

# Option Terms

## 1 Definitions and Interpretation

### 1.1 Definitions

Associate means:

- (a) a company which is controlled by the Eligible Participant (a “Controlled Company”); or
- (b) a trust of which:
  - (1) one or more of the Eligible Participant, a Relative or a Controlled Company is the trustee or are the trustees;
  - (2) the Eligible Participant is one of the beneficiaries; and
  - (3) any other beneficiaries are a Controlled Company;

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

Company means ThinkSmart Limited (ACN 092 319 698);

Constitution means the constitution of the Company;

Corporations Act means Corporations Act 2001 (Cth);

Exercise Condition means one or more conditions which must be satisfied or circumstances which must exist before the Options may be exercised, as determined by the Board;

Eligible Nominee means an Associate nominated by the Eligible Participant to hold the Options in place of the Executive;

Eligible Participant means a full-time or part-time employee (including a director employed in an executive capacity) of any Group Company who is declared by the Board to be an eligible participant for the purposes of the Plan;

Exercise Price means the amount determined by the Board as being payable by an Optionholder to acquire a Share upon exercise of an Option;

First Exercise Date means the earliest date on which an Optionholder’s Options may be exercised as set out in the Company’s invitation to Optionholders to apply for a grant of Options;

Grant Date in relation to an Option means the date from which the Board determines that an Option takes effect;

Group Company means the Company and its Subsidiaries and any other entity declared by the Board to be a member of the group for the purposes of the Plan;

Option means a right to acquire a Share whether by purchase or subscription, and the corresponding obligation of the Company to provide the Share, pursuant to a binding contract made by the Company and an Eligible Participant in the manner set out in these rules, the performance of which is subject to exercise of the Option in accordance with rule 5;

Optionholder means an Eligible Participant or Eligible Nominee to whom Options have been granted;

Plan means the ThinkSmart Limited Option Plan as set out in these rules, subject to any amendments or additions made under rule 9;

Separation means the termination of an Eligible Participant’s employment with a Group Company by the volition of the Eligible Participant and with the written consent of the Board expressly given for the purposes of the Plan;

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

Subsidiary has the meaning given to that term in section 9 of the Corporations Act;

Takeover Bid has the meaning given to that term in section 9 of the Corporations Act; and voting power has the meaning given to that term in Section 9 of the Corporations Act.

## 1.2 Interpretation

In this Plan, the following rules of interpretation apply unless a contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of the Plan unless the context requires otherwise;
- (b) any reference in the Plan to any enactment includes a reference to that enactment as from time to time amended, consolidated, re-enacted or replaced and to all regulations or instructions issued under it;
- (c) any words denoting the singular include the plural and words denoting the plural include the singular;
- (d) any words denoting one gender include the other gender;
- (e) where any word or phrase is given a definite meaning in the Plan, any part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- (f) a reference to a power, right or discretion being exercisable by the Board is taken to be a reference to that power, right or discretion being exercisable by a delegate of the Board.

## 2 Invitation to participate

### 2.1 Invitation

- (a) Subject to rule 2.1(b), the Board may, from time to time, at its absolute discretion, issue written invitations (in such form as the Board decides from time to time) to Eligible Participants to apply for up to a specified number of Options.
- (b) The Board may not issue any invitations to Eligible Participants under rule 2.1(a) and may not grant any Options under this Plan without the prior approval of the terms of such Options where required by the ASX Listing Rules.

### 2.2 Information to be provided to Eligible Participants

The Board will, together with the invitation referred to in rule 2.1, advise each Eligible Participant of the following regarding the Options:

- (a) the method of calculation of the Exercise Price;
- (b) the number of Options being offered and the maximum number of Shares over which each Option is granted;
- (c) the period or periods during which any of the Options may be exercised;
- (d) the dates and times when the Options lapse;
- (e) the date and time by which the application for Options must be received by the Company;
- (f) any applicable Exercise Conditions; and
- (g) whether or not the Eligible Participant may elect for his or her Eligible Nominee to take up the invitation on the Eligible Participant's behalf.

## 3 Application for Options

### 3.1 Application

Following receipt of an invitation, an Eligible Participant may apply for all or part (in multiples of 100 Options) of the number of Options specified in the invitation. The application will be made by sending to the person nominated by the Company an application in the form attached to the invitation duly completed and signed together with a cheque for any amount payable (if any) in respect of the grant of the Options.

