) make whatever adjustments it deems necessary or desirable to ensure that the consequences of that application are fair as between the Participants and the holders of other securities in the Company.

## **7. Operation of the Plan**

### **7.1. Reduction Conditions**

The Company will use all reasonable endeavours to ensure that the Plan (in respect of both its terms and operation) and the Plan Shares granted under the Plan shall satisfy the Reduction Conditions.

### **7.2. Non-Discriminatory basis**

Without limiting the foregoing, the Plan will be operated on a non-discriminatory basis within the meaning of that expression in section 83A-35(6) of the ITAA 1997.

### **7.3. No risk of Forfeiture**

Participants in the Plan will face no risk of forfeiting the Plan Shares (within the meaning of that expression in section 83A-35(7) of the ITAA 1997) acquired under the Plan.

## **8. Administration of the Plan**

### **8.1. Board administration**

The Plan will be administered by the Board. For the avoidance of doubt, the Board may make further provisions for the operation of the Plan which are consistent with these Rules.

## **8.2. Board powers and discretions**

Any power or discretion which is conferred on the Board by these Rules may be exercised in its sole and absolute discretion. The Board does not, in exercising any power or discretion under these Rules, owe any fiduciary or other obligations to any Qualifying Employee or Participant.

## **8.3. Delegation of Board powers and discretions**

Any power or discretion which is conferred on the Board by these Rules (including, without limitation, the power to invite Qualifying Employees to participate in the Plan and to determine the terms and conditions of the Plan Shares) may be delegated by the Board to:

- (a) a committee consisting of such directors, other officers or employees of the Group, or any combination of such persons as the Board thinks fit;
- (b) a related body corporate of the Company; or
- (c) a third party,

for such periods and on such conditions as the Board thinks fit.

## **8.4. Documents**

The Company may from time to time require a Qualifying Employee invited to participate in the Plan or a Participant to complete and return such other documents as may be required by law to be completed by that Qualifying Employee or Participant, or such other documents which the Company considers should, for legal, taxation and/or administrative reasons, be completed by that Qualifying Employee, Participant or person in order to give effect to the intent of the Plan.

## **8.5. 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 and all calculations and determinations made by the Board under these Rules are final, conclusive and binding in the absence of manifest error.

## **9. Trust**

- (a) The Board may, in its discretion, use an employee share trust or other mechanism for the purposes of holding and/or delivering any Plan Shares under these Rules on such terms and conditions as determined by the Board in its absolute discretion.
- (b) For the avoidance of doubt, the Board may do all things necessary for the establishment, administration, operation and funding of an employee share trust.

## **10. Restrictions on and amendments to the Plan**

### **10.1. Compliance with applicable laws and regulations**

Notwithstanding these Rules or any terms of a Plan Share, no Plan Share may be offered, issued, transferred or allocated if to do so would contravene the any applicable laws or regulations.

## **10.2. Amendment of Plan**

- (a) Subject to clause 10.2(b), the Board may:
  - (i) at any time amend any provisions of these Rules, including (without limitation) the terms and conditions upon which any Plan Shares have been granted under the Plan; and
  - (ii) determine that any amendments to these Rules be given retrospective effect, immediate effect or future effect.
- (b) No amendment to any provision of these Rules may be made if the amendment materially reduces the rights of any Participant as they existed before the date of the amendment, other than an amendment:
  - (i) 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) to allow the implementation of an employee share trust arrangement pursuant to clause 9;
    - (D) to enable the Plan or any member of the Group to comply with its constituent documents or any other applicable laws and regulations; and/or
    - (E) to take into consideration possible adverse taxation implications in respect of the Plan including changes to applicable taxation legislation or the interpretation of that legislation by a court of competent jurisdiction or any rulings from taxation authorities administering such legislation; or
  - (ii) agreed to in writing by all Participant(s).
- (c) As soon as reasonably practicable after making any amendment to any provision of these Rules, the Board will give notice of the amendment to each 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.

## **11. Termination or suspension**

### **11.1. Suspension**

Subject to clause 11.2 below, the Board may at any time terminate the Plan or suspend the operation of the Plan for such period or periods as it thinks fit.

### **11.2. Termination**

The Board may only terminate the Plan in the event that no Holding Lock Period continues to apply to any Plan Share held by a Participant under the Plan.

### **11.3. Effect of Termination / Suspension**

If the Plan is terminated or suspended for any reason, that termination or suspension must not prejudice the accrued rights of the Participants.

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## **12. Miscellaneous**

### **12.1. Rights of Participants**

Nothing in these Rules:

- (a) confers on any person any right or expectation to become a Participant, or the right to be invited to apply for, or be offered or to receive any Plan Shares;
- (b) confers on any person the right to continue as an employee, officer, contractor or consultant of any member of the Group (as the case may be);
- (c) affects the rights of any member of the Group to terminate the Engagement Arrangement of a Qualifying Employee;
- (d) forms part of any contract of service between a Qualifying Employee and any member of the Group;
- (e) may be used to increase rights of compensation or damages in any action brought against a member of the Group in respect of any termination of an Engagement Arrangement;
- (f) confers any legal or equitable right on a Qualifying Employee whatsoever to take action against any member of the Group in respect of their Engagement Arrangement; or
- (g) confers on a Qualifying Employee any rights to compensation or damages in consequence of the termination of their Engagement Arrangement by any member of the Group for any reason whatsoever including ceasing to have rights under the Plan as a result of such termination.

