



# **Metarock Group Limited Employee Performance Rights Plan - Rules**

**Metarock Group Limited ACN 142 490 579**

The Clayton Utz contact for this document is  
**Andrew Hay/Tony Lalor +61 7 3292 7000**

Clayton Utz Lawyers  
Levels 28, Riparian Plaza, 71 Eagle Street Brisbane QLD 4000 Australia  
GPO Box 55 Brisbane QLD 4001  
T + 61 7 3292 7000 F + 61 7 3221 9669

**[www.claytonutz.com](http://www.claytonutz.com)**

L\316621096.1 v 151001

Doc.Nº: EXE-MET-POL-0021  
Author: CEO

Rev: 1.1  
Approver: Board of Directors

Issue: September 2015

Uncontrolled if printed – controlled copy available in INX

Page 1 of 16

## Table of Contents

1.....	Definitions and interpretation .....	2
1.1	Definitions .....	2
1.2	Interpretation .....	4
2.....	Commencement of the Plan .....	4
3.....	Performance Rights.....	5
3.1	Grant of Performance Rights.....	5
3.2	5% ASIC cap .....	5
4.....	Terms.....	6
4.1	Exercise .....	6
4.2	Delivery of Shares on vesting of Performance Rights .....	6
4.3	Shares to rank pari passu.....	7
4.4	Transfers or encumbrances .....	7
4.5	Expiry of Performance Rights.....	7
4.6	Participation in future issues.....	7
4.7	Reorganisation .....	8
5.....	Lapse of Performance Rights .....	8
5.1	Lapsing Events .....	8
5.2	Occurrence of Lapsing Event.....	8
5.3	No rights to expired or lapsed Performance Rights.....	8
5.4	Removal of Lapsing condition.....	8
6.....	Disposal Restrictions .....	9
6.1	Enforcement .....	9
6.2	Removal of Disposal Restrictions.....	9
7.....	Change of Control.....	9
8.....	Plan costs .....	10
8.1	Acquisition costs.....	10
8.2	Disposal costs .....	10
8.3	Liability for Tax .....	10
9.....	Administration of the Plan.....	10
10.....	Termination, Suspension or Reinstatement of the Plan.....	11
11.....	Rights of Participants .....	11

12.....	Amendment of these Rules .....	11
12.1	Amendments .....	11
12.2	No Reduction of Rights .....	11
12.3	Retrospectivity .....	12
13.....	Attorney .....	12
14.....	ASIC relief .....	12
15.....	Notices .....	12
16.....	Governing Law .....	12

## Metarock Employee Performance Rights Plan

### PLAN RULES

---

#### 1. Definitions and interpretation

##### 1.1 Definitions:

In these Rules, the following words and expressions have the meanings indicated unless the contrary intention appears:

**"ASIC"** means the Australian Securities and Investments Commission.

**"Associate"** the spouse of an Eligible Participant;

- (a) a body corporate in which an Eligible Participant holds and beneficially owns not less than 50% of the issued voting capital;
- (b) the trustee of a trust in which an Eligible Participant is a beneficiary or object; or
- (c) the trustee of a Superannuation Fund of which an Eligible Participant is a member, or such other person as the Board, in its discretion, determines.

**"ASX"** means ASX Limited ABN 98 008 624 691 of the financial market operated by it (as the context requires).

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

**"Business Day"** means a day which is not a Saturday, Sunday or public holiday in Queensland or any other day that ASX declares is not a business day.

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

**"Company"** means Metarock Group Limited ACN 142 490 579.

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

**"Director"** means a director of a member of the Group.

**"Disposal Restriction"** means any such restrictions on disposal or dealing as are to apply to the Shares delivered in respect of a Performance Right, as determined by the Board in its discretion and notified to a Participant at the Time of Grant.

**"Eligible Participant"** means such employees of the Group, including executive Directors, or such

other person as the Board, in its discretion, determines.

**"Exercise Period"** means the period during which the Vested Performance Rights may be exercised as determined by the Board in its discretion and notified to a Participant at the Time of Grant.

**"Exercise Price"** means the amount (which may be nil) that must be paid by a Participant to acquire a Share by the exercise of a Performance Right, as determined by the Board in its discretion and notified to a Participant at the Time of Grant.

**"Group"** means the Company and its Related Bodies Corporate.

**"Income Tax Assessment Act"** means the Income Tax Assessment Act 1936 (Cth) or the Income Tax Assessment Act 1997 (Cth), as appropriate.

