

**McPHERSON'S LIMITED**  
**PERFORMANCE RIGHTS PLAN**

**PLAN RULES**

Dated: 20 September 2013 (as amended on 20 September 2016)

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## 1. Purpose

These are the rules of the Company's Performance Rights Plan. The purpose of the Plan is to provide Eligible Employees with an opportunity to acquire Rights to receive Shares. By doing so, the Plan seeks to provide Eligible Employees with an opportunity to share in the growth in value of the Company and to encourage them to improve the longer-term performance of the Company and its returns to shareholders. The Plan is also intended to assist the Company to attract and retain skilled and experienced senior employees and provide them with an incentive to have a greater involvement with and focus on the longer term goals of the Company. This Plan commences on the date the Company determines.

## 2. Definitions and Interpretation

### 2.1. Definitions

In these Rules, unless the context otherwise requires:

**Acceptance Period** has the meaning given to that term in Rule 4.2(h).

**Amendment** has the meaning given to that term in Rule 19.1.

**Application Form** means the form the Board determines is to be used by an Eligible Employee to apply for Rights under the Plan.

**ASX** means ASX Limited (ACN 008 624 691).

**Bad Leaver** means:

- (a) a Participant who commits a fraudulent or other dishonest act which brings disrepute upon a Group Company; or
- (b) a Participant who ceases to be employed by any member of the Group and who is not a Good Leaver. This includes where the employment of the Participant is terminated because of:
  - (i) serious misconduct;
  - (ii) a material breach of the terms of any contract or employment agreement entered into by a Group Company and the Participant;
  - (iii) gross negligence; or
  - (iv) any other conduct justifying termination of employment or office without notice at common law.

**Board** means the board of directors of the Company or a committee appointed by the board of directors of the Company for the purposes of the Plan.

**Certificate** means, in relation to a Right, the certificate or statement (in a form approved by the Board) issued to the Right Holder which discloses the number of Rights held by the Right Holder.

**Company** means McPherson's Limited (ACN 004 068 419).

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

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

**Eligible Employee** means:

- (a) a full-time or permanent part-time senior employee of a Group Company; or

(b) an executive director or a company secretary of a Group Company,

other than a person who has been given notice of dismissal for misconduct from his or her employment or office with the Company, or any Subsidiary of the Company (or has given notice of resignation in order to avoid such dismissal).

**Employee Incentive Scheme** means any employee equity scheme extended to senior employees and/or executive directors of the Company and its Related Bodies Corporate, and includes the Plan.

**Entitlements** means any rights to acquire shares, options or other securities granted or issued by the Company or by any other company to shareholders of the Company.

**Exercise Conditions** means, in relation to a Right, the period of time, Performance Hurdles and other vesting conditions determined by the Board at the time of the offer of the Right which are required to be satisfied before the Right may be exercised.

**Exercise Price** means, in relation to a Right, the amount payable on exercise of the Right as determined in accordance with Rule 7.

**Good Leaver** means a Participant who ceases employment or office with any member of the Group in any of the following circumstances:

- (a) the Participant ceases employment with any and all Group Companies due to redundancy or Retirement;
- (b) the Participant ceases employment with any and all Group Companies due to the Participant's death or Permanent Incapacity; or
- (c) any other circumstances determined by the Board in its sole and absolute discretion.

**Group** means the Company and each Subsidiary of the Company and **Group Company** means any of them.

**Holding Lock** means a mechanism to prevent a Participant transferring or otherwise dealing with Shares.

**Listing Rules** means the official listing rules of the ASX.

**Nominee** means in respect of an Eligible Employee:

- (a) a person who is the spouse, parent, brother, sister or child (**close relative**) of the Eligible Employee;
- (b) a body corporate in which the Eligible Employee or a close relative of the Eligible Employee has, or any two or more of the Eligible Employee and close relatives of the Eligible Employee together have, a controlling interest (including any interest that gives control); or
- (c) such other person approved by the Board in its absolute discretion.

**Offer Letter** means an offer letter to an Eligible Employee inviting that person or his/her Nominee to participate in the Plan.

**Participant** means:

- (a) an Eligible Employee (or his/her Nominee) who accepts an invitation to participate in the Plan, agrees to be bound by these Rules and whose application for Rights in accordance with the invitation is accepted by the Board; or
- (b) the legal personal representative of any person referred to in (a) duly appointed on the death or legal incapacity of that person.

