



Midway Limited

Long Term Incentive Plan

Plan Rules

Midway Limited

ACN 005 616 044

Adopted by the Board on 25 May 2016

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Midway Limited Long Term Incentive Plan – Plan Rules

1. Defined terms & interpretation

1.1 Definitions

In these Rules, unless the contrary intention appears:

Acquisition Loan means a loan made by the Company or a Related Company under Rule 4 for the purpose of acquiring a Share as the result of the acceptance of a Share Offer.

Acquisition Loan Period means the period of the Acquisition Loan determined in accordance with Rule 4.2(e).

Acquisition Price means the issue or purchase price of Shares offered for acquisition (by way of issue or purchase as the case) may be under a Share Offer.

ASX means ASX Limited or the financial market it operates, as the context requires.

ASX Settlement means ASX Settlement Pty Ltd.

ASX Settlement Operating Rules means the operating rules of ASX Settlement.

Board means all or some of the Directors acting as a board, or a committee of the Board appointed for, or the functions of which are determined to include, the purposes of this Plan or these Rules.

Change of Control means when in relation to the Company any person, either alone or together with any Associate of the person, acquires a Relevant Interest in more than 50% of the issued Shares in the Company, or any similar event which the Board determines, in its discretion, is a Change of Control.

CHESS Holding has the meaning given in the ASX Settlement Operating Rules.

Company means Midway Limited ACN 005 616 044.

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

Director means a director of the Company.

Disposal Restriction means such restriction on disposal or dealing in a Share to be delivered upon the exercise of an Option or a Right, as determined by the Board in its discretion and notified to a Participant at the Time of Grant.

Eligible Employee means an employee of the Company or a Related Company, including Directors, or such other person as the Board, in its discretion, determines.

Holding Lock has the meaning given in the ASX Settlement Operating Rules.

Listing Rules means the official listing rules of ASX.

Notice of Exercise means a duly completed and signed notice of exercise of an Option or a Right by a Participant as referred to in Rule 5.2(b), in the form approved by the Board from time to time.

Option means an Option granted under Rule 3 to acquire a Share.

Participant means an Eligible Employee to whom a Share has been issued or an Option or a Right has been granted under the Plan.

Plan means the Midway Long Term Incentive Plan established in accordance with these Rules.

Related Company means a company which is a related body corporate (as defined in the Corporations Act) of the Company.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act as if sections 609(6) and 609(7) were omitted.

Right means a Right granted under Rule 3 to acquire a Share.

Rules means the rules of the Plan.

Security Interest has the meaning given in section 51A of the Corporations Act.

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

Share Offer means an offer of Shares to an Eligible Employee under Rule 3.1.

Time of Acquisition means the time of acquisition by a Participant under Rule 3 of a Share.

Time of Grant means the time of grant under Rule 3 of an Option or a Right, as the case requires.

Unvested Options means Options in respect of which a Vesting Notice has not been given to the Participant holding the Options.

Unvested Rights means Rights in respect of which the Vesting Conditions applicable to the Right have not been satisfied.

Unvested Shares means Shares in respect of which a Vesting Notice has not been given to the Participant holding the Shares.

Vested Options means Options in respect of which a Vesting Notice has been given to the Participant holding the Options.

Vested Rights means Rights in respect of which Vesting Conditions have been satisfied.

Vested Shares means Shares in respect of which a Vesting Notice has been given to the Participant holding the Shares.

Vesting Conditions means one or more conditions, including time or performance conditions, as determined by the Board in its discretion and advised to a Participant at the time of issue or the Time of Grant, as the case may be.

Vesting Notice means a notice to a holder of a Share or an Option that, to the extent specified in the Vesting Notice, the Vesting Conditions applicable to the Share or Option have been satisfied, or waived by the Board at its discretion.

