
HEAT EXCHANGERS INTERNATIONAL LIMITED
(ACN 004 749 508)

SHARE OPTION PLAN

RULES
(Adopted on 19 August 2004)

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these rules the following expressions have the following meanings:

"Board" means some or all of the Directors of the Company acting as a board or, where appropriate, a committee of the board.

"Bonus Share" means a share issued in respect of Loan Shares or a share issued in respect of non-Loan Shares as the case may be, held by a Participant as part of a bonus issue to the holders of Shares.

"Cash Dividend" means a dividend declared or paid with respect to Shares which is payable wholly in cash or, in the case of a dividend declared or paid with respect to Shares which is payable only partly in cash, that part of the dividend which is payable in cash.

"Company" means Heat Exchangers International Limited (ACN 004 749 508).

"Constitution" means the Company's Constitution.

"Director" means a person holding the office of executive or non-executive director of a Group Company.

"Eligible Person" means an Employee or Director or any other person or entity selected by the Board to participate in the Plan.

"Employee" means a person, other than a Director, who is an employee of a Group Company within the ordinary meaning of that expression or in respect of whom a Group Company is the employer for the purposes of section 221A of the Tax Act or, where the laws of another jurisdiction are relevant, the corresponding legislation of that jurisdiction.

"Exercise Conditions" means, in respect of an Option, the conditions determined by the Board and specified in an offer of Options which must be satisfied (or waived by the Board) before an Option can be exercised.

"Exercise Date" means the date on which an Option is exercised.

"Exercise Price" means, in respect of an Option, the amount determined or specified as the exercise price in the offer of the Option.

"Expiry Date" has the meaning given in rule 4.1.

"Group Company" means the Company and each related body corporate of the Company within the meaning given in the *Corporations Act*.

"Holding Lock" has the meaning given in the SCH Business Rules issued by ASX Settlement and Transfer Corporation Pty Ltd.

"Listing Rules" means the ASX Listing Rules.

"Loan" means a loan provided under rule 6.

"Loan Share" means:

- (a) a Share acquired on the exercise of an Option where the exercise price is funded, in whole or part, with a Loan; and
- (b) a Bonus Share which is issued in respect of a Loan Share.

"Loan Shareholder" means the holder of a Loan Share.

"Market Value" in relation to a Share in relation to a particular day means the weighted average of the prices at which Shares were traded on the ASX during the one week period up to and including that day or, if no Shares were traded during that period the price at which a person has offered to purchase Shares as at the close of trading on that day.

"Notice of Exercise" means a notice of exercise of Options and application for Shares in the form prescribed and as otherwise required by the Directors from time to time, duly completed and executed by the Participant.

"Notional After-Tax Component" means, in relation to a Cash Dividend, the amount calculated by the Company as the after-tax value of the Cash Dividend to the Participant assuming that the Participant is subject to the highest marginal rate of tax including the Medicare levy.

"Option" means an option issued under the Plan to subscribe for a Share.

"Participant" means an Eligible Person who holds one or more Options or Loan Shares.

"Plan" means the State Automation Limited Option Plan governed by these rules.

"Related Loan" means in relation to a Loan Share, the Loan under this Plan, which funded the acquisition of the Loan Share or, in the case of a Loan Share which is a Bonus Share, the Loan Share in respect of which the Bonus Share was issued.

"Retirement" in relation to a Participant means the termination of the employment or directorship, as the case may be, of the Participant, by reason of the attainment of the age and which the law requires retirement or the termination of employment of the Participant in circumstances where the Board is satisfied that the Participant has a bona fide intention never again to be employed or self-employed for gain or reward.

"Retrenchment" in relation to a Participant means the termination of the employment or directorship, as the case may be, of the Participant as a result of a reconstruction or sale of part or all of the businesses of the Group Companies in circumstances where the Board is satisfied that there is no continuing employment or directorship role for the Participant.

"Rights Issue" means an issue of Shares, which is offered on a pro-rata basis to all holders of Shares at the time of the offer.

"Share" means an ordinary share in the capital of the Company.

"Tax Act" means the *Income Tax Assessment Act 1936 - 1997*.

"Total and Permanent Disability" in relation to a Participant means that the Participant has, in the opinion of the Board, after considering such medical or other evidence as it sees fit, become incapacitated to such an extent as to render the Participant unlikely within a reasonable future period to engage in any occupation for which he or she is reasonably qualified by education, training or experience.

