

## PLAN TERMS & CONDITIONS

### TERMS & CONDITIONS OF THE MELBOURNE IT PERFORMANCE RIGHTS PLAN & LONG TERM INCENTIVE DEFERRED CASH BONUS PLAN

#### 1. INTRODUCTION

##### 1.1 Name of the Plans

These Plans are called the “Melbourne IT Performance Rights Plan and the “Long Term Incentive Deferred Cash Bonus Plan.”

##### 1.2 Object of the Plans

The object of these Plans are to:

- (a) provide Participants with an incentive plan which recognises ongoing contribution to the achievement by Melbourne IT of long term strategic goals;
- (b) establish an employee incentive scheme as stated in clause 1.3 and an employee share scheme within the meaning of Class Order 03/184 issued by the Australian Securities and Investments Commission in respect to the Melbourne IT Performance Rights Plan;
- (c) align the interests of Participants with Security Holders through the sharing of a personal interest in the future growth and development of Melbourne IT as represented in the price of Melbourne IT Securities; and
- (d) provide a means of attracting and retaining skilled and experienced employees.

##### 1.3 Tax Purpose

The Melbourne IT Performance Rights Plan is a Plan to which Subdivision 83A-C of the *Income Tax Assessment Act 1997* applies (subject to the conditions in that Act).

#### 2. DEFINITIONS AND INTERPRETATIONS

##### 2.1 Definitions

In these Terms & Conditions unless the context otherwise requires:

“**Administrator**” means any person engaged by the Board to carry out the day-to-day administration of the Plans as contemplated by clause 8.2(f).

“**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 Tax Act;
- (e) any practice note, policy statement, class order, declaration, guideline, policy, procedure, ruling or other guidance note made to clarify or expand (a), (b), (c) or (d) above; and
- (f) any other legal requirement that applies or may apply to the Plans.

**“Application Form”** means an Offer in response to an Invitation which may need to be completed in such form as determined by the Board and returned to the nominated address or by electronic means by an Eligible Employee.

**“ASTC Settlement Rules”** means the operating rules of ASX Settlement and Transfer Corporation Pty Limited ABN 49 008 504 532.

**“ASX”** means ASX Limited (ABN 98 008 624 691) or the market conducted by it.

**“Board”** means the board of directors of Melbourne IT or a person to whom any authority has been delegated under clause 8.2(d).

**“Business Day”** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Victoria, Australia and is a trading day under the Listing Rules.

**“Calculation Date”** means the date on which the Cash Bonus is calculated as specified under the rules as amended by the Board under these Terms and Conditions, and if the date falls on a non Business Day, the Calculation Date shall be the next Business Day.

**“Cash Bonus”** means a cash bonus granted under the Long Term Incentive Deferred Cash Bonus Plan.

**“Constitution”** means the Constitution of Melbourne IT.

**“Control”** of an entity means having the right:

- (a) to vote 50% (or more) of the votes that can be cast on the election or removal of the entity’s directors;
- (b) to appoint or remove directors who possess 50% (or more) of the votes exercisable by all directors of the entity; or
- (c) to 50% (or more) of the profits or distributions of the entity or of its net liquidation proceeds.

**“Control Event”** means any of the following:

- (a) an offer is made by a person for the whole of the issued capital of Melbourne IT (or any part as is not at the time owned by the offeror or any person acting in concert with the offeror) and after announcement of the offer the offeror (being a person who did not Control Melbourne IT prior to the offer) acquires Control of Melbourne IT; or
- (b) any other event which the Board reasonably considers should be regarded as a Control Event.

**“Corporations Act”** means the *Corporations Act 2001*.

**“Date of Registration”** means with respect to a Right, the date that the Right is granted to the Participant, as determined by Melbourne IT and in respect to Securities means the date of allotment or recording of the Participant in the register of members under the ASTC Settlement Rules.