### 3.2 Acceptance period

The Company must receive the application within the period for acceptance specified in the invitation.

### 3.3 Conditional contract

An application for Options constitutes an offer by the Eligible Participant to enter into conditional contracts with the Company in the nature of Options.

## 4 Grant of Options

### 4.1 Grant

- (a) Once the Company has received and accepted a duly signed and completed application for Options (together with any moneys payable (if any) in respect of the grant), the Board may, subject to clause 4.3, in its complete discretion and only where the Eligible Participant remains an employee of a Group Company:
- (1) grant Options to the Eligible Participant, with effect from the Grant Date; or
  - (2) procure the grant of the Options by a third party,
- upon the terms set out in the Plan and upon such additional terms and Exercise Conditions as the Board determines. The Company will, within a reasonable period after the Grant Date of the Options, issue the Eligible Participant with a certificate evidencing the grant of the Options.
- (b) A grant of Options by the Board constitutes an acceptance of the Eligible Participant's offer to enter into conditional contracts with the Company in the nature of Options.

### 4.2 Transfer of Options and security

- (a) An Option granted under the Plan is only transferable:
- (1) with the consent of the Board; or
  - (2) by force of law upon death to the Optionholder's legal personal representative or upon bankruptcy to the Optionholder's trustee in bankruptcy.
- (b) Where the Optionholder purports to transfer an Option other than in accordance with rule 4.2(a) the Option immediately lapses.
- (c) An Option granted under the Plan may not be used to secure the payment of any monies.

### 4.3 Approvals

The Board must ensure that:

- (a) every issue of Options under the Plan complies with any applicable legislation;
- (b) all necessary approvals required under any applicable legislation are obtained prior to the issue of Options under the Plan; and
- (c) it is satisfied the issue of Options under the Plan to a person who is not a resident of Australia is not impractical.

## 5 Exercise of Options

### 5.1 Exercise pre-conditions

- (a) The exercise of any Option granted under the Plan will be effected in the form and manner determined by the Board, and will be accompanied by payment of the Exercise Price unless the manner of payment of the Exercise Price is otherwise provided for by the Board.
- (b) Subject to rules 5.2, 5.3, 7 and 10.3, an Option granted under the Plan may not be exercised unless the Exercise Conditions (if any) advised to the Optionholder by the Board pursuant to rule 2.2 have been met.
- (c) The exercise of an Option will constitute satisfaction of the condition precedent to performance of the Company's obligation to issue a Share to the Optionholder under that Option pursuant to rule 6.1(a).

### 5.2 Death of an Optionholder

Subject to any express terms and conditions advised in writing to the Optionholder by the Board pursuant to rule 2.2:

- (a) if an Optionholder dies before an Option has been exercised and at that time the Optionholder was an employee of a Group Company:
  - (1) if any relevant Exercise Condition has been met or if no Exercise Condition is imposed, the Option may be exercised by the Optionholder's personal representative, during any period determined by the Board, until the Option lapses in accordance with rule 5.6; or

- (2) if any relevant Exercise Condition has not been met, the Option will automatically lapse one month after the death of the Optionholder, unless the Board determines otherwise; and
- (b) if an Optionholder dies before an Option has been exercised and rule 5.2(a) does not apply, all Options held by the Optionholder will automatically lapse one month after the death of the Optionholder, unless the Board determines otherwise.

### 5.3 Cessation of employment

Subject to any express terms and conditions advised in writing to the Optionholder by the Board pursuant to rule 2.2, if an Optionholder ceases to be an employee of any Group Company before an Option has been exercised, all Options held by the Optionholder will automatically lapse one month after the date of cessation of employment or directorship, unless the Board determines otherwise.

### 5.4 When employment ceases

An Optionholder will not be treated for the purposes of rule 5.3 above as ceasing to be an employee of a Group Company until such time as the Optionholder is no longer an employee of any of the Group Companies. Subject to applicable laws, at the discretion of the Board, an Optionholder who is granted an approved leave of absence and who exercises their right to return to work under any applicable award, enterprise agreement, other agreement, statute or regulation before the exercise of an Option under the Plan will be treated for those purposes as not having ceased to be such an employee.

### 5.5 Fraudulent or dishonest actions

If, in the opinion of the Board, an Optionholder acts fraudulently or dishonestly or is in breach of his or her obligations to any Group Company, then the Board may deem any unexercised Options of the Optionholder to have lapsed.