1.2 Interpretation

In these Rules, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to these Rules or any particular part of these Rules includes these Rules or the relevant part as novated, altered, supplemented or replaced from time to time;
- (d) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (e) a reference to time is to Melbourne, Australia time;
- (f) a reference to a person includes the person's executors, administrators and successors;

- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (j) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions; and
- (k) a rule of construction does not apply to the disadvantage of the Company because the Company was responsible for the preparation of these Rules or any part of these Rules.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Commencement of Plan

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

3. Options or Rights

3.1 Offers of Shares and Grants of Option or Rights

- (a) The Board may from time to time at its discretion:
 - (i) grant Options or Rights, or both: or
 - (ii) offer Shares,
 under the Plan to Eligible Employees selected by the Board.
- (b) The Board will determine the procedure for granting Options and Rights, including the form, terms and content of any Share Offer, invitation, offer or acceptance procedure.
- (c) A grant or Share Offer shall be in such form and with such terms and conditions, including exercise price applicable to Options, Disposal Restrictions (if any) and Vesting Conditions (if any), as the Board determines in its discretion.
- (d) A grant of Options or Rights does not confer any right or interest, whether legal or equitable, in Shares until the Vesting Conditions in respect of such Options or Rights having been satisfied or waived by the Board at its discretion.
- (e) Unless otherwise determined by the Board at its discretion at Time of Grant, no amount shall be payable by a Participant in respect of Shares delivered to a Participant upon the exercise of Rights under Rule 5.
- (f) A Share Offer to a Participant may be made conditional on the Company and the Participant executing agreements and other documents in a form acceptable to the Company providing for:
 - (i) the offer by the Company and the acceptance by the Participant of an Acquisition Loan equal to the aggregate Acquisition Price of the Shares offered under the Share Offer;

- (ii) the Participant agreeing that the Shares offered under the Share Offer will be held by the Participant in a CHESS Holding sponsored by a Participant (as defined in the ASX Settlement Operating Rules) as approved or required by the Company;
- (iii) the grant by the Participant in favour of the Company of a Security Interest over the Shares and the perfection of that Security Interest under the PPSA as a first ranking Security Interest; and
- (iv) except to the extent the Shares are held in a CHESS Holding, a written agreement by the Participant to the application of a Holding Lock in respect of the Shares.

3.2 Acquisition Price

The Board will determine from time to time the Acquisition Price of Shares under the Plan.

3.3 5% cap

Unless the Board determines otherwise, the Company will not issue Shares on acceptance of a Share Offer or on exercise of Options or Rights if the total number of Shares that would be issued under the acceptance or the exercise, when aggregated with the number of Shares which could be issued under each outstanding Share Offer, offer or grant with respect to Shares, units of Shares and options or rights to acquire unissued Shares, under the Plan or any other employee or non-executive Director share scheme of the Company to be accepted or exercised would exceed 5% of the total number of issued Shares at that time.

3.4 No hedging permitted

Each Participant agrees that it must not enter into an arrangement (with anyone) if the arrangement would have the effect of limiting the exposure of the Participant to risk relating to any Share the subject of a Share Offer to the Participant or any Option or Right granted to the Participant under this Plan that:

- (a) has not vested in the Participant; or
- (b) has vested in the Participant but remains subject to a Holding Lock.

4. Acquisition Loans

4.1 Offer of Acquisition Loans

At the direction of the Board the Company or a Related Company may offer an Eligible Employee an Acquisition Loan on terms and conditions to be determined by the Board.

