



## **EMPLOYEE SHARE OPTION PLAN**

### **RULES OF THE PLAN**

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### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

The following definitions apply unless the context requires otherwise.

*Application Form* means a form for the application for Options in respect of an Offer made to an Eligible Employee to participate in the Plan, in a form approved by the Board from time to time.

*Exchange* means a stock exchange either in Australia or the United States of America.

*Board* means the board of directors of the Company or a committee of the Board appointed to administer the Plan.

*Closing Date* means in relation to an Offer, the date specified by or on behalf of the Board.

*Company* means Electro Optic Systems Holdings Limited (ACN 092 708 364).

*Eligible Employee* means a person eligible to participate in the Plan pursuant to rule 4.

*Employer Company* means the Company, a Subsidiary, or any other company approved by the Board in which the company is entitled to not less than 20 per cent of the voting shares.

*Exercise Condition* means, in respect of any Option, one or more conditions that must be met before the Option may be exercised as determined by the Board in its absolute discretion on the Offering Date.

*Exercise Period* means, in respect of an Option, the period designated by the Board and notified in writing to the Option Holder as being the period during which the Option Holder may exercise the Option or any part of it in accordance with rules 10 and 11.

*Exercise Price* means in respect of any Offer, the price per Share calculated in accordance with rule 6 subject to any adjustment in accordance with rule 12.

*Expiry Date* means the date referred to in rule 10.4.

*Issue Date* means a date determined by the Board after the date of receipt of an application for an Option by the Company and before the date 30 days after the Closing Date.

*Listing Rules* means the Listing Rules of the Exchange.

*Market Price*, in relation to a Share, on a particular day means:

- (a) if there was at least one transaction on the Exchange during the 5 business days before that day, the weighted average of the prices at which a Share was traded on the Exchange during the 5 business days before that day; or
- (b) if there were no transactions on the Exchange in that 5 business days in Shares, the last price at which an offer was made on the Exchange in that period to buy a Share.

*Offer* means an invitation to an Eligible Employee to apply for an Option.

*Offering Date* means each date upon which an Offer is made to an Eligible Employee.

*Option* means a right to subscribe for Shares granted to an Option Holder under this Plan.

*Option Holder* means an Eligible Employee who is granted an Option pursuant to rule 9.

*Plan* means the Electro Optic Systems Pty Limited Employee Share Option Plan constituted by these rules as amended from time to time.

*Shares* means ordinary shares in the capital of the Company.

*Subsidiary* means a subsidiary (which has the meaning given to that term in the Corporations Law) of the Company.

*Total Exercise Amount* means, in relation to each Option, the Exercise Price multiplied by the number of Shares for which the Option is being exercised.

## **1.2 Interpretation**

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (d) A reference to a rule is to a rule of these Rules.

## **1.3 Governing Law**

This plan and any options issued under it are governed by the laws of New South Wales.

## **2 TOTAL NUMBER OF SHARES**

The total number of Shares which is the subject of unexercised Options granted under this Plan, when aggregated with the Shares which have been issued on exercise of the Options granted under this Plan and Shares issued under any other employee incentive scheme of the Company during the five years preceding the date on which an Option is issued, may not exceed 10 per cent of the total number of issued shares in the capital of the Company at the date of issue of any Option.

## **3 OFFERING DATE**

The first Offering Date of the Plan shall not be earlier than 1 July 2002 and after that date Offering Dates shall not be later than 3 months after each general meeting of the Company or such other dates as the Board may determine.

## **4 ELIGIBILITY**

### **4.1 Qualifying Period**

The Board may determine that a person shall not be eligible to participate in the Plan unless, as at the Offering Date, that person has been employed by an Employer Company for a period determined by the Board.

### **4.2 Board Discretion**

The Board may in its absolute discretion:

- (a) determine that certain directors or other employees of the Company or an Employer Company are eligible or ineligible to participate in the Plan by reason of special conditions of employment or for any other reason:
- (b) deem a non-employee who has been retained by the Company or an Employer Company to be an Eligible Employee for the purposes of the Plan; and
- (c) waive any Exercise Conditions in relation to any Options granted to any Option Holder.

## **5 SHARES COMPRISED IN EACH OPTION**

### **5.1 Number of Shares**

Subject to rule 2, the number of Shares the subject of an Option to be offered to an Eligible Employee in accordance with the Plan shall be determined at the absolute discretion of the Board, however, the Board shall take into account the actual and potential contribution of the Eligible Employee to the growth and profitability of an Employer Company.