**“Eligible Employee”** means any employee or executive director of Melbourne IT or any wholly owned subsidiary or controlled entity of Melbourne IT whom the Board decides in its absolute discretion is eligible to be invited to receive a grant of Rights or entitlement to a Cash Bonus from time-to-time and who is not prohibited from participating in the Plans by virtue of these Terms and Conditions.

**“Grant Date”** means the date determined by the Board and specified in the Invitation being either:

- (a) the date on which the Rights or Cash Bonus will be allotted; and/or
- (b) the basis on which the date on which the Rights or Cash Bonus will be acquired is to be determined;

**“Group”** means Melbourne IT and its Related Bodies Corporate.

**“Invitation”** means an invitation under clause 3.1.

**“Legal Personal Representative”** means:

- (a) the executor of the will or an administrator of the estate of a deceased person;
- (b) the trustee of the estate of a person under a legal disability; or
- (c) any beneficiary of the estate of the deceased person as nominated by the executor, administrator or trustee.

**“Listing Rules”** means the official listing rules of the ASX as they apply to Melbourne IT.

**“Market Value”** has its ordinary meaning as determined in the unfettered discretion of the Board.

**“Melbourne IT”** means Melbourne IT Ltd (ACN 073 716 793).

**“Offer”** means an offer by an Eligible Employee to participate in the Plans in response to an Invitation.

**“On Costs”** means any costs other than taxes incurred by the company related to the payment of a Cash Bonus to an employee (such as pension plan, payroll tax and equivalent)

**“Participant”** means a person who is the holder of a Right or Cash Bonus under these Plans and includes, as applicable, the Legal Personal Representative of the person.

**“Performance Conditions”** means the conditions (if any) contained within the Rules that must be satisfied before a Right or Cash Bonus may vest and convert to Securities or paid in cash.

**“Performance Period”** means the period determined by the Rules for satisfaction of the Performance Conditions.

**“Permanent Disability”** means the inability, by reason of physical condition, mental illness or accident, of the Participant to perform substantially all of the duties of the position in which the Participant has been employed or appointed (as determined by the Board).

**“Plan”** means, as applicable, the Melbourne IT Performance Rights Plan and the Long Term Incentive Deferred Cash Bonus Plan established and operated in accordance with these Terms and Conditions (and for the avoidance of doubt, also in accordance with any additional Terms & Conditions made pursuant to clause 8.2(a) and any Rules made pursuant to clause 12).

**“Qualifying Event”** means, in relation to a Participant, the cessation of employment of the Participant with the Group due to his or her death, retrenchment by reason of redundancy or Permanent Disability.

**“Related Bodies Corporate”** has the meaning given to it in the Corporations Act.

**“Right”** means a right granted under the Melbourne IT Performance Rights Plan to acquire Securities on conversion of the Right.

**“Rules”** means the rules made by the Board pursuant to clause 12 and for the avoidance of all doubt includes any terms or conditions to a Plan as contained within any Invitation or Application Form.

**“Securities”** means fully paid ordinary shares in Melbourne IT.

**“Security Holder”** means a holder of Securities.

**“Tax Act”** means the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997* and any amendments thereto or any additional legislation as it applies to employee incentive schemes as defined under the Tax Act.

**“Tax”** includes any tax (whether direct or indirect), levy, impost, deduction, charge, rate, contribution, duty or withholding which is assessed (or deemed to be assessed), levied, imposed or made by any government or any governmental, semi-governmental or judicial entity or authority together with any interest, penalty, fine, charge, fee or other amount assessed (or deemed to be assessed), levied, imposed or made on or in respect of any or all of the foregoing.

**“Terms & Conditions”** means these terms and conditions governing the Plans as amended from time to time, and for the avoidance of doubt, includes any additional Terms and Conditions made pursuant to clause 8.2(a).