**"Lapsing Event"** means one or more events or circumstances upon which Performance Rights will lapse under Rule 5, as determined by the Board in its discretion and notified to a Participant at the Time of Grant.

**"Listing Rules"** means the official listing rules of ASX, as amended or replaced from time to time, except to the extent of any express written waiver by ASX in their application to the Company.

**"Notice of Exercise"** means a duly completed and signed notice of exercise of a Performance Right by a Participant as referred to in Rule 4.1(b), in the form approved by the Board from time to time.

**"Nominee"** has the meaning given in Rule 3.3.

**"Offer"** means an offer made to an Eligible Participant to subscribe for one or more Performance Rights under the Plan.

**"Participant"** means an Eligible Participant to whom Performance Rights have been granted under the Plan.

**"Performance Right"** means an option granted pursuant to these Rules to subscribe for one Share upon and subject to the terms of these Rules and the terms of the Offer.

**"Plan"** means the Metarock Employee Performance Rights Plan established in accordance with these Rules.

**"Product Disclosure Statement"** has the meaning given to that term in Chapter 7 of the *Corporations Act*.

**"Related Body Corporate"** has the meaning given to that term in section 9 of the *Corporations Act*.

**"Relevant Interest"** has the meaning given to that term in section 608 of the *Corporations Act*.

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

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

**"Superannuation Fund"** means a registered complying superannuation fund as that term is understood in the Superannuation Industry (Supervision) Act 1993 (Cth).

**"Tax"** means income tax or employment taxes under any wage withholding or other arrangements for tax, levy or charge of a similar nature.

**"Time of Grant"** means the time of grant of a Performance Right under Rule 3.

**"Unvested Performance Rights"** means Performance Rights other than Vested Performance Rights.

**"Vested Performance Rights"** means Performance Rights which have no Vesting Conditions attached or in respect of which all Vesting Conditions attached to the Performance Rights have been satisfied or waived by the Company.

**"Vesting Conditions"** means one or more conditions, including time or performance conditions, as determined by the Board in its discretion and notified to the Participant at the Time of Grant.

**"Vesting Period"** means the period referred to at the Time of Grant during which the Vesting Conditions must be satisfied, or waived by the Company at its discretion.

## 1.2 Interpretation

In these Rules (unless the context otherwise requires),

(a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- (b) the expression "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to any party includes that party's executors, administrators, successors and permitted assigns, including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (d) a reference to any document (including these Rules) is to that document as varied, novated, ratified or replaced from time to time;
- (e) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
- (f) words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;

- (g) references to parties, rules, schedules, exhibits or annexures are references to parties, rules, schedules, exhibits and annexures to or of these Rules, and a reference to these Rules includes any schedule, exhibit or annexure to these Rules;
  - (h) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
  - (i) the word "includes" in any form is not a word of limitation; and
  - (j) a reference to "\$" or "dollar" is to Australian currency.
- 

## **2. Commencement of the Plan**

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

---

## **3. Performance Rights**

### **3.1 Grant of Performance Rights**

- (a) The Board may from time to time at its discretion, grant Performance Rights to Eligible Participants under the Plan.
- (b) The Board will determine the procedure for granting Performance Rights, including the form and content of any grant, invitation, offer or acceptance procedure, which may be on an opt-out basis.
- (c) A grant may be in such form and content and be made with such terms and conditions as the Board determines, including as to:
  - (i) Vesting Conditions (if any) and the applicable Vesting Period(s);
  - (ii) whether the Performance Rights are required to be exercised in accordance with Rule 4.1 or whether the Shares will be delivered automatically on vesting of the Performance Rights;
  - (iii) Exercise Price (if any);
  - (iv) the Exercise Period (if any);
  - (v) whether the Performance Rights are subject to Rule 5 and if so, the Lapsing Events;
  - (vi) Disposal Restrictions (if any) on the Shares; and
  - (vii) any restrictions on the method of delivery of the shares to be delivered in respect of a Performance Right, such as the shares must be acquired on market.

- (d) A grant of Performance Rights, does not confer any right or interest, whether legal or equitable, in Shares until all Vesting Conditions in respect of such Performance Rights have been satisfied or waived by the Company at its discretion. The rights of a Participant under a Performance Right are purely personal and contractual.
- (e) No application will be made to ASX for official quotation of any Performance Rights.