## **6 EXERCISE PRICE**

### **6.1 Company's Shares listed on the Exchange**

The Exercise Price shall be, at the discretion of the Board, equal to or greater than the Market Price on the Issue Date.

## **7 MAKING OFFERS**

### **7.1 Offer**

The Board may from time to time make an offer to each Eligible Employee as it sees fit subject to the Plan at that time.

### **7.2 Offer as an Invitation**

Each Offer constitutes an invitation to the Eligible Employee to apply for the grant of an Option under the Plan and may be made by such means as the Board considers appropriate, subject always to compliance with relevant local legislation.

## **8 APPLICATION FOR OPTION**

### **8.1 Information about Options**

In respect of each Offer, the Board shall make available to Eligible Employees the following information relevant to an Option that may be granted under the Plan, namely:

- (a) the Exercise Price;
- (b) the designated Exercise Period;
- (c) the number of Shares for which the Eligible Employee shall be entitled to subscribe upon the exercise of the Option;
- (d) the Closing Date;
- (e) the Expiry Date; and
- (f) any designated Exercise Condition.

### **8.2 Requirements of Application**

Each application for an Option must:

- (a) be made on the Application Form;
- (b) confirm with any instructions contained in the Application form or in the Offer; and
- (c) be received by the Board at the specified place prior to the Closing Date.

### **8.3 Formal Application**

Each Application Form when properly completed and signed by the Eligible Employee in accordance with rule 8.3 shall constitute an application for the grant of an Option to subscribe for the Shares at the Exercise Price. No payment is required at the time an Option is granted.

## **9 GRANT OF OPTION**

### **9.1 Date of Grant**

Each Option shall be deemed to be granted to the Eligible Employee on the Issue Date.

### **9.2 Certificate**

Upon the grant of the Option, the Company shall issue to the Option Holder for each tranche of Shares to which the Option relates a certificate evidencing the Option and the number of Shares for which the Option Holder is entitled to subscribe.

### **9.3 Personal**

The Option shall be personal to the Option Holder and may not be assigned to or exercised by any other person or body corporate except in the case of rule 13.

## **10 WHEN OPTION MAY BE EXERCISED**

### **10.1 Exercise Periods**

Subject to rule 10.3, the Option Holder may exercise the Option or any part of it in the applicable Exercise Period provided that any exercise is for a minimum of a marketable parcel (as defined in the Listing Rules) of Shares or such other number or multiple of a number as the Board may determine.

The Option may only be exercised in the following time periods:

- at any time after the end of 12 months from the Issue Date, the Option may be exercised in respect of up to 50% of the Shares which are the subject of the Option;
- at any time after the end of 2 years from the Issue Date, the Option may be exercised in respect of the remaining 50% of the Shares which are the subject of the Option; and

### **10.2 Variation by Board**

The Board may in its absolute discretion issue Options with different exercise periods.

### **10.3 Restrictions on Exercise**

Except where an Option becomes exercisable by virtue of the provisions of rule 13 and subject to the Board exercising its discretion under rule 13.3 no Option may be exercised unless at that time any Exercise Conditions imposed by the Board have been satisfied.

### **10.4 Lapse**

- (a) An Option shall lapse at 5.00pm on the date which is the 4<sup>th</sup> anniversary of the date on which the Option is granted or such shorter period as designated by the Board on the Offering Date.
- (b) Any Option not exercised on or before the Expiry Date shall automatically lapse.

## **11 EXERCISE OF OPTION**

### **11.1 Notice of Exercise**

- (a) In order to exercise an Option, the Option Holder (or his or her personal representative in the case of a deceased Option Holder) must deliver to the Company a completed and signed notice of exercise in a form prescribed by the Board and made available to Option Holders, together with the total Exercise Amount. All payments made pursuant to this rule shall be made by cheque, bank draft or postal order made out in favour of the Company.
- (b) If an Option Holder exercises only part of the Option, the Company shall issue to the Option Holder a new certificate evidencing the remaining number of Shares for which the Option Holder is entitled to subscribe.

### **11.2 Allotment of Shares**

Subject to rule 11.1, upon receipt of the Total Exercise Amount the Company shall promptly allot to the Option Holder the Shares for which the Option Holder is entitled to subscribe.

### **11.3 Quotation of Shares**

After Shares have been allotted pursuant to rule 11.2, the Company will promptly make application for official quotation of those shares on the Exchange.