### 5.6 Lapse of an Option

An unexercised Option will lapse upon the earliest to occur of:

- (a) the date specified by the Board in the invitation for the purposes of rule 2.2(d);
- (b) the Option lapsing in accordance with rule 4.2(b);
- (c) the Option lapsing in accordance with a provision of this rule 5;
- (d) the Option lapsing in accordance with rule 7;
- (e) failure to meet the Option's Exercise Condition in the prescribed period; or
- (f) the 10 year anniversary of the Grant Date.

### 5.7 Refund of monies paid on lapse of an Option

Unless rule 5.5 applies, where an Option lapses or may no longer be exercised, the Company will repay the Optionholder the price paid for the grant of the Option, if any, and the Optionholder will have no further entitlement or claim against the Company in respect of the Option.

### 5.8 Lapse of Option terminates conditional contract

The lapse of an Option is the end of the conditional contract constituted by the Option.

## 6 Issue of Shares

### 6.1 Transfer to Optionholder

- (a) Within 15 days after an Option under the Plan has been exercised by the Optionholder or his or her personal representative, the Company must issue to or procure the transfer to the Optionholder or his or her personal representative (as the case may be) of the number of Shares in respect of which the Option has been exercised.
- (b) The issue or transfer of a Share to the Optionholder or his or her personal representative (as the case may be) pursuant to the exercise of an Option constitutes performance by the Company of its obligations pursuant to the conditional contract constituted by the Option.

## 6.2 Share ranking

All Shares allotted under the Plan will rank equally in all respects with the Shares of the same class for the time being on issue except as regards any rights attaching to such Shares by reference to a record date prior to the date of their allotment.

## 6.3 Sale of Shares

There will be no transfer restrictions on Shares allotted under the Plan unless the sale by the holder of the Shares issued on exercise of the Options would require a disclosure document (as that term is defined in the Corporations Act). If a disclosure document is required, the holder will enter into such arrangements with the Company as the Company considers appropriate to ensure that there is no breach of the disclosure document requirement.

## 7 Takeover, Scheme of Arrangement and Winding-up

### 7.1 Takeovers

If pursuant to a Takeover Bid:

- (a) an offeror and its associates who previously had voting power of less than 50% in the Company obtain voting power of more than 50%; or
- (b) an offeror and its associates who previously had voting power of more than 50% increase their voting power,

the Board must (unless the Takeover Bid includes an equivalent offer to the Optionholders to acquire all or a substantial portion of their Options) notify each Optionholder of the success of the Takeover Bid. The notice will also inform the holder that any Options held pursuant to the Plan will be exercisable for 30 days from the date of the notice, at the expiry of which time, unless the Board determines otherwise and notifies the Optionholder, the Options will lapse.

### 7.2 Compromise or arrangement

The Board may also, in its absolute discretion, permit the exercise of Options during such period as the Board determines where:

- (a) a court orders a meeting to be held in relation to a proposed compromise or arrangement for the purposes of or in connection with a scheme for the reconstruction of the Company or its amalgamation with any other company or companies;
- (b) any person becomes bound or entitled to acquire shares in the Company under:
  - (1) section 414 of the Corporations Act (upon a scheme of arrangement being approved); or
  - (2) Chapter 6A of the Corporations Act (compulsory acquisition of securities);
- (c) a selective capital reduction is announced in respect of the Company and:
  - (1) a person and its associates who previously had voting power of less than 50% in the Company would obtain voting power of more than 50%; or
  - (2) a person and its associates who previously had voting power of more than 50% in the Company would increase their voting power;
- (d) the Company passes a resolution for voluntary winding up; or
- (e) an order is made for the compulsory winding up of the Company.

### 7.3 Exercise of Shares

If a company (Acquiring Company) obtains control of the Company as a result of:

- (a) a Takeover Bid;
- (b) a proposed scheme of arrangement between the Company and its shareholders; or
- (c) a selective capital reduction,

and both the Company and the Acquiring Company agree, an Optionholder may, upon exercise of his or her Options, elect to acquire and the Company may provide shares of the Acquiring Company or its parent in lieu of Shares, on substantially the same terms and subject to substantially the same conditions as the

Optionholder may exercise Options to acquire Shares, but with appropriate adjustments to the number and kind of shares subject to the Options, as well as to the Exercise Price.