**Performance Hurdles** means conditions or events which must be satisfied before Rights may be exercised (which may include, without limitation, conditions relating to the profitability of the Company or the price at which its Shares are traded on the ASX) and/or conditions which may require that the number of Rights able to be exercised be reduced, or that some or all the Rights lapse in circumstances determined by the Board.

**Permanent Incapacity** means a condition the effect of which is in the opinion of the Board, to prevent a Participant from continuing to be an Employee engaged in a similar capacity as the Participant held prior to the condition arising.

**Plan** means the McPherson's Limited Performance Rights Plan as amended from time to time and operated in accordance with these Rules.

**Related Body Corporate** has the meaning given to that term in the Corporations Act.

**Retirement** means the permanent cessation by a Participant of all gainful employment.

**Right** means a right to subscribe for Share/s under this Plan.

**Right Holder** means the holder of Right/s.

**Rules** means these Rules, as amended from time to time.

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

**Subsidiary** has the meaning given to that term in the Corporations Act.

**Trust** means a trust nominated by the Board.

**Trust Deed** means the deed establishing the Trust (as amended from time to time).

**Trustee** means the trustee of a Trust.

**Vested Right** means a Right in respect of which all Exercise Conditions have been satisfied or which is otherwise exercisable in accordance with these Rules.

## **2.2. Interpretation**

In these Rules, unless the context otherwise requires:

- (a) a gender includes all genders;
- (b) the singular includes the plural and conversely;
- (c) a reference to a person includes the legal personal representatives, successors and assigns of that person and also corporations and other entities recognised by law;
- (d) a reference to any law or to the Listing Rules includes that law or the Listing Rules as amended, re-enacted or replaced and any law that supersedes that law; and
- (e) headings are for convenience only and do not affect the interpretation of these Rules.

## **3. Operation of the Plan**

### **3.1. General**

The Plan must be operated in accordance with these Rules.

### **3.2. Binding Rules**

These Rules bind the Company, each Subsidiary of the Company, each Participant, each Right Holder and (if the Board has nominated a Trust pursuant to Rule 9.1) the Trustee.

## **4. Invitation**

### **4.1. Invitation to Participate**

Subject to these Rules, the Board may in its absolute discretion from time to time invite Eligible Employees to apply for Rights under the Plan on the terms set out in these Rules and any other terms the Board considers appropriate. In selecting Eligible Employees to apply for Rights, the Board will have regard to:

- (a) the position in the Group held or to be held by the Eligible Employee;
- (b) the Eligible Employee's length of service with the Group;
- (c) the contribution made by the Eligible Employee to the Group;
- (d) the potential contribution to be made by the Eligible Employee to the Group; and
- (e) any other matters which the Board considers relevant.

### **4.2. Application Form**

The Board must give to each Eligible Employee who is invited to apply for Rights under the Plan an Application Form together with an Offer Letter setting out the following information in relation to the Rights:

- (a) the number of Rights for which the Eligible Employee may apply;
- (b) the consideration (if any) for the grant of the Rights;
- (c) the Exercise Price of the Rights or the method of determining such Exercise Price;
- (d) the latest time at which the Rights may be exercised;
- (e) any applicable Exercise Conditions (including, without limitation, the period or periods during which the Rights or any of them may be exercised and any applicable Performance Hurdles);
- (f) the conditions of any Holding Lock which applies to the Shares issued on exercise of Rights;
- (g) any other terms and conditions relating to the invitation or the Rights which in the opinion of the Board are fair and reasonable and not inconsistent with these Rules;
- (h) the time within which the invitation may be accepted by the Eligible Employee (**Acceptance Period**); and
- (i) any other information or documents that the Corporations Act or the Listing Rules require the Company to give to the Eligible Employee.

### **4.3. Participant bound by Application Form, Rules, Constitution and Trust Deed**

By completing and returning the Application Form within the Acceptance Period, a Participant applies for Rights under the Plan on the terms of the Offer Letter and agrees to be bound by the terms of the Application Form, the Offer Letter, these Rules, the Constitution and (if the Board has nominated a Trust pursuant to Rule 9.1) the Trust Deed.