### **3.2 5% ASIC cap**

- (a) Unless the Board determines otherwise, the Company will not make an Offer if, at the time of that Offer, the Company has reasonable grounds to believe that the total number of Shares that have been or may be issued in any of the following circumstances would exceed 5% of the number of Shares on issue:
  - (i) the number of Shares that may be issued under the Offer; and
  - (ii) the number of Shares issued or that may be issued, as a result of offers made at any time during the previous 3 years pursuant to the Plan or any other employee share scheme of the Company.
- (b) For the purposes of the calculation in Rule 3.2(a), the Company will disregard any offer made, or option acquired or Share issued by way of or as a result of:
- (c) an offer to a person situated at the time of receipt of the offer outside Australia; or
- (d) an offer that did not need disclosure to investors because of section 708 of the Corporations Act or was an excluded offer or offer or invitation under the Corporations law; or
- (e) an offer that did not require the giving of a Product Disclosure Statement because of section 1012D of the Corporations Act; or
- (f) an offer made under a disclosure document (as defined in section 9 of the Corporations Act) or Product Disclosure Statement.

### **3.3 Nominee**

- (a) Upon receipt of an Offer, an Eligible Participant may, by notice in writing to the Board, nominate an Associate of that Eligible Participant (Nominee) in whose favour the Eligible Participant wishes to renounce the Offer.
  - (b) The Board may, in its discretion, resolve not to allow a renunciation of an Offer in favour of a Nominee without giving any reason for that decision.
  - (c) If the Board resolves to allow a renunciation of an Offer in favour of a Nominee, the Eligible Participant will procure that the permitted Nominee accepts the Offer made to the Eligible Participant and that both the Eligible Participant and the Nominee agree to be bound by these Rules.
-



## **4. Terms**

### **4.1 Exercise**

Where a grant of Performance Rights requires the Performance Rights to be exercised by the Participant:

- (a) a Participant may exercise Vested Performance Rights which have not expired under Rule 4.5 or lapsed under Rule 5;
- (b) Vested Performance Rights may be exercised by the Participant lodging with the Company a Notice of Exercise within the Exercise Period and complying with such other requirements as are specified at the Time of the Grant or subsequently by the Board;
- (c) a Participant must exercise Performance Rights in multiples of 100 or such other multiple as the Board determines and notifies the Participant, unless the Participant exercises all Performance Rights able to be exercised by the Participant at that time; and
- (d) if a Participant validly exercises Performance Rights, the Company will deliver the Shares in respect of which those Performance Rights have been exercised to the Participant and may, at the Company's discretion, make such delivery by issuing new Shares or procuring a transfer of Shares.

### **4.2 Delivery of Shares on vesting of Performance Rights**

Where a grant of Performance Rights requires Shares to be delivered on vesting of the Performance Rights:

- (a) the Company will give notice to the Participant as to the number of Shares to be delivered in respect of the Vested Performance Rights as soon as practicable after the Performance Rights have become Vested Performance Rights; and
- (b) within 60 days after the Performance Rights have become Vested Performance Rights, the Company will deliver the Shares in respect of the Vested Performance Rights to the Participant and may, at the Company's discretion, make such delivery by issuing new Shares or procuring a transfer of Shares,

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

All Shares issued, transferred or allocated on the vesting or exercise of a Participant's Performance Rights (as the context requires) will rank pari passu in all respects with the Company's then existing ordinary fully paid shares. The Company will apply for official quotation by ASX of all Shares issued on vesting or exercise of the Performance Rights.

### **4.4 Transfers or encumbrances**

Without the prior approval of the Board, Performance Rights may not be transferred, encumbered or otherwise dealt with.

#### **4.5 Expiry of Performance Rights**

Unless otherwise determined by the Board at its discretion, Performance Rights will expire and cease to exist if they:

- (a) have Vesting Conditions attached and are not Vested Performance Rights by the end of the applicable Vesting Period;
- (b) are not Vested Performance Rights and the Participant ceases to be employed by the Group, except to the extent (if any) that the terms and conditions specified at the Time of Grant provide that all or some of those Performance Rights will not expire on cessation of employment in particular circumstances;
- (c) are Vested Performance Rights and, if the Performance Rights are required to be exercised, are not exercised within the Exercise Period;
- (d) are the subject of a purported transfer or encumbrance by the Participant without the Board's consent; or
- (e) otherwise expire under terms and conditions specified at the Time of Grant.

#### **4.6 Participation in future issues**

- (a) Participation Generally

Being a Participant does not entitle a person to participate in new issues of Shares or other securities to holders of Shares unless, before the record date for determining entitlements to the new issue, the Shares in respect of the Performance Rights held by the Participant have been issued or transferred to, and registered in the name of, the Participant.