**“Third Party Right”** means:

- (a) any third party interest, including a mortgage, charge, assignment by way of security, lien, pledge, hypothecation, title retention arrangement, preferential right or a trust arrangement;
- (b) any arrangement having a commercial effect equivalent to anything in (a); and
- (c) any agreement to create an interest described in (a) or an arrangement described in (b).

**“Vesting Date”** means the date on which a Right vests as specified under the Rules or as amended by the Board under these Terms and Conditions, and if that date falls on a non Business Day, the Vesting Date shall be the next Business Day.

## 2.2 Interpretation

In these Terms & Conditions unless the contrary intention appears:

- (a) the term “acquired” in relation to Securities, and grammatical variations of that terms, where used in these Terms & Conditions, refer to Securities being transferred or allotted, as the case may be;
- (b) the singular includes the plural and vice versa;
- (c) reference to a person includes the legal representative of that person and also bodies corporate, unincorporated associations and other legal entities recognised by law;
- (d) a reference to any legislation, policy or class order or to a provision of any legislation, policy or class order includes any modification or re-enactment of it, any provision substituted for it and all regulations and statutory instruments issued under it;

- (e) the expressions “including”, “such as” and similar words or expressions are not words or expressions of limitation;
- (f) where any word or phrase is defined in these Terms & Conditions, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (g) where the Terms & Conditions require or envisage that something will occur or be done on a certain day and that day is not a Business Day, that thing may occur or be done on the next Business Day;
- (h) a reference to a clause is a reference to a clause of these Terms & Conditions; and
- (i) these Terms and Conditions are to be interpreted in a manner that is consistent with the objects of the Plans stated in clause 1.2.
- (j) these Plans are intended to comply with the tax deferral conditions of the employee share scheme provisions set out in the Tax Act and in the event of any ambiguity, these Terms & Conditions and Rules are to be interpreted so that the Plans complies with the tax deferral conditions set out in the Tax Act.

### **2.3 Headings**

Headings in this document are for convenience only and do not affect its meaning.

### **2.4 Omission of certain provisions**

If (but for this clause) a provision of this document would be illegal, void or unenforceable or contravene the law, this document is to be interpreted as if the provision was omitted.

## **3. OPERATION OF THE PLANS**

### **3.1 Invitation to participate**

Subject to these Terms & Conditions, the Board may from time to time invite an Eligible Employee to participate in the Plans and grant Rights or an entitlement to a Cash Bonus to an Eligible Employee, as part of the Eligible Employee’s remuneration.

### **3.2 Form of Invitation**

An Invitation may be in such form and content as the Board determines, including, if applicable:

- (a) the number of Rights and the ratio to which they convert to Securities;
- (b) the amount of Performance Rights used to determine the value of the Deferred Cash Bonus
- (c) the grant price payable (if any) on the issue of Rights and the exercise price payable (if any) on the vesting or conversion of Rights;
- (d) the amount of the Cash Bonus payable (if any)
- (e) the Grant Date;
- (f) the Performance Period (if any);
- (g) the Performance Conditions (if any);

(h) the Vesting Date; and

(i) the Calculation Date.

### **3.3 Rights and Cash Bonus subject to the Plans**

Rights and Cash Bonus amounts will at all times be subject to these Terms & Conditions and the Rules.

### **3.4 Binding nature of these Terms & Conditions**

The Plans shall operate in accordance with these Terms & Conditions, which binds Melbourne IT and each Participant.

### **3.5 Issue or On-Market Acquisition of Securities**

Any Securities to be acquired by a Participant on conversion of a Right under the Plans may be delivered to a Participant at the absolute discretion of the Board, by either the issue to or transfer of Securities to the Participant, or a combination thereof.

### **3.6 Ranking of Securities**

Securities delivered under the Melbourne IT Performance Rights Plan (upon conversion of Rights) will rank equally with all existing Securities on and from the Date of Registration in respect of all Security holder entitlements (including rights issues, bonus issues and dividends) which have a record date for determining entitlements on or after the Date of Registration.