4.2 Default Acquisition Loan Terms

Unless otherwise determined by the Board:

- (a) **(Timing)** an Acquisition Loan will be made to an Eligible Employee at the time the Eligible Employee acquires a Share as the result of their acceptance of a Share Offer;
- (b) **(Amount)** the amount of the Acquisition Loan will be equal to the sum of the Acquisition Prices of the Shares offered under the Share offer;
- (c) **(Application of Acquisition Loan money)** an Eligible Employee who accepts an Acquisition Loan irrevocably authorises the Company or the Related Company (as the case may be) to apply the Acquisition Loan on behalf of the Eligible Employee by way of payment of the Acquisition Price of the Shares issued or transferred to the Eligible Employee;
- (d) **(Acquisition Loans interest free)** unless otherwise determined by the Board an Acquisition Loan will not bear interest;

- (e) (**Acquisition Loan Period**) the Acquisition Loan Period is the period commencing when the Acquisition Loan is made and ending on the first to occur of the following:
 - (i) the date on which the Participant ceases to be employed by the Company or a Related Company;
 - (ii) the buy-back of the Shares in accordance with Rule 5.5; and
 - (iii) the sale of the Shares; and
- (f) (**Repayment**) a Participant:
 - (i) may repay all or part of an Acquisition Loan made to the Participant at any time before expiry of the Acquisition Loan Period; and
 - (ii) must repay in full the outstanding amount of the Acquisition Loan at the end of the Acquisition Loan Period.

4.3 Security

Unless the Board otherwise determines, an Eligible Employee may not accept an offer of an Acquisition Loan unless the Eligible Employee agrees to provide a Security Interest over the relevant Shares as contemplated by Rule 3.1(f).

5. Terms

5.1 Vesting

The Board must give a Participant a Vesting Notice upon the Vesting Conditions relating to Shares issued or transferred or Options granted to the Participant having been satisfied, or waived by the Board at its discretion.

The Board is not required to give a Participant a vesting notice upon the vesting conditions relating to any Rights being satisfied. Any performance rights issued under the Plan shall automatically entitle the Participant to be issued with the relevant underlying securities (i.e. shares) upon the Vesting Conditions relating to those Rights being satisfied.

A Participant is not required to lodge with the Company a notice of exercise in order to exercise any vested Rights.

5.2 Exercise of Options

- (a) A Participant may exercise Options in respect of which the Board has given a Vesting Notice and which have not expired under Rule 5.4 or forfeited under Rule 6.
- (b) Vested Options may be exercised by the Participant lodging with the Company a signed Notice of Exercise and complying with such other requirements as specified at the Time of the Grant or subsequently by the Board.
- (c) Shares in respect of which a Participant has exercised Options may, at the discretion of the Company, be delivered to the Participant by being issued to the Participant or the Company procuring their transfer to the Participant. Any costs and expenses incurred in purchasing and transferring Shares to a Participant will be paid by the Company.
- (d) A Participant must exercise Options in multiples of 100 or such other multiple as the Board determines and notifies the Participant, unless the Participant exercises all Options able to be exercised by the Participant at that time.

5.3 No disposal or encumbrances

Without the prior approval of the Board or as expressly provided in these Rules:

- (a) Options and Rights may not be disposed of, transferred or encumbered; and

- (b) Unvested Shares may not be disposed of, dealt with or encumbered or transferred in any way whatever until the first to occur of the following:
 - (i) the satisfaction of the applicable Vesting Conditions; and
 - (ii) the time when the Participant is no longer employed by the Company or a Related Company.

5.4 Expiry of Options or Rights

Unless otherwise determined by the Board at its discretion, Options or Rights which have not been exercised will expire and cease to exist upon the Board making a determination under Rule 6.3 that the Options or Rights are to be forfeited and otherwise will expire in accordance with the terms and conditions specified at the Time of Grant.

5.5 Buy-back of Shares

- (a) To the extent Vesting Conditions in respect of Shares are not satisfied then unless otherwise determined by the Board, the Company will buy-back the Unvested Shares for an amount equal to the aggregate Acquisition Price of the Unvested Shares.
- (b) A Participant who has a presently enforceable and unconditional right to have Vested Shares acquired by the Participant under the Plan and who has not sold or disposed of the Vested Shares (or agreed or instructed a financial services licensee to do so) may require the Company to buy-back the Vested Shares, in which event the Company must buy-back the Vested Shares for an amount equal to the aggregate Acquisition Price of the Shares.