- (b) Bonus Issues

If the Company makes a pro rata bonus issue of Shares 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 Performance Rights held by a Participant have not been issued or transferred 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 Performance Rights held by the Participant must be increased by the number of Shares that the Participant would have received if the Shares subject of the Performance Rights 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 there is no Exercise Price for the Performance Rights, the number of Performance Rights (or other terms and conditions applicable to the

Performance Rights) held by a Participant may be adjusted in such manner as the Board in its discretion determines. Such adjustment, if any, is subject to the Listing Rules, the Corporations Act and any other applicable law; and

- (ii) if an Exercise Price is payable in respect of Performance Rights, the Exercise Price must be changed in the manner specified in the Listing Rules applicable to options at the time of the pro rata issue.

## **4.7 Reorganisation**

If there is a reorganisation of the issued ordinary share capital of the Company, the number of Shares to be delivered in respect of each Performance Right, or the Exercise Price (if any) payable by a Participant in respect of Shares to be delivered to a Participant, will be reorganised in the manner specified in the Listing Rules applicable to options at the time of the reorganisation.

---

## **5. Lapse of Performance Rights**

### **5.1 Lapsing Events**

When granting Performance Rights under Rule 3, the Board may at its discretion determine that the Performance Rights granted are subject to the provisions of this Rule 5 for a period of up to 10 years from the date the Performance Rights are granted.

### **5.2 Occurrence of Lapsing Event**

While Performance Rights held by a Participant are subject to this Rule 5, if a Lapsing Event has occurred, the Performance Rights will immediately lapse and cease to exist.

### **5.3 No rights to expired or lapsed Performance Rights**

A Participant has no rights in respect of any expired, lapsed or ceased Performance Right and releases and shall hold harmless and indemnify the Group, each Director and the Board from and against any claim or liability in respect of lapsed Performance Rights and from any claim that might otherwise arise from the expiry, lapse or cessation of an Performance Right.

### **5.4 Removal of Lapsing condition**

The Board may determine at its discretion and at any time that some or all Performance Rights of a Participant are no longer subject to Rule 5 in respect of some or all Lapsing Events and will notify the relevant Participant in writing of such a determination. The Board may establish procedures for the purpose of making such a determination.

---

## **6. Disposal Restrictions**

### **6.1 Enforcement**

For the purpose of enforcing any Disposal Restriction, the Company may do all things and enter into arrangements with the share registry or otherwise that it considers necessary, to enforce such Disposal Restriction. Participants will be bound by such arrangements and upon request by the Company will do all things necessary to give effect to those arrangements.

## **6.2 Removal of Disposal Restrictions**

Without limiting Rule 7, the Board may at its discretion determine at any time that a Disposal Restriction is no longer to apply and will notify the relevant Participant in writing of such a determination. The Board may establish procedures for the purpose of making such a determination.

---

## **7. Change of Control**

Upon the occurrence of a Change of Control:

- (a) if the Vesting Conditions that apply to particular Unvested Performance Rights held by a Participant include specifications as to the time of vesting ("Non-Exercise Period Condition"), then subject to paragraph (b), a proportion of those Unvested Performance Rights will become Vested Performance Rights on a pro rata basis determined by the Board having regard to the number of days elapsed from the Time of Grant and the time at which vesting would otherwise have occurred;
- (b) if, in addition to a Non-Exercise Period Condition, other Vesting Conditions ("Performance Conditions") apply to those Unvested Performance Rights, the Board, having regard to those Performance Conditions and the extent to which the likelihood that those conditions would have been satisfied can be estimated, may, subject to such terms and conditions as it decides, determine that:
  - (i) a lesser number of the Unvested Performance Rights than would have vested under paragraph (a) will vest and the Performance Conditions applicable to those Unvested Performance Rights are waived; or
  - (ii) the Performance Conditions applicable to the Unvested Performance Rights that would vest under paragraph (a) are waived;
- (c) if only Performance Conditions apply to Unvested Performance Rights, a proportion of those Unvested Performance Rights will become Vested Performance Rights:
  - (i) subject to subparagraph (ii), on a pro rata basis determined by the Board having regard to the number of days of the period in respect of which achievement of the Performance Condition is to be measured; and
  - (ii) provided that the Board may, having regard to those Performance Conditions and the extent to which the likelihood that those conditions would have been satisfied can be estimated and subject to such terms and conditions as it decides, determine that a lesser number of the Unvested Performance Rights than would have vested under subparagraph (i) will vest;

- (d) where the Performance Rights are required to be exercised by a Participant, the Board may at its discretion and subject to such terms and conditions as it determines require that some or all of the Vested Performance Rights be exercised; and
  - (e) the Board may at its discretion and subject to such terms and conditions as it determines, determine that Disposal Restrictions on some or all of the Shares are no longer to apply.
- 

## **8. Plan costs**

### **8.1 Acquisition costs**

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 (including any brokerage, commission, stamp duty or other transaction costs).