## **12 RIGHTS OF OPTION HOLDER UPON EXERCISE OF OPTION**

### **12.1 Ranking of Shares**

The Shares to be allotted upon the exercise of an Option will upon allotment rank pari passu in all respects with the then existing ordinary issued Shares in

the capital of the Company and will be subject to the provisions of the Articles of Association of the Company.

## **12.2 Adjustment for Rights Issue for Listed Shares**

As required by the Exchange if:

- (a) Shares are offered pro rata for subscription by the Company's shareholders generally by way of a rights issue; and
- (b) the price at which each Share is so offered is less than the Market Price on the day of public announcement of the rights issue,

the Exercise Price applicable to each Share shall be reduced in accordance with the Listing Rules.

## **12.3 Adjustment for Bonus Issue**

- (a) If Shares are issued pro rata to the Company's shareholders generally by way of bonus issue involving capitalisation of reserves or distributable profits, the Option Holder shall be entitled, upon exercise of the Option as to some or all of the Shares comprised in it, to receive in addition to the Shares in respect of which the Option is exercised and without the payment of any further consideration an allotment of so many additional Shares as would have been issued to a shareholder who, on the date for determining entitlements under the bonus issue, held Shares equal in number to the Shares in respect of which the Option is exercised.
- (b) Where a bonus issue is made by the Company the additional Shares will be allotted out of the same account as that from which the shareholders were issued their shares. Where the account used is the share premium reserve, the share premium reserve shall be applied in paying up any such additional Shares, but only to the extent of the par value of those Shares and not in payment of any premium, at the time of allotment of them. The Company shall ensure that sufficient share premium reserve is maintained to comply with this rule.
- (c) Additional Shares to which the Option Holder becomes so entitled shall, as from the time Shares are issued pursuant to the bonus issue and until those additional Shares are allotted, be regarded as Shares comprised in the relevant Option and in respect of which the Option is exercised for the purposes of subsequent applications of rule of which the Option is exercised for the purposes of subsequent applications of rule 12.4(a), and any adjustments which, after the time just mentioned, are made under rules 12.4, 12.5 or 12.6 to the number of Shares comprised in a tranche shall also be made to the additional Shares as if they were Shares comprised in the tranche.



#### **12.4 Subdivision or Consolidation**

If Shares are subdivided into Shares of smaller fixed amount or consolidated into Shares of larger fixed amount, the Option shall thereupon be taken to comprise so many Shares of the new fixed amount as the subdivision or consolidation would have produced from the Shares comprised in the Option immediately before the subdivision or consolidation had the Shares comprised in the Option been on issue immediately before the subdivision or consolidation and the Exercise Price applicable to each Share of the new fixed amount comprised in the Option shall be correspondingly adjusted.

#### **12.5 Return of Capital**

If the Company makes a return of capital to its shareholders generally, the Exercise Price applicable to each Share comprised in the Option shall be reduced by the amount of the capital returned in respect of each Share. For the purposes of this rule a return of capital shall include any dividend which the company designates as a special or extraordinary dividend as that from which the shareholders were issued their shares where the account used is the share premium reserve.

#### **12.6 Other Reconstruction**

If there occurs any other reconstruction of the capital of the Company affecting issued Shares, the Shares comprised in the Option and the Exercise Price applicable to each such Share shall be reconstructed (as appropriate) in a manner which will not result in any benefits being conferred on the Option Holder which are not conferred on holders of issued Shares, and (subject to the provisions of that reconstruction with respect to rounding of entitlements as sanctioned by the meeting of shareholders approving the reconstruction of capital) in all other respects the terms of the Options shall remain unchanged.

#### **12.7 No Additional Rights**

The Plan shall afford an Option Holder no additional rights to compensation or damages in consequence of the termination of his or her employment or appointment for any reason whatsoever.

#### **12.8 Maintain Capital**

At all times the Company will keep available sufficient authorised capital to satisfy the exercise to the full extent of all Options which have neither lapsed nor been fully exercised, taking account of any other obligations of the company to issue Shares.

## **13 TERMINATION OF THE OPTION**

### **13.1 Retirement, Redundancy, Disability or Death**

If the Option Holder's employment terminates as a result of retirement approved by the Company, redundancy, permanent disability or death (or in such other circumstances as the Board in its absolute discretion determines), rights with respect to the Option may be exercised by the Option Holder or the Option Holder's legal personal representative(s) for a period up to twelve months of the termination of the Option Holder's employment provided that any Exercise Conditions applying up to the termination date have been satisfied.

If the Option is not exercised within the twelve month period in accordance with this rule, it will lapse.