### **3.7 Quotation of Securities and Rights**

If Securities acquired under the Melbourne IT Performance Rights Plan are not quoted on the official list of ASX, Melbourne IT must apply for quotation of those Securities on the official list of ASX as soon as practicable after the allotment of those Securities.

Rights will not be quoted on the ASX or any other publicly traded exchange.

## **4 LIMITATIONS ON OFFERS OF RIGHTS AND CASH BONUS AMOUNTS**

### **4.1 Overriding Restrictions**

Notwithstanding anything else in these Terms & Conditions, the Plans must be operated in accordance with the Constitution, any Law, the Listing Rules or the ATSC Settlement Rules.

### **4.2 No assignment of Rights**

Unless the Board determines otherwise, a Participant must not assign to any other person any of their legal or equitable rights to Rights held under the Melbourne IT Performance Rights Plan, except a Participant's Legal Personal Representative to be delivered Securities upon conversion of Rights.

### **4.3 Security Interests over Rights**

Participants must not grant any Security Interest over or otherwise deal with any Right or Securities to which a Right may convert or in any way hedge or otherwise limit their

exposure to loss of the Right or reduction in value of the Security to which the Right may convert.

#### **4.4 Expiry or Lapse of Rights and Cash Bonus amounts**

Rights and Cash Bonus amounts will expire or lapse on the earlier of:

- (a) the Vesting Date or Calculation Date if the Performance Conditions have not been satisfied by the Vesting Date or Calculation Date;
- (b) the termination or resignation of employment, subject to a determination of the Board under clause 6.4; or
- (c) any other event or act or omission as determined by the Board in its absolute discretion.

#### **4.5 Effect of Expiry or Lapse**

On the expiry or lapse of a Right, all rights of a Participant under the Melbourne IT Performance Rights Plan in respect of the Right cease and no consideration or compensation will be payable for or in relation to that expiry or lapse of the Right.

### **5. HOLDING STATEMENT**

Melbourne IT or its agent must maintain a register of Rights and provide a participant with a holding statement for Rights held at the time of each grant of Rights and on conversion or lapse of Rights.

A holding statement for Securities allotted on conversion of Rights will be provided to Participants in accordance with the ASTC Settlement Rules.

### **6. VESTING AND CONVERSION OF RIGHTS AND PAYMENT OF CASH BONUS**

#### **6.1 No Interest**

A grant of Rights does not confer any legal or equitable interests in Securities until the conversion of the Rights to Securities.

An entitlement to a Cash Bonus does not confer any legal or equitable interests in Securities at any time.

#### **6.2 Vesting and Conversion of Rights**

On the Vesting Date, Rights which have not expired or lapsed under clause 4.4 will, subject to a determination by the Board as to the satisfaction of any Performance Conditions, vest and, subject to the Rules, the Rights will convert and Melbourne IT will issue, or procure the purchase or transfer of and deliver, to a Participant the number of shares into which the Performance Rights held by that Participant convert.

#### **6.3 Payment of Cash Bonuses**

Cash Bonus will be paid as prescribed in the Rules.

#### **6.4 Qualifying Reason**

Subject to clause 7.4, the Board may on or after the occurrence of a Qualifying Event, vary the Vesting Date or Calculation Date or waive any Performance Conditions or waive the Performance Period or a combination thereof to allow the vesting and conversion of Rights or payment of a Cash Bonus.

## **7 PRO RATA ISSUES, RECONSTRUCTIONS OF CAPITAL, TAKEOVERS AND TERMINATION BENEFITS**

**7.1** A Participant is not entitled to participate in:

- (a) new issues of Securities to Security holders;
- (b) bonus issues of Securities or other securities to Security holders; or
- (c) any pro-rate issue of Securities to Security holders, but

the Board, in its absolute discretion, may vary the Rules to reflect any change in the capital of Melbourne IT.