### **8.2 Disposal costs**

Any brokerage, commission, stamp duty or other transaction costs in connection with the disposal of a Participant's Shares acquired under the Plan will be paid for by the Participant.

### **8.3 Liability for Tax**

If any Group Company is liable to pay or account to any tax authority for any Tax as a result of an Performance Right vesting or being exercised, the Company may, at its election, require the Participant to reimburse the Group Company for the amounts paid to the tax authority. If the Company elects to require reimbursement, the Company is not obliged to transfer Shares to the Participant unless the Company is satisfied that arrangements have been made for reimbursement. Those arrangements may include the sale of Shares acquired on exercise of the Performance Right.

---

## **9. 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 direction which is conferred on the Board by these Rules or a grant of Performance Rights 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 or a grant of Performance Rights may be delegated by the Board for such period and upon such conditions as the Board may determine to:

- (i) a committee of the Board; 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 (or its delegate) as to the interpretation, effect or application of these Rules or a grant of Performance Rights is final, conclusive, and binding.
- 

## **10. Termination, Suspension or Reinstatement of the Plan**

The Board may resolve at any time to terminate, suspend or reinstate the operation of the Plan.

---

## **11. Rights of Participants**

Nothing in these Rules confers on an Eligible Participant the right to be granted Performance Rights and nothing in these Rules or a grant of Performance Rights:

- (a) confers on a Participant the right to continue as an employee of the Group;
  - (b) affects any rights which any member of the Group may have to terminate the employment of any employee; or
  - (c) may be used to increase damages in any action brought against any member of the Group 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 12) or any grant of Performance Rights.

### **12.2 No Reduction of Rights**

No amendment of the provisions of these Rules or a grant of Performance Rights is to reduce the rights of any Participant in respect of Performance Rights granted under the Plan to or on behalf of a Participant before the date of the amendment, other than an amendment agreed in writing by a Participant or introduced primarily:

- (i) for the purpose of complying with or conforming to present or future State, Territory or Commonwealth legislation governing or regulating the maintenance or operation of the Plan or like plans;
- (ii) to correct any manifest error or mistake;

- (iii) to enable a member of the Group to comply with the Corporations Act, the Listing Rules, or any other Australian laws, applicable foreign law, or a requirement, policy or practice of ASIC or other foreign or Australian regulatory body;
- (iv) to take into consideration possible adverse tax implications in respect of the Plan arising from, amongst other things:
  - A. adverse rulings from the Commissioner of Taxation;
  - B. changes to tax legislation (including an official announcement by the Commonwealth of Australia); or
  - C. changes in the interpretation of tax legislation by a court or tribunal of competent jurisdiction.

### **12.3 Retrospectivity**

Subject to Rules 12.1 and 12.2, any amendment made pursuant to Rule 12 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 grant of Performance Rights, is deemed to:

- (a) irrevocably appoint the Company, each Director and any person nominated from time to time by the Company (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 any grant of Performance Rights 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 or any grant of Performance Rights; and
  - (b) covenants that the Participant will ratify and confirm any act or thing done pursuant to this power and releases each member of the Group, each Director and the attorney from any liability whatsoever arising from the exercise of the powers conferred by this Rule and indemnifies and holds harmless each member of the Group, each Director and the attorney in respect of the exercise of those powers.
- 

### **14. ASIC relief**

Notwithstanding any other provisions of the Plan, every covenant or other provisions set out in an exemption or modification granted from time to time by ASIC in respect of the Plan pursuant to its power to exempt and modify the Corporations Act and required to be included in the Plan in order for that exemption or modification to have full effect, is deemed to be contained in the Plan. To the extent that any covenant or other provision deemed by this Rule to be contained in the Plan is inconsistent with any other provision in the Plan, the deemed covenant or other provision shall prevail.

---

**15. Notices**

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

---

**16. Governing Law**

This Plan is governed by and shall be construed and take effect in accordance with the laws of Queensland.

Adopted by the Board of Directors on the 15<sup>th</sup> day of September 2015.