#### 7.4 Significant change in ownership or re-organisation

Without limitation to rules 7.1, 7.2 and 7.3, the Optionholder may exercise Options prior to the First Exercise Date, where the Board, in its absolute discretion, determines that there has been an event that relates to:

- (a) significant changes in the ownership of the Company; or
- (b) a significant re-organisation of the capital of the Company; and
- (c) the Board provides written notification to Optionholders informing them that they have a right to exercise or cancel the Options prior to the First Exercise Date.

### 8 Bonus Issues, Rights Issues, Reconstruction

#### 8.1 No participation

Subject to the Board's absolute discretion, during the currency of any Options and prior to their exercise, Optionholders are not entitled to participate in any new issue of securities of the Company as a result of their holding Options (including Bonus Issues or Rights Issues).

### 9 Amendments

#### 9.1 Power to amend Plan

Subject to rule 9.2, the Board may at any time by resolution suspend, cancel, amend or add to ("amend") all or any of the provisions of the Plan, or the terms or conditions of any Option granted under the Plan, including Exercise Conditions.

#### 9.2 Restrictions on amendments

Without the consent of the Optionholder and a majority of the Company's Shareholders, no amendment, suspension or cancellation may be made to the terms of any granted Option which reduces the rights of the Optionholder in respect of that Option, other than an amendment introduced primarily:

- (a) for the purpose of complying with or conforming to present or future State or Commonwealth legislation governing or regulating the maintenance or operation of the Plan or like plans;
- (b) to correct any manifest error or mistake; or
- (c) to take into consideration possible adverse tax implications in respect of the Plan arising from, amongst others, adverse rulings from the Commissioner of Taxation, changes to tax legislation (including an official announcement by the Commonwealth of Australia) and/or changes in the interpretation of tax legislation by a court of competent jurisdiction.

#### 9.3 Notice of amendment

As soon as reasonably practicable after making any amendment, suspension or cancellation under rule 9.1, the Board will give notice in writing of that amendment, suspension or cancellation to any Optionholder affected by such activity.

### 10 Miscellaneous

#### 10.1 Rights and obligations of Optionholder

The rights and obligations of any Eligible Participant under the terms of their office, employment or contract with a Group Company are not affected by them participating in the Plan. These rules will not form part of and are not incorporated into any contract of any Eligible Participant (whether or not they are an employee of a Group Company). No Optionholder will have any rights to compensation or damages in consequence of the termination of their office, employment or other contract with a Group Company for any reason whatsoever in so far as those rights arise or may arise from their or Eligible Nominee (if applicable) ceasing to have rights under the Plan as a result of such termination.

#### 10.2 Power of the Board

- (a) The Plan is administered by the Board which has power to:
  - (1) determine appropriate procedures for administration of the Plan consistent with these rules; and

(2) 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.

(b) Except as otherwise expressly provided in this Plan, the Board has absolute and unfettered discretion to act or refrain from acting under or in connection with the Plan or any Options under the Plan and in the exercise of any power or discretion under the Plan.

#### 10.3 Waiver of terms and conditions

Notwithstanding any other provisions of the Plan, the Board may at any time waive in whole or in part any terms or conditions (including any Exercise Condition) in relation to any Options granted to any Optionholder.

#### 10.4 Dispute or disagreement

In the event of any dispute or disagreement as to the interpretation of the Plan, or as to any question or right arising from or related to the Plan or to any Options granted under it, the decision of the Board is final and binding.

#### 10.5 Non-Australian residents

When an Option is granted under the Plan to a person who is not a resident of Australia the provisions of the Plan apply subject to such alterations or additions as the Board determines having regard to any applicable or relevant laws, matters of convenience and desirability and similar factors which may have application to the Optionholder or to any Group Company in relation to the Option.

#### 10.6 Communication

- (a) Any notice or other communication under or in connection with the Plan may be given by personal delivery or by sending the same by post or facsimile, in the case of a company to its registered office, and in the case of an individual to the individual's last notified address, or, where an Optionholder is a director or employee of a Group Company, either to the Optionholder's last known address or to the address of the place of business at which the Optionholder performs the whole or substantially the whole of the duties of the Optionholder's office or employment.
- (b) Where a notice or other communication is given by post, it is deemed to have been received 48 hours after it was put into the post properly addressed and stamped. Where a notice or other communication is given by facsimile, it is deemed to have been received on completion of transmission.

#### 10.7 Laws governing Plan

This Plan and any Options issued under it are governed by the laws of Western Australia and the Commonwealth of Australia.