### **13.2 Termination of Employment for Other Reasons**

If the Option Holder's employment is terminated due to the Option Holder's failure to perform the duties contained in the Option Holder's employment contract satisfactorily or because the Option Holder has left the Company to work other than for the Company, the Option will lapse except to the extent that the Option Holder already may exercise the Option pursuant to Rule 10.1. at the time of termination. Any rights not exercised within 90 days of termination will lapse.

### **13.3 Board's Discretion**

In any of the circumstances referred to in rules 13.1 and 13.2, the Board may in its absolute discretion give written approval for the Option Holder to exercise the Option during such further period (ending no later than the Expiry Date) as the Board may determine.

### **13.4 Breach, Fraud or Dishonesty**

If in the reasonable opinion of the Board the Option Holder acts fraudulently or dishonestly or is in breach of his or her obligations to the Company or a Subsidiary then the Board may in its absolute discretion deem any unexercised Option of the Option Holder to have lapsed. The Board's decision will be final and binding.

### **13.5 Liquidation of Company**

In the event of the liquidation of the Company all Options to the extent that they are then unexercised shall cease.

## **14 TAKEOVER**

If during the currency of any Option and prior to its exercise:

- (a) a takeover offer is made to shareholders of the Company to acquire their shares and the Board becomes aware that more than 50% of the issued capital of the Company have or will become vested in the offeror and related and associated parties then the Board shall notify each Option Holder in writing that an Exercise Period for all of the unexercised Options shall commence on the date of such notice and end on a date specified in the notice. Upon receipt of such notice the Option Holders shall be entitled to exercise all or any of their unexercised Options; or
- (b) the Board concludes that there has been such a change in the control of issued shares of the Company that the replacement of the majority of the Board is imminent or the Board becomes aware that any person or corporation has become entitled to more than 25% of the issued shares of the Company the Board may resolve to notify each Option Holder that an Exercise Period for all the unexercised Options shall commence on the date of such notice and end on a date specified in the notice. Upon receipt of such a notice the Option Holders shall be entitled to exercise all or any of their unexercised Options.

## **15 DURATION OF THE PLAN**

- (a) The Plan shall continue in operation at the discretion of the Board.
- (b) If for any reason the Plan terminates or is discontinued, the same shall be without prejudice to the rights of the Option Holders to whom Options have been granted.

## **16 ALTERATIONS OF THE PLAN**

### **16.1 Amendment of Plan**

Subject to rule 16.2, the Board may at any time and from time to time by resolution:

- (a) revoke, add to or vary any of the rules of the Plan or all or any of the rights or obligations of the Option Holders or any of them provided that the interests of any existing Option Holder are not, in the opinion of the Board, materially prejudiced by such addition or variation; and

- (b) formulate various sets of special rules, in addition to those set out in the Plan, to apply to Eligible Employees employed and/or resident in and/or who are citizens of countries other than Australia. Each of such sets of special rules shall be restricted in its application to those eligible Employees employed and/or resident in and/or who are citizens of the foreign country or countries specified by the Board, and may be revoked, added to or varied in accordance with paragraph (a) of this rule.

## **16.2 Restrictions**

The Board's powers referred to in rule 16.1 are subject to any restrictions or procedural requirements relating to the amendment of the terms of an employee incentive scheme or of issued options imposed by the Listing Rules and applicable to the Plan or the Options, as the case may be, unless such restrictions or requirements are relaxed or waived either generally or in a particular case or class of cases by the Exchange or any of its delegates.

## **17 ADMINISTRATION**

The Plan shall be administered by the Board or a committee appointed by the Board in its absolute discretion with such powers and duties as are conferred upon it.

## **18 NOTICES AND CORRESPONDENCE**

### **18.1 Notice to Company**

Any notice required to be given by an Option Holder under the Plan or any correspondence to be made between an Option Holder and the Company or the Board may be given or made to the principal office of the Company or such other address as may be notified in writing.

### **18.2 Notice to Option Holder**

Any notice required to be given by the Company or the Board to an Option Holder or any correspondence to be made between the Company or the Board and an Option Holder may be given or made by the Board on behalf of the Company.

## **19 DISPUTES**

Any disputes or differences of any nature arising under the Plan shall be referred to the Board and its decision shall be final and binding in all respects.

## **20 LISTING RULES AND ARTICLES**

The terms and conditions as set out in these Rules are subject to the Listing Rules of the Exchange and the Company's Articles of Association, both as in force from time to time.