1.2 Interpretation

In these rules unless the context otherwise requires:-

- (a) words importing the singular include the plural and vice versa and words importing any gender include the other genders;
- (b) references to persons include corporations and bodies politic;
- (c) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (d) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (e) references to this or any other document include the document as varied or replaced, notwithstanding any change in the identity of the parties;
- (f) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and include telex and facsimile transmissions;
- (g) if a word or phrase is defined, cognate words and phrases have corresponding definitions;
- (h) references to a body which has ceased to exist or has been reconstituted, amalgamated, reconstructed or merged, or the functions of which have become exercisable by any other person or body in its place, shall be taken to refer to the person or body established or constituted in its place or the person or body by which its functions have become exercisable;
- (i) reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (j) headings shall be ignored in construing these rules; and
- (k) if any day appointed or specified by these rules for the payment of any money or the doing of any act or thing falls on a day that is not a business day, the day so appointed or specified shall be deemed to be the next day which is a business day.

2. OFFERS

2.1 Making of offers

The Board may from time to time offer Options to Eligible Persons. Subject to these rules, the Board may offer Options on such conditions as it considers appropriate.

2.2 Form of offers

Offers of Options made under rule 2.1 shall be made by the Board in writing and shall at the discretion of the Board include or be accompanied by some or all of the following information:

- (a) the number of Options being offered to the offeree;
- (b) the price (if any) payable for the Options;
- (c) the Exercise Conditions attaching to the Options;
- (d) the Exercise Price or method of determining the Exercise Price of the Options;
- (e) the date the Options vest;
- (f) the exercise period; and
- (g) any other information required to be specified in the offer by the *Corporations Act* or considered by the Board to be relevant.

3. ACCEPTANCE OF OFFERS AND ISSUE OF OPTIONS

3.1 Acceptance of offer

An Eligible Person may accept an offer of Options in whole or in part.

3.2 Form of acceptance

An Eligible Person who receives an offer of Options and wishes to accept it must deliver written notice of acceptance of the offer, together with payment of the price (if any) of the Options to the Company no later than the date specified for acceptance in the offer.

3.3 Acceptance binding

An Eligible Person, by accepting Options, shall be deemed to have agreed to be bound by the terms and conditions of the Plan as set out in these rules.

3.4 Lapse of offer

Unless the Board determines otherwise, an offer of Options not accepted in accordance with rule 3.2 will lapse.

3.5 Transfer and assignment

Options may not be assigned or transferred.

4. EXERCISE OF OPTIONS

4.1 Time of Exercise

Subject to these rules and the conditions of issue, Options may be exercised at any time prior to the date occurring five years after the date upon which they are issued ("Expiry Date"). If an option is not exercised by 5:00pm on the Expiry Date, it will lapse.

4.2 Procedure for Exercise

- (a) Subject to the conditions of issue of the Option and to these rules an Option may be exercised for one Share by a Participant:
 - (i) lodging a Notice of Exercise with the Company; and
 - (ii) paying the Exercise Price.
- (b) The Board may publish guidelines which restrict Directors and senior executives from exercising Options during certain periods. Participants must comply with any such guidelines.

4.3 Exercise in Multiples of 500

A Participant must exercise Options in multiples of 500, unless the Participant exercises all Options able to be exercised by the Participant at that time. Subject to the conditions of issue of Options the exercise by a Participant of only some of the Options held by the Participant shall not affect the Participant's right to exercise other Options held by the Participant at a later time.

4.4 Takeovers

- (a) If prior to the exercise of an Option an offer or invitation is made by any person or company to all holders of Shares, the Company must use its best endeavours to procure that there is made to each Option holder an offer or invitation on terms which correspond with those of the offer or invitation the holder would have received had the holder been, at the time for determining entitlement to that offer or invitation, the holder of the number of Shares to which the holder would have been entitled if immediately prior to that time the Options held by the holder were exercised.
- (b) Notwithstanding any conditions of an offer of Options, all Options may be exercised immediately if a person or company makes a takeover bid to which section 746(4) of the *Corporations Act* applies and as a consequence of that bid the offeror obtains control of the company.

4.5 Termination of employment or directorship

- (a) If the employment or directorship or contract of the Participant terminates, the Participant may, within 28 days after the date of termination of employment or directorship, exercise all or part of those of the Participant's Options which the Participant is then entitled under the conditions of issue to exercise. Any Option not exercised within that 28 day period shall lapse, notwithstanding the conditions of the issue of the Option.
- (b) If the employment or directorship of a Participant terminates due to:
 - (i) death;
 - (ii) Retrenchment;
 - (iii) Retirement;
 - (iv) Total and Permanent Disability; or
 - (v) any other reason as the Board in its absolute discretion determines (which determination may be prospective or retrospective),

the Participant or the Participant's legal personal representatives, as the case may be, may, within 28 days or such longer period as may be approved by the Board, after the date of such termination of employment or directorship, exercise all or part of the Participant's Options notwithstanding the conditions of issue of the Options. Any Option not exercised within the 28 day period or other period approved by the Board shall lapse.