5.6 Buy-back amount set off against Acquisition Loan

Where an Acquisition Loan is outstanding in respect of a Share, payment of the amount by the Company under a buy-back of the Share as provided in Rule 5.5 will be satisfied by being set off and applied against the amount of the Acquisition Loan outstanding in respect of the Share bought back and the Participant will have no further liability to the Company for the Acquisition Loan in respect of that Share.

5.7 Participation in future issues

(a) Participation Generally

A Participant in respect of Options or Rights cannot participate in new issues of Shares or other securities to holders of Shares unless the Shares in respect of the Options or Rights held by the Participant have been issued, or transferred, as the case requires, to and registered in the name of, the Participant before the record date for determining entitlements to the new issue.

(b) Bonus Issues

If the Company makes a pro rata bonus issue of Shares or other securities to holders of Shares (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) and Shares in respect of Options or Rights held by a Participant have not been issued or transferred, as the case requires, to and registered in the name of, the Participant before the record date for determining entitlements to the bonus issue, then the number of Shares subject of the Options or Rights held by the Participant will be increased by the number of Shares that the Participant would have received if the Shares subject of the Rights or Options had been registered in the name of the Participant before the record date for the bonus issue.

(c) *Rights Issues*

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

- (i) if no amount is payable on the exercise of Options or Rights, the number of Options or Rights (or other terms and conditions, if any, applicable to the Options or Rights) held by a Participant may be adjusted in such manner as the Board in its discretion determines. Such adjustment, if any, shall be subject to the Listing Rules, the Corporations Act and any other applicable law; and
- (ii) if an amount is payable on the exercise of Options or Rights, the exercise price shall be changed as permitted by the Listing Rules.

5.8 Reorganisation

In the event of any reorganisation of the issued ordinary share capital of the Company the number of Shares to be delivered in respect of each Option or Right or the amount payable, if any, by a Participant in respect of Shares to be delivered to a Participant will be reorganised in the manner as specified in the Listing Rules as applicable to options at the time of the reorganisation.

6. Forfeiture

6.1 Board determination

While Options, Rights or Shares held by a Participant are subject to this Rule 6, if the Board determines that the Participant has committed any act of fraud or defalcation or gross misconduct in relation to the affairs of the Company or a Related Company, the Participant will, subject to this Rule 6, forfeit any right or interest in the Options, Rights or Shares or other entitlements of the Participant under the Plan.

6.2 Cessation of employment

If the Participant, before Options or Rights issued under this Plan are duly exercised, ceases to be an employee or director of the Company or any of its subsidiaries by reason of:

- (a) the termination of the Participant's employment because of a breach by the Participant of the terms of the Participant's employment; or
- (b) resignation of the Participant as employee or director for a reason other than death, illness or injury,

those Options or Rights held by the Participant which could not have been exercised on or before the date the Participant ceased to be an employee or director shall thereupon lapse and terminate unless the Board determines otherwise.

6.3 Dealing in forfeited Options, Rights or Shares

The Board, in its discretion, may determine that forfeited Shares are to be sold, transferred, bought-back or otherwise disposed of and how any proceeds therefrom are to be applied. Options or Rights which are forfeited shall cease to exist upon the Board making a determination under Rule 6.1.

6.4 Dealing in rights of forfeited Shares

Pending a determination under Rule 6.3 in respect of Shares, the Board shall have the absolute discretion as to how any rights or entitlements in respect of such Shares are to be dealt with.

6.5 Participant to have no rights to proceeds

A Participant shall have no rights to the proceeds from any forfeited Shares dealt with under Rule 6 other than, if the forfeited Shares are bought back, by way of repayment of the Acquisition Loan used to acquire the forfeited Shares and releases and shall hold harmless the Company, each Related Company and the Board from and indemnify the Company, each Related Company, and the Board against any claim in respect thereof and from any claim that might otherwise arise from the forfeiture of a Option, Right, Share or other entitlement of a Participant under the Plan.