### **4.4. Acceptance by Nominee of Eligible Employee**

- (a) An Eligible Employee may by notice to the Board nominate a Nominee in whose favour the Eligible Employee wishes to renounce an invitation received by, or any future invitation that may be made to, that Eligible Employee.
- (b) The Board may, in its discretion, elect not to allow a renunciation of an invitation in favour of a Nominee.
- (c) If the renunciation in favour of a Nominee is permitted by the Board and the Eligible Employee wishes to proceed with the renunciation in favour of its Nominee, then:
  - (i) the Eligible Employee will procure that its Nominee accepts the invitation made to that Eligible Employee;
  - (ii) both the Eligible Employee and the Nominee agree to be bound by these Rules as a Participant, except that (if the Board has nominated a Trust pursuant to Rule 9.1) only the Nominee will be a beneficiary under the Trust; and
  - (iii) the Eligible Employee must procure that the Nominee complies with the terms of the Application Form, these Rules, the Constitution and (if the Board has nominated a Trust pursuant to Rule 9.1) the Trust Deed as applicable.

## **5. Grant of Rights**

### **5.1. Grant of Rights**

Subject to the satisfaction of any terms or conditions set out in the Application Form, following receipt of a completed and signed Application Form and the acceptance by the Board of the Application Form, the Company will as soon as practicable after the end of the Acceptance Period:

- (a) issue to the Participant, on the terms of the Offer Letter, the number of Rights applied for by the Participant in the Application Form; and
- (b) complete a register of Rights in accordance with the Corporations Act.

### **5.2. No payment for Rights**

Unless otherwise determined by the Board, no payment is required for the grant of Rights under the Plan.

### **5.3. Financial assistance**

The Company may financially assist a person to pay for the grant of a Right or to pay any Exercise Price in respect of a Right, subject always to compliance with the provisions of the Corporations Act and the Listing Rules relating to financial assistance.

### **5.4. Certificate**

The Company must issue a Certificate to a Participant in respect of the Rights granted to that Participant. The Company must comply with the Constitution, the Listing Rules and the Corporations Act with respect to the issue of the Certificate.

### **5.5. No quotation on ASX**

Rights will not be quoted on the ASX.

### **5.6. Clawback of unvested Rights if Board deems appropriate**

If the Board determines that to safeguard the interests of shareholders and to minimise the risk of unvested (performance based) Rights remaining available to Participants in circumstances where the Board has concluded that would be inappropriate, any unvested Rights issued under



any Offer Letters issued on or after 1 July 2016 may be subject to the clawback actions referred to below.

In particular, in such circumstances the Board may, (in its discretion):

- (a) cancel or require forfeiture of some or all of such Rights;
- (b) adjust the future performance based remuneration of Participant subject to clawback;
- (c) take legal action against the Participant; and/or
- (d) take such other action as the Board considers appropriate in any relevant circumstances as permitted to it by law.

## **6. Restrictions on transfer**

### **6.1. No transfer**

- (a) Rights may not be sold, transferred, mortgaged, charged or otherwise dealt with or encumbered without the prior written approval of the Board.
- (b) While a Share is subject to a Holding Lock, that Share may not be sold, transferred, mortgaged, charged or otherwise dealt with or encumbered without the prior written approval of the Board.

### **6.2. Prohibition on value schemes or arrangements**

A Participant must not enter into a scheme or arrangement that protects the value of Rights granted under the Plan prior to them becoming a Vested Right.

## **7. Exercise Price**

Subject always to the terms of any Offer Letter providing otherwise the Exercise Price of each Right will be zero.

## **8. Exercise of Rights**

### **8.1. Manner of exercise of Rights**

The exercise of any Right granted under the Plan may only be effected in such form and manner as the Board prescribes.

### **8.2. Exercise multiples**

Right Holders must exercise Rights in multiples of 1,000 (or any other number stipulated by the Board), unless the Right Holder exercises all Rights able to be exercised by the Right Holder at that time. The exercise of some Rights only does not affect the Right Holder's right to exercise other Rights at a later time. If the Right Holder exercises less than all the Rights represented by a Certificate then the Company will cancel the Certificate and issue a new Certificate for the balance.