- (c) If the employment or directorship of a Participant terminates for a reason other than one of those specified in rule 4.4(b), all Options held by the Participant and which the Participant is not then otherwise entitled to exercise at the time of termination shall lapse.

4.6 Issue of Shares

The Company will allot to a Participant the number of Shares referable to the Options exercised as soon as practicable after the Participant exercises any Options.

4.7 Ranking of Shares

Shares allotted on the exercise of Options will be credited as fully paid and rank equally in all respects with all existing fully paid Shares from the Exercise Date of the Options and will be entitled to those dividends which have a record date for determining entitlements on or after the Exercise Date.

5. NEW ISSUES AND RECONSTRUCTIONS

5.1 Consequences of bonus issue

If between the date of issue and the date of exercise of an Option the Company makes one or more bonus issues to the holders of Shares then upon the exercise of the Option the

Participant is entitled to have allotted and issued to the Participant:

- (a) the number of Shares to which the Participant is entitled upon such exercise disregarding such bonus issue or issues; and
- (b) the number of Shares which would have been issued to the Participant as Bonus Shares if the Participant had been registered as the holder of the number of Shares referred to in paragraph (a) on the record date for the bonus issue.

The Bonus Shares so issued to the Participant shall be paid up by the Company in the same manner as was applied in relation to each such bonus issue. Any entitlement to a fraction of a Share remaining following exercise of an Option will be disregarded.

5.2 Participation in Rights Issues

- (a) A Participant may not participate in a Rights Issue without exercising the Participant's Options.
- (b) The Participant may participate in a Rights Issue in respect of an Option if the Participant exercises the Option before the record date of the Rights Issue. The Company must notify Participants holding Options of a proposed Rights Issue at least 10 business days before the record date of the Rights Issue.
- (c) Subject to an alternative formula being adopted in accordance with Listing Rule 6.22.2A, if the Participant does not exercise an Option under rule 5.2(b), the Participant is entitled to a change in the exercise price of the Participant's Option according to the following formula:

$$O' = O - \frac{E[P-(S+D)]}{N+1}$$

where O' = the new exercise price of the Option.

O = the old exercise price of the Option.

E = the number of Shares for which one Option is exercisable.

P = the average market price per share (weighed by reference to volume) of the Shares during the five trading days ending on the day before the ex rights date or ex entitlements date.

S = the subscription price for a Share under the Rights Issue.

D = the dividend due but not yet paid on the existing Shares (except those to be issued under the Rights Issue).

N = the number of Shares with rights or entitlements that must be held to receive a right to one new Share.

- (d) If the Listing Rules provide for an alternative formula for reconstructing the exercise price of options to that set out in rule 5.2(c) the Board may resolve to apply that alternative formula.

5.3 Reconstructions of capital

In the event of a reconstruction of the issued capital of the Company, the Options shall be reorganised in a manner considered appropriate in the circumstances by the Board, provided that it complies with the Listing Rules.

6. LOANS TO PARTICIPANTS ON EXERCISE OF OPTIONS

6.1 Application for Loan

The Board may offer a Participant a Loan from the Company or a Group Company under these rules for the purposes of funding in whole or in part the subscription by the Participant for the Shares to be issued on the exercise of Options, and any transaction costs incurred in connection with the acquisition of the Shares or procuring the Loan.

6.2 Amount of Loan

The maximum amount of a Loan which may be provided to a Participant is an amount equal to the aggregate issue price of the Shares to be issued on exercise of the Options and the costs referred to above.

6.3 Use of Loan

If the Company grants a Loan the entire amount of the Loan must be applied towards paying the subscription price for Shares and the transaction costs referred to above, and the Company is hereby directed and authorised by each Participant to do so.

6.4 Interest on Loans

If the offer of a Loan under clause 6.1 is on the basis that interest is payable, the Participant must pay interest on the daily balance of the principal amount outstanding under the Loan at the rate determined by the Board when approving the Loan.

6.5 Interest accruing

Unless otherwise determined by the Board interest on a Loan:

- (a) accrues from day to day;
- (b) is payable monthly on the first day of each month; and
- (c) unless paid by the Participant, may at the option of the Company be capitalised by the Company on the first day of the month on which it falls due.