### **7.2 Reconstructions**

In the event of any reconstruction (including without limitation any consolidation, subdivision, reduction, capital return, share split, buy back or cancellation) of the capital of Melbourne IT the number of Securities that may be acquired by each Participant must be reconstructed accordingly, in a manner that does not result in any additional benefits being conferred on Participants that are not conferred on Security Holders of Melbourne IT. However in all other respects, the Rights will remain unchanged

### **7.3 Change of Control**

If there is a Control Event, the Board may in its absolute discretion but subject to the Listing Rules give written notice to Participants of the Control Event and convert all or any of the Participant's Rights to Securities or pay a Cash Bonus whether or not the Performance Conditions have been met.

### **7.4 Termination Benefits**

Nothing in these Terms and Conditions authorises the Board to provide any benefit to a Participant which, without Security Holder approval, would be prohibited under the Corporations Act or the Listing Rules.

## **8. ADMINISTRATION OF THE PLANS**

### **8.1 Amendment**

Subject to clause 4.1, these Terms & Conditions may be amended at any time and from time-to-time by the Board.

### **8.2 Powers of the Board**

Subject to clause 4.1, the Plans will be managed by the Board, which will have power to:

- (a) make and amend existing and/or additional Terms & Conditions and/or procedures for the operation, control and administration of the Plans and any matter incidental to the Plans;
- (b) resolve conclusively all questions of fact or interpretation arising in connection with the Plans;

- (c) determine matters falling for determination in connection with the Plans;
- (d) delegate to any one or more persons (for such period and on such conditions as it may determine) the exercise of any of its functions, powers or discretions arising under the Plans;
- (e) establish a trust, if required, to acquire, hold and deliver Securities under the Plans, the establishment of a trust to be governed by a separate trust deed;
- (f) appoint (and remove) an Administrator to administer the Plans and determine the terms and conditions of the Administrator's appointment (and removal), the appointment (and removal) of an Administrator to be governed by a separate agreement; and
- (g) delegate to the Managing Director or the Chairman of the Board the authority to approve in writing the taking of such action as may be reasonably necessary or desirable to implement or effect the Plans (and where the action involves the Managing Director's interests in Melbourne IT securities, the Chairman is delegated authority to approve in writing the action), including without limitation:
  - (i) determining the method of allocation of shares or Cash Bonuses (as the case may be) by Melbourne IT for the purposes of Clause 3.5 or shares and/or cash under Clause 6.2 and 6.3, respectively; and,
  - (ii) should shares be acquired on-market in accordance with Clause 3.5 and Clause 6.2, authorising the purchase (on-market) of the shares and causing their registration in the name of each Participant.

### **8.3 Discretion**

A determination, decision, approval or opinion of the Board under these Terms & Conditions (or any additional Terms & Conditions made under clause 8.2(a) or Rules made under clause 12) will be in the absolute unfettered discretion of the Board.

### **8.4 Decision Final**

In the absence of manifest error, the determination, decision, approval or opinion of the Board will be final. Any calculations or adjustments which are required to be made under the Plans will be made by the Board and will, in the absence of manifest error, be final and conclusive and binding on the Participants.

### **8.5 Commencement of Plans**

The Plans will take effect on and from such date as the Board may resolve.

### **8.6 Termination or suspension of Plans**

The Board may terminate or suspend the operation of the Plans at any time, provided that termination or suspension does not affect or prejudice the existing rights of Participants at that time.

### **8.7 Termination or suspension of Participant**

The Board may terminate or suspend the participation of a Participant in the Plans at any time.

### **8.8 Disclosure of Information**

Melbourne IT Limited group of Companies and/or the Administrator may disclose such information of a Participant as required by the Tax Act to any relevant government authority including, without limitation a Participant's tax file number and number or value

of Rights granted and/or vested or Securities acquired or cash provided under clause 6.2.

## **9. EMPLOYMENT RIGHTS**

### **9.1 Discretion of the Board**

The Plans or the participation of a Participant may be terminated or suspended at any time at the discretion of the Board and no compensation under any employment contract will arise as a result. Participation in the Plans in one year does not give rise to any entitlement to participate in the Plans in any subsequent year.