### **8.3. Exercise conditions**

Subject to Rule 8.4, a Right granted under the Plan may only be exercised if, at the time of exercise:

- (a) the Right is a Vested Right;
- (b) the Right has not lapsed under Rule 10; and
- (c) the Exercise Price (as adjusted under Rule 11, if applicable) has been paid.

#### **8.4. Other permitted exercise**

The Board may determine that a Right will become a Vested Right and may be exercised, whether or not any or all applicable Exercise Conditions have been satisfied if (in the Board's opinion) one of the following events has occurred or is likely to occur:

- (a) the merger or consolidation of the Company into another company;
- (b) if a takeover bid is made in respect of the Company and the Board recommends acceptance to shareholders;
- (c) if a scheme of arrangement is made or undertaken in respect of the Company, and the Board in its absolute discretion determines exercise to be appropriate;
- (d) any event similar to those described in Rules 8.4(a) to 8.4(c) involving a change in ownership or control of the Company or all or substantial part of the assets of the Company; or
- (e) any other event as determined by the Board in its absolute discretion.

#### **8.5. Provision of Shares on exercise of Right**

- (a) The Board may determine in respect of the exercise of each Right the method by which Shares may be acquired for the purposes of the Plan, whether by allotment, issue or allocation.
- (b) Following exercise of a Right, the Company must, within such time as the Board determines, either:
  - (i) if the Board has not nominated a Trust pursuant to Rule 9.1: issue or allocate to or acquire on market for the person exercising the Right, that number of Shares in respect of which the Right has been exercised, credited as fully paid; or
  - (ii) if the Board has nominated a Trust pursuant to Rule 9.1: instruct the Trustee to acquire or allocate Shares for the benefit of the Participant or transfer Shares to the Participant (at a time and manner to be determined by the Board in its absolute discretion) and, if required, pay to the Trustee such amount as is necessary for that purpose.

#### **8.6. Shares rank equally**

Unless the terms of issue of the Rights provide otherwise, Shares issued on the exercise of Rights will rank equally in all respects with all existing Shares from the date of allotment, including in relation to:

- (a) voting rights; and
- (b) entitlements to participate in:
  - (i) distributions and dividends; and
  - (ii) future rights issues and bonus issues,

where the record date for determining entitlements falls on or after the date of allotment.

#### **8.7. Quotation on ASX**

The Company must apply for quotation on the official list of the ASX of Shares issued on the exercise of Rights as soon as practicable after the issue of those Shares, so long as Shares are quoted on the ASX at that time.

### **9. Trust**

### **9.1. Nomination**

The Board may in its sole and absolute discretion:

- (a) determine that any or all Shares to be issued, allotted or allocated following the exercise of a Right will be held in a Trust on behalf of Participants, for transfer to future Participants or otherwise for the purposes of the Plan;
- (b) nominate a Trust for the purposes of the Plan;
- (c) revoke the nomination of a Trust and determine that Shares to be issued, allotted or allocated following the exercise of a Right will not be held in any Trust; or
- (d) revoke the nomination of a Trust and nominate its replacement,

in each case, on terms and conditions that the Board considers appropriate.

### **9.2. Trustee to hold Shares**

If the Board has nominated a Trust pursuant to Rule 9.1, then:

- (a) The Company may instruct the Trustee to do all such things and perform all such functions as the Board considers appropriate to enable the implementation of the Plan.
- (b) The Trustee will, in accordance with instructions received pursuant to Rule 8.5(b)(ii) acquire or allocate Shares (including for the benefit of a Participant) or transfer Shares (including to a Participant), provided that the Trustee has sufficient funds to acquire those Shares, and will hold those Shares and any Entitlements accruing to, or in connection with, those Shares on the terms of the Trust Deed.

### **9.3. Trustee to dispose of Shares**

If the Board has revoked the nomination of a Trust (**Previous Trust**) pursuant to Rule 9.1, then the Company must instruct the trustee of the Previous Trust to, and the trustee of the Previous Trust must in accordance with those instructions, either:

- (a) transfer or distribute all Shares held by the trustee of the Previous Trust (including to the relevant Participants); or
- (b) (if the Board has nominated a replacement Trust) transfer all Shares held by the trustee of the Previous Trust to that replacement Trust,

in each case, on terms and conditions that the Company considers appropriate.