6.6 Interest on capitalised amounts

Where an amount of interest payable by a Participant on a Loan is capitalised interest is payable on the amount so capitalised at the rate applicable for the time being to that Participant under these rules.

6.7 Repayment from Dividends

The Notional After-Tax Component of each Cash Dividend which is payable in respect of a Loan Share is to be applied by the Company on behalf of the Participant who is the registered holder of that Loan Share:

- (a) first, in payment of any interest which is due in respect of the Related Loan;
 - (b) secondly, in repayment of the principal amount outstanding under that Related Loan,
- and the Company is hereby directed and authorised by each Participant to so apply each Cash Dividend.

6.8 Election to repay

A Participant may elect to repay the whole or any of the principal amount outstanding under a Loan at any time.

6.9 Charge

By accepting a Loan the Participant grants a first ranking charge over the Loan Shares to the Company. If the Participant defaults in complying with the Participant's obligations under these rules the Company may sell the Loan Shares (including to itself under a buy-back) and deal with the proceeds of sale as provided in these rules. The Participant must execute any documents required by the Company and pay any stamp duty payable in respect of the charge.

6.10 Limited recourse

Notwithstanding any other provision of these rules or the conditions of offer of Options or a Loan, the Loan shall be limited so that at the time the Loan becomes repayable the liability of the Participant is limited to the lesser of the Loan (including any accrued interest) and the net proceeds of sale of Shares in respect of which the Loan is a Related Loan.

7. RESTRICTIONS ON DEALING IN LOAN SHARES

7.1 General restriction on dealings

A Participant may not transfer or deal in a Loan Share except in the circumstances set out in these rules. The Company may implement such procedures as it considers appropriate to restrict Participants from transferring or dealing in Loan Shares for so long as dealing in those Loan Shares is restricted. Without limiting the foregoing, each Participant:

- (a) agrees that the Loan Shares may be subject to a Holding Lock;
- (b) agrees that the Company may issue the Loan Shares as a separate class of Share called "Employee Shares" instruct the Share Registry to segregate all such Shares in the Company-Sponsored Sub-register and record in the sub-register that those Shares are subject to the Plan while dealings in those Shares are restricted by these rules; and

- (c) undertakes not to request or allow another person to request removal of the Shares from the Company-Sponsored Sub-register or the removal of the Holding Lock.

7.2 Dealings following repayment of Loan

If no amount of the Related Loan used to acquire a Loan Share remains outstanding, the Participant may, at any time, transfer or deal in the Loan Share.

7.3 Request for sale of Loan Shares by Company

A Participant who wishes to sell a Loan Share may forward to the secretary of the Company:

- (a) a request (in the form prescribed by the Board from time to time) that the Company, on behalf of the Participant, sell or arrange the sale of the Loan Share; and
- (b) such other documents as the Company prescribes.

The Company may, but is not obliged to, sell the Loan Share in accordance with the request referred to in this rule. If the Company does so, the proceeds of sale of the Loan Share (after deducting the costs of sale including, without limitation, any brokerage, taxes and duties) may be applied by the Company towards paying any amounts outstanding in relation to the Related Loan. After so applying the net proceeds of sale of the Loan Share the Company will pay to the Participant the balance (if any) of such proceeds.

8. ACCELERATION, FORFEITURE AND SALE

8.1 Repayment of Loan

The whole of the principal amount outstanding under a Loan (and any interest which has accrued and is unpaid) will become immediately due and payable on demand by the Company upon the earliest to occur of:

- (a) the Participant ceasing for any reason (including death) to be an Employee or a Director;
- (b) the Participant disposing of or purporting or attempting to dispose of the legal or beneficial interest in any Loan Shares except as specifically permitted by these rules; and
- (c) the Participant becoming an insolvent under administration within the meaning given in section 9 of the *Corporations Act*.

8.2 Sale by the Company

If rule 8.1 applies the Company may:

- (a) sell the Loan Shares or purchase them by way of a buy-back;
- (b) apply the proceeds in payment of the Related Loan; and

- (c) pay the balance (after deducting any costs of sale including, without limitation, any brokerage, taxes and duties) to the Participant.

8.3 Buy-backs

Where the Company purchases a Loan Share under this rule, it must do so at the Market Value and remit the net proceeds to the Participant after:

- (a) deducting the costs of sale including, without limitation, any brokerage, taxes and duties); and
- (b) repayment of any amount owing by the Participant to the Company.

8.4 No claims

A Participant shall not have any claim against the Company as a result of the exercise of the Company of a power or discretion to sell or purchase Shares under these rules.