6.6 Buy-back of forfeited Shares

Rules 5.5 and 5.6 apply to the buy-back of forfeited Shares.

6.7 No transfer

Other than as provided by these Rules, the Company must not register or permit the share registry to register or transfer an Option, a Right or a Share to which this Rule 6 applies until the Board determines that this Rule 6 no longer applies to that Option, Right or Share and for that purpose the Company may do such things and enter into such arrangements with the share registry or otherwise as it considers necessary to enforce such restrictions on the transfer of such Options, Rights or Shares and Participants will upon request by the Company do all things necessary to give effect thereto and will be bound by such arrangements.

7. Rights attaching to Unvested Shares

7.1 Dividends

A Participant is entitled to all dividends declared or paid on the Unvested Shares held by the Participant.

7.2 Bonus Shares

- (a) A Participant is entitled to any bonus Shares which accrue to Unvested Shares held by the Participant.
- (b) Upon issue of the bonus Shares to the Participant, the bonus Shares are deemed, for the purposes of the Plan, to be Unvested Shares which were issued to the Participant at the time the Unvested Shares to which the bonus Shares accrued were issued to the Participant.

7.3 Rights

A Participant is entitled to any rights or entitlements which accrue to Unvested Shares held by the Participant and may sell those rights or entitlements or accept the rights or entitlements and apply for the underlying securities or options in accordance with the terms of their offer.

7.4 Participation in Dividend Reinvestment Plan

Unless otherwise determined by the Board, Unvested Shares will not participate in a dividend reinvestment plan of the Company.

8. Acquisition Loan not repaid

8.1 Sale of Unvested Shares

- (a) If the Participant has not repaid the outstanding amount of an Acquisition Loan (if any) at the end of the Acquisition Loan Period, the Company may, at its discretion, on behalf of the Participant, sell the relevant Unvested Shares for an aggregate amount in excess of

the outstanding Acquisition Loan amount and apply the proceeds of sale in or towards repayment of the Acquisition Loan.

- (b) For the purpose of the sale of the Unvested Shares pursuant to Rule 8.1(a), the Participant authorises the secretary of the Company (or his duly authorised delegate) to sell the Unvested Shares on behalf of the Participant and as their attorney.
- (c) The Company and the secretary will have complete discretion in respect of the sale of the Unvested Shares under Rule 8.1(a) and will not be liable to the Participant in respect of the timing of or price obtained on or any other circumstances relating to such sale.

8.2 Sale Proceeds

If the Company sells the Unvested Shares in accordance with Rule 8.1, the proceeds of sale will be applied in the following order:

- (a) in payment of any costs and expenses of the sale incurred by the Company; and
- (b) in reduction of the outstanding amount of the Acquisition Loan (if any); and
- (c) the balance (if any) in payment to the Participant.

8.3 Attorney

Without limiting the generality of Rule 13, the Participant, in consideration of the grant of the Option Loan or the Exercise Loan, irrevocably appoints the person who from time to time occupies the position of secretary of the Company (or his duly authorised delegate) his attorney to complete and execute any documents including share transfers and to do all acts or things in his name on his behalf which may be convenient or necessary for the purpose of giving effect to the provisions of this Rule and the Participant covenants that the Participant must ratify and confirm any act or thing done pursuant to this power and must indemnify the attorney (or his duly authorised delegate) in respect of that act or thing.

9. Change of Control

9.1 Change of Control

Upon the occurrence of a Change of Control, the Board may at its discretion and subject to such terms and conditions as it determines, resolve that the Vesting Conditions applicable to Unvested Options or Unvested Rights be waived.

9.2 Removal of Disposal Restriction

Without limiting Rule 9.1, the Board may at its discretion determine at any time that a Disposal Restriction is no longer to apply and shall notify Participants, as applicable, in writing of such determination.