### **12.2. Non-exclusivity**

- (a) This Plan is not the sole means by which all members of the Group intend to provide incentives to Qualifying Employees. Nothing in this Plan is intended to restrict any member of the Group from remunerating or otherwise rewarding employees or directors of any member of the Group outside the Plan.
- (b) Participation in the Plan does not affect, and is not affected by, participation in any other incentive or other scheme operated by any member of the Group unless the terms of that other scheme provide otherwise.

### **12.3. Notice**

- (a) Any notice or other communication under or concerning the Plan is validly given:
  - (i) to a Participant, if delivered personally to the addressee or sent by prepaid post to the Participant's last known residential address, or sent to the Participant by email at the Participant's place of work; and
  - (ii) to the Company, if delivered or sent by prepaid post addressed to the company secretary at the Company's registered office (or any other address the Board specifies), or as otherwise notified by the Company from time to time.
- (b) Subject to clause 12.3(a), a notice or other communication will be deemed to have been served:
  - (i) if delivered by hand, at the time of delivery;
  - (ii) if sent by electronic mail, on receipt of a successful transmission notice, return receipt or such other confirmation by which the sender can reasonably verify delivery; or

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- (iii) if posted, and provided it is properly addressed and stamped, 48 hours after mailing in Australia and 7 days after mailing outside Australia.

#### **12.4. Further assurances**

Each party must do all things reasonably necessary to give full effect to this Plan and the transactions contemplated by this Plan.

#### **12.5. Duties and taxes**

The Company:

- (a) is not responsible for any duties, taxes or other government levy or impost which are or may become payable by any person other than the Company on the acquisition, issue, allocation or transfer of a Plan Share, or any other dealing with a Plan Share;
- (b) may make any withholding or payment which it is required by law to make in connection with the Plan or the grant, issue, allocation or transfer of a Plan Share; and
- (c) when transferring, issuing or allocating a Plan Share to a Participant under the Plan, may require the Participant to provide the Company with an amount of money which the Board estimates is necessary to meet the Participant's liability (if any) to pay stamp duty or other taxes in respect of the transfer. Where the Company is provided with funds for that purpose, it must apply the funds in payment of the stamp duty or other tax, arrange for registration of the transfer on the Participant's behalf and return any excess funds to the Participant.

#### **12.6. No representation or warranty**

- (a) The Company makes no representation or warranty as to the value of Plan Shares or Shares, or with respect to any tax, legal or financial matters affecting any Qualifying Employee or Participant in connection with the Plan.
- (b) Neither the Company, nor any of its directors, officers or employees are liable for anything done or omitted to be done by such person or any other person with respect to price, time, quantity or other conditions and circumstances of the issue or acquisition of Plan Shares hereunder, in respect of any fluctuations in the market price of Plan Shares or Shares, or in any other manner related to the Plan.

#### **12.7. Data protection**

By participating in the Plan, the Participant consents to the holding and processing of personal data provided by the Participant for the purposes of the Plan. These purposes include, but are not limited to:

- (a) administering and maintaining employee and Participant records;
- (b) providing information to members of the Group, registrars, brokers or third party administrators of the Plan (if any) or advisers of the Board; and
- (c) providing information to corporate advisers or potential future third party purchasers in connection with a sale of shares in a member of the Group, or the business and assets of a member of the Group.

#### **12.8. Construed against a party**

No provision or expression in these Rules is to be construed against a party on the basis that the party (or its advisers) was responsible for the drafting of these Rules.

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### **12.9. Rounding**

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

### **12.10. Governing law**

- (a) This Plan is governed by the laws of Queensland.
- (b) Each Participant submits to the non-exclusive jurisdiction of the courts of Queensland, and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought in connection with these Rules.

### **12.11. Waiver of rights**

- (a) A waiver of any right, power, authority, discretion or remedy arising upon a breach of or default under these Rules must be in writing and signed by the party granting the waiver, and may be subject to such terms and conditions as determined by the party granting the waiver.
- (b) A failure or delay in the exercise, or partial exercise, of a right, power, authority, discretion or remedy arising from a breach of or default under these Rules, does not prevent the exercise of or result in a waiver of that right, power, authority, discretion or remedy.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of these Rules or default under these Rules as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A party may not rely on any conduct of another party as a defence to the exercise of a right, power, authority, discretion or remedy by that other party.
- (e) A waiver is only effective in the specific instance and for the specific purpose for which it is given and subject to any specific terms and conditions as specified in the waiver.
- (f) This clause may not itself be waived except in writing.