## **10. Lapse and forfeiture**

### **10.1. End of exercise period**

Subject to clauses 10.2, 10.3 and 10.4, a Right automatically lapses at the latest time at which that Right may be exercised, as specified by the Board in the Offer Letter.

### **10.2. Good Leaver**

If a Participant is a Good Leaver, then:

- (a) all Shares held by the Trustee on behalf of the Participant will be transferred into the name of the Participant;
- (b) all Rights held by the Participant that are Vested Rights at the date of cessation of employment or office may be exercised by the Participant during the 30 day period following the date of cessation of employment or office (notwithstanding that the exercise period

specified in the Offer Letter ends during the 30 day period), after which those Vested Rights will automatically lapse;

- (c) all other Rights held by the Participant will automatically lapse on the date of cessation of employment or office; and
- (d) all Offer Letters which have not been accepted by the Participant are automatically revoked on the date of cessation of employment or office,

unless the Board determines otherwise.

### **10.3. Bad Leaver**

If a Participant is a Bad Leaver, then on the date of cessation of employment or office:

- (a) those Shares and Entitlements held by the Trustee which relate to the Bad Leaver are automatically forfeited and, subject to the Corporations Act, cancelled;
- (b) the Participant automatically forfeits all of his/her rights, title and interest:
  - (i) in all Shares and Entitlements held by the Trustee and all proceeds on sale or transfer of those Shares and Entitlements;
  - (ii) in the Trust; and
  - (iii) he/she may have as a beneficiary of the Trust;
- (c) all Rights held by the Participant will automatically lapse; and
- (d) all Offer Letters which have not been accepted by the Participant are automatically revoked, unless the Board determines otherwise.

### **10.4. End of period otherwise determined by the Board**

If the Board determines a further period, or reduces the period, in which Rights may be exercised, whether such revised period is more or less than the 30-day period specified in Rule 10.2(a), or more or less than the exercise period specified in the Offer Letter for those Rights, then those Rights will lapse at the end of that revised period.

### **10.5. Cessation of employment - interpretation**

For the purposes of these Rules, a Participant will not be deemed to be either a Good Leaver or a Bad Leaver if:

- (a) the Participant is absent due to approved leave granted by a Group Company;
- (b) immediately after the Participant leaves the employment or office of a Group Company the Participant is employed by, or holds an office with, another Group Company;
- (c) the Participant is seconded from a Group Company to a government department or instrumentality or to another company; or
- (d) immediately after the Participant leaves the employment or office of a Group Company the Participant is employed by a joint venture company in which a Group Company holds a substantial interest at the time of employment, and which has been approved by the Board as an associated company for the purposes of the Plan.

## **11. Capital reconstructions and new issues**

### **11.1. Alterations to capital and reconstructions**

Subject to the Listing Rules, if the Company makes any new issue of securities or alterations to its capital by way of a rights issue, bonus issue or other distribution of capital, reduction of capital or reconstruction of capital then the Board may make adjustments to the rights attaching to the Rights (including, without limitation, to the number of Shares which may be acquired on exercise of the Rights and the Exercise Price of a Right) on any basis it deems fit in its discretion.

## **11.2. New issues**

Subject to the Listing Rules, unless the Board determines otherwise, a Right Holder is only entitled to participate (in respect of Rights granted under the Plan) in a new issue of Shares to existing shareholders of the Company if the Right Holder has validly exercised the Right Holder's Rights and become a Shareholder prior to the relevant record date, and is then only entitled to participate in relation to Shares of which the Right Holder is the registered holder.

## **12. Powers of the Board**

### **12.1. Powers of the Board**

The Plan will be managed by the Board, which will have power to:

- (a) determine appropriate procedures and make regulations for the administration of the Plan consistent with these Rules;
- (b) resolve and bind the Company and Participants absolutely regarding any question of fact, interpretation, effect or application arising in connection with the Plan;
- (c) determine matters falling for determination under these Rules in its absolute discretion having regard to the interests of and for the benefit of the Company;
- (d) exercise the discretions conferred on it by these Rules or which may otherwise be required in relation to the Plan; and
- (e) delegate to any one or more persons (for such period and on such conditions as it may determine) the exercise of any of its powers or discretions arising under the Plan.