10. Administration of the Plan

- (a) The Plan will be administered by the Board in accordance with these Rules. The Board may make rules and regulations for the operation of the Plan which are consistent with these Rules.
- (b) Any power or discretion which is conferred on the Board by these Rules may be exercised by the Board at its absolute discretion and in the interests or for the benefit of the Company, and the Board is not, in exercising any such power or discretion, under any fiduciary or other obligation to any other person.
- (c) Any power or discretion which is conferred on the Board by these Rules may be delegated by the Board for such period and upon such conditions as the Board may determine to:

- (i) a committee consisting of such Directors as the Board determines; or
 - (ii) any one or more persons selected by the Board.
- (d) Every exercise of a power or discretion by the Board (or its delegate) and every decision of the Board as to the interpretation, effect or application of these Rules is final, conclusive, and binding.
- (e) The Company will pay all costs and expenses in relation to the establishment and operation of the Plan including all costs and expenses in relation to an issue, or purchase and transfer of Shares, to a Participant.
- (f) The Board may determine (where applicable) that Options, Rights or Shares are no longer subject to Rule 6. The Board may establish such procedures as it considers appropriate for the purpose of making such a determination.

11. Rights of Participants

Nothing in these Rules:

- (a) confers on an Eligible Employee the right to be issued or transferred Shares or granted Options or Rights;
- (b) confers on a Participant the right to continue as an employee of the Company or a Related Company;
- (c) affects any rights which the Company or a Related Company may have to terminate the employment of any employee; or
- (d) may be used to increase damages in any action brought against the Company or a Related Company in respect of any such termination.

12. Amendment of these Rules

12.1 Amendments

Subject to the Listing Rules and Rule 12.2, the Company may at any time by written instrument or by resolution of the Board, amend all or any of the provisions of these Rules (including this Rule 9).

12.2 No Reduction of rights

No amendment of the provisions of these Rules is to reduce the rights of any Participant in respect of Options or Rights granted under the Plan prior to the date of the amendment, other than:

- (a) an amendment introduced primarily:
 - (i) for the purpose of complying with or conforming to present or future State, Territory or Commonwealth or foreign legislation governing or regulating the maintenance or operation of the Plan or like plans;
 - (ii) to correct any manifest error or mistake; or
 - (iii) to enable the Company or a Related Company to comply with the Corporations Act, the Listing Rules, any other Australian laws, applicable foreign laws, or a requirement, policy or practice of the Australian Securities and Investments Commission or other foreign or Australian regulatory body; or
- (b) an amendment agreed in writing by a Participant.

12.3 Retrospectivity

Subject to Rules 12.1 and 12.2, any amendment made pursuant to Rule 12.1 may be given such retrospective effect as is specified in the written instrument or resolution by which the amendment is made.

13. Attorney

Each Participant, in consideration of a Share Offer or a grant of Options or Rights, shall be deemed to irrevocably appoint each Director, the Company and any person nominated from time to time by the Board (each an **Attorney**), severally, as the Participant's attorney to complete and execute any documents including applications for Shares and Share transfers or any document or other agreement to give effect to these Rules and to do all acts or things on behalf of and in the name of the Participant which may be convenient or necessary for the purpose of giving effect to the provisions of these Rules and the Participant shall be deemed to covenant that the Participant shall ratify and confirm any act or thing done pursuant to this power and shall release the Company, each Director, each Related Company and each Attorney from any liability whatsoever arising from the exercise of the powers conferred by this Rule and shall indemnify and hold harmless the Company, each Director, each Related Company and the Attorney in respect thereof.

14. Notices

Any notice to Participants may be given in such manner as the Board determines.

15. Termination, suspension and reinstatement of the Plan

- (a) The Board may resolve at any time to terminate, suspend or reinstate the operation of the Plan.
- (b) If the Plan is suspended or terminated, the Board will decide how Shares then held for Participants under the Plan are to be dealt with.

16. Governing law

This Plan is governed by and will be construed and take effect in accordance with the laws of Victoria, Australia.