### **9.2 No right to acquire Securities**

Participation in the Melbourne IT Performance Rights Plan does not confer on any Participant any right to acquire Securities under the Plans, other than on the terms of the Rights.

### **9.3 Calculation of employee benefits**

The value of the Cash Bonus entitlement or the Cash Bonus received, Rights or Securities (as the case may be) allocated under the Plans does not increase a Participant's income for the purpose of calculating any employee benefits.

### **9.4 No right to future employment**

Participation in the Plans does not confer on any Participant any right to continue as an employee of the Group.

### **9.5 Termination of employment**

Participation in a Plan does not affect any rights which the Group may have to terminate the employment of any Participant. Nothing in the Terms & Conditions, including participation in a Plan, may be used to increase damages in any action brought against the Group in respect of any termination of employment with the Group.

### **9.6 Security holder entitlements**

Rights do not confer on the holder any benefit or entitlement other than as specifically stated in these Terms and Condition or the Rules. For the avoidance of all doubt there is no entitlement to dividends on Rights or to any entitlements attaching to Securities.

## **10. NOTICES**

### **10.1 Notice to Participants**

Any notice or direction given under these Terms & Conditions is validly given to a Participant if it is handed to the Participant concerned or sent by ordinary prepaid post to the Participant's last known address or sent to the email address last notified by the Participant or given in any reasonable manner which the Board from time to time determines.

### **10.2 Notice to Melbourne IT**

Any notice given by a Participant to Melbourne IT under these Terms & Conditions must be given either;

- (a) in writing and directed to:

Ashe-lee Jegathesan  
Company Secretary  
Melbourne IT Limited  
120 King Street  
Melbourne Victoria 3000  
Facsimile: +61 3 8624 2435  
Email: Ashe-lee.Jegathesan@melbourneit.com.au

- (b) by electronic means to an email address or electronic address as may be notified by Melbourne IT from time to time.

### **10.3 Receipt of notices**

Notices are taken to be received:

- (a) if hand delivered, on delivery;  
(b) if sent by prepaid post, five Business Days after the date of posting;  
(c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice, unless the sender is informed within three Business Days that it has not received the entire notice; or  
(d) if by electronic mail, when the electronic communication enters the relevant information system(s).

## **11. PLAN COSTS AND EXPENSES**

### **11.1 Costs of Melbourne IT**

Subject to clauses 11.2 and 11.3, unless otherwise determined by the Board, Melbourne IT must pay all costs relating to the establishment and operation of the Plans, including all costs and expenses in relation to the delivery of the Rights and/or Securities except that Melbourne IT is not responsible for any Taxes which may become payable in connection with the Rights or Securities (as the case may be) or any other dealing with the Rights or Securities (as the case may be).

### **11.2 Costs of Participants**

Each Participant will pay all costs and expenses in relation to the sale, transfer or other disposal of any Securities acquired upon conversion of Rights under the Melbourne IT Performance Rights Plan.

### **11.3 Withholding Tax**

Melbourne IT or any Group company may withhold from amounts otherwise owing to a Participant, or require the Participant to remit to it, an amount sufficient to satisfy all withholding tax obligations and any government imposts, in respect of any or all of the Rights issued or Cash Bonus paid, or Securities issued or transferred on conversion of the Rights, under the Plans.

## **12. RULES**

The Board may apply, make and/or amend Rules for the operation of the Plans or its application to an individual Eligible Employee, not inconsistent with these Terms & Conditions and those Rules shall apply for each grant of Rights.

### **13. GOVERNING LAW AND JURISDICTION**

The laws of the State of Victoria, Australia, govern these Terms & Conditions and the rights of the Participants thereunder.

Each Participant irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the State of Victoria, Australia and courts entitled to hear appeals from those courts.