### **12.2. Suspension or termination of Plan**

- (a) The Plan may be suspended or terminated at any time by resolution of the Board.
- (b) In the event of a suspension or termination, these Rules will continue to operate with respect to any Rights issued under the Plan prior to that suspension or termination.

## **13. Contracts of Employment and Other Employment Rights**

### **13.1. Rules not part of employment contract etc**

- (a) This Plan does not form part of any contract of employment or services between a Group Company, or any Related Body Corporate of a Group Company, and any Eligible Employee.
- (b) Nothing in these Rules confers on any Eligible Employee the right to receive any Rights.
- (c) It is a condition of these Rules that the Plan may be terminated at any time at the discretion of the Board and that no compensation under any employment or services contract will arise as a result.

### **13.2. Termination of employment**

This Plan:

- (a) does not confer on any Eligible Employee or Participant the right to continue as an employee or officer of any Group Company or any Related Body Corporate of a Group Company;
- (b) does not affect any rights which a Group Company, or any Related Body Corporate of a Group Company, may have to terminate the employment or office of the Eligible Employee or Participant; and
- (c) may not be used to increase damages in any action brought against a Group Company, or any Related Body Corporate of a Group Company, in respect of that termination.

#### **14. Connection with other plans**

Unless the Board otherwise determines, participation in the Plan does not affect, and is not affected by, participation in any other Employee Incentive Scheme by the Company unless the terms of that other Employee Incentive Scheme provide otherwise.

#### **15. Notices**

Any notice or direction given under these Rules is validly given if it is handed to the person concerned or sent by ordinary prepaid post to the person's last known address or given in any reasonable manner which the Board from time to time determines.

#### **16. Plan costs and brokerage**

Unless otherwise determined by the Board, the Company must pay:

- (a) all costs, charges and expenses relating to the establishment and operation of the Plan; and
- (b) any brokerage for the acquisition of Shares upon the exercise of a Right.

For the avoidance of doubt, the Company is not responsible for any brokerage payable in relation to the sale of Shares held by any Participant.

#### **17. Overseas Eligible Employees**

The Company, at the Board's discretion, may:

- (a) invite Eligible Employees who are resident outside of Australia to participate in the Plan; and
- (b) make regulations for the operation of the Plan which are not inconsistent with these Rules to apply to Eligible Employees and Participants who are resident outside of Australia.

#### **18. General restrictions**

##### **18.1. General**

Notwithstanding any Rule, Rights and Shares may not be issued, transferred or dealt with under the Plan if to do so would contravene the Corporations Act, the Listing Rules or any other applicable laws or where the compliance with any applicable law would in the opinion of the Board be unduly onerous or impractical.

##### **18.2. Limit on aggregate number of Shares**

Unless otherwise determined by the Board, taking into account what it considers to be all relevant factors, an offer of Rights may only be made under the Plan at any particular time, if:

- (a) the number of Shares that may be acquired on exercise of the Rights proposed to be issued pursuant to that offer; plus

- (b) the number of Shares that may be acquired on exercise of the rights or options on issue under any Employee Incentive Scheme (including the Plan); plus
- (c) the number of Shares which would be issued if each already issued and outstanding offer with respect to Shares or rights or options over Shares under any Employee Incentive Scheme (including the Plan) was to be accepted and, if the offer relates to rights or options, those rights or options were exercised,

does not exceed 5% (five percent) of the total number of issued Shares as at the time of the offer.

## **19. Amendment of the Rules, Exercise Conditions or terms of issue**

### **19.1. General**

Subject to Rule 19.2 and the Listing Rules, the Board may amend, add to, delete, revoke or otherwise vary any or all of the Exercise Conditions, the terms of issue of a Right, or these Rules at any time in any manner it thinks fit in its absolute discretion (**Amendment**).

### **19.2. Limitation on Amendments**

No Amendment to the provisions of these Rules may be made which reduces the rights of Participants in respect of Rights acquired by them prior to the date of the Amendment, other than an Amendment introduced primarily:

- (a) for the purpose of complying with or conforming to present or future State, Territory or Commonwealth legislation or the Listing Rules;
- (b) to correct any manifest error or mistake; or
- (c) for the purpose of enabling Participants to receive a more favourable taxation treatment in respect of their participation in the Plan.

## **20. Governing law**

These Rules are governed by and shall be construed in accordance with the laws of the State of Victoria.