9. RIGHTS ATTACHING TO LOAN SHARES

9.1 Bonus Shares

A Loan Shareholder is entitled to any Bonus Shares which accrue to Loan Shares held by the Loan Shareholder. Upon allotment of any such Bonus Shares to the Loan Shareholder:

- (a) the Bonus Shares will for the purposes of the Plan be treated as allotted to the Loan Shareholder at a time determined by the Board; and
- (b) the Bonus Shares are deemed to be Loan Shares for the purposes of this Plan.

9.2 Rights

Any rights which accrue to Loan Shares acquired by the Loan Shareholder may be sold by the Loan Shareholder. The Loan Shareholder must pay the proceeds of sale of such rights or such proportion of the proceeds of sale as the Board determines to the Company. The Company must apply the proceeds of sale, or the proportion of those proceeds, in reduction of the Loan made by the Company to the Loan Shareholder in relation to the Loan Shares.

10. ADMINISTRATION OF THE PLAN

10.1 Maximum number of Options

The Board must not issue or offer to issue an Option under this Plan if, following the issue of the Option, the aggregate number of Shares:

- (a) that would be issued if all Options issued under this Plan and under any other employee share scheme of the Company during the previous five years ;
- (b) that are on issue or have been issued during the previous five years under any other employee share scheme of the Company,

exceeds 10% of the number of Shares then on issue.

10.2 Administration and rules

The Plan will be administered by the Board in accordance with these rules. The Board may make further rules for the operation of the Plan which are consistent with these rules.

10.3 Power and discretions

Any power or discretion which is conferred on the Board by these rules must be exercised by the Board 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 a Participant or to any other person.

10.4 Delegation

Any power or discretion which is conferred on the Board by these rules may be delegated by the Board to a committee consisting of such Directors or other officers of the Company as the Board thinks fit.

10.5 Interpretation

The decision of the Board as to any factual matter or as to the interpretation, effect or application of these rules will be final and conclusive in the absence of manifest error.

10.6 Suspension

The Board may from time to time suspend the operation of the Plan and may at any time cancel the Plan. The suspension or cancellation of the Plan will not prejudice the existing rights of Participants.

11. RIGHTS OF PARTICIPANTS

Except as expressly provided in these rules, nothing in these rules:

- (a) confers on any person the right to receive any Options or Loan;
- (b) affects the conditions of employment or directorship of the Participant;
- (c) confers on any person the right to continue as an Employee or a Director of the Company or any of its related bodies corporate;
- (d) affects any rights which the Company or a subsidiary may have to terminate the employment of any Employee or the office of any Director;
- (e) may be used to increase damages in any action brought against the Company or a subsidiary in respect of any such termination; or
- (f) confers on any person any expectation of becoming a Participant.

12. AMENDMENT OF THESE RULES

12.1 Amendment

Subject to rules 12.2 and 12.3, 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).

12.2 Accrued rights

No amendment of the provisions of these rules is to reduce the accrued rights of any Participant in respect of Options granted, Loans made or Loan Shares issued under the Plan 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 legal requirements governing or regulating the maintenance or operation of the Plan or like plans;
- (b) to correct any manifest error or mistake;
- (c) to enable contributions or other amounts paid by any body corporate in the Group in respect of the Plan to qualify as income tax deductions for that body corporate the Company or any other body corporate within the Group;
- (d) to enable the Participant or the employer of the Participant to reduce the amount of fringe benefits tax under the *Fringe Benefits Tax Assessment Act 1986*, the amount of tax under the Tax Act or the amount of any other tax or impost that may otherwise be payable by the Participant or the employer in relation to the Plan;
- (e) for the purpose of enabling Participants generally (but not necessarily each Participant) to receive a more favourable taxation treatment in respect of their participation in the Plan; or
- (f) to enable any body corporate in the group to comply with the *Corporations Act* or the Listing Rules.

12.3 Listing Rules

No amendment may be made except in accordance with and in the manner stipulated (if any) by the Listing Rules.

12.4 Retrospectivity

Subject to the foregoing 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 and, if so stated, amendments to these rules, including the terms of Options, have the effect of automatically amending the terms of issued but unexercised Options.

13. GENERAL**13.1 Notices**

Notices may be given by the Company to the Participant in the manner prescribed by the Constitution for the giving of notices to members of the Company and the relevant provisions of the Constitution shall apply with all necessary modification to notices to be given to Participants.

13.2 Rights to notices and accounts

Participants do not by reason only of participating in the Plan have any right to be sent notices of meetings, reports or accounts of the Company.