



# Incentive Option Scheme

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**Fortescue Metals Group Limited**  
ABN 57 002 594 872

As approved by the Board of directors of Fortescue Metals Group Limited on 31 May 2011.

## **INCENTIVE OPTION SCHEME**

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The Directors are empowered to operate the Fortescue Metals Group Incentive Option Scheme on the following terms and in accordance with the Listing Rules:

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

In these Rules, the following words have the following meanings:

**Applicable Law** means any one or more or all, as the context requires of:

- (a) the Corporations Act;
- (b) the Listing Rules;
- (c) the constitution of the Company;
- (d) the Income Tax Assessment Act 1997 (Cth) as amended from time to time;
- (e) the Income Tax Assessment Act 1936 (Cth) as amended from time to time;
- (f) any practice note, policy statement, regulatory guide, class order, declaration, guideline, policy, procedure, ruling, judicial interpretation or other guidance note made to clarify, expand or amend (a), (b), (c), (d) and (e) above; and
- (g) any other legal requirement that applies to the Scheme.

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

**Associate** means:

- (a) the spouse of an Eligible Participant;
- (b) a body corporate in which an Eligible Participant holds and beneficially owns not less than 50% of the issued voting share capital;
- (c) the trustee of a trust in which an Eligible Participant is a beneficiary or object (but does not include the Trust); or
- (d) 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.

**Associated Body Corporate** means:

- (a) a related body corporate (as defined in the Corporations Act) of the Company;
- (b) a body corporate which has voting power (as defined in the Corporations Act) in the Company of not less than 20%; and

- (c) a body corporate in which the Company has voting power (as defined in the Corporations Act) in the Company of not less than 20%.

**ASX** means ASX Limited (ACN 008 624 691) trading as the Australian Securities Exchange.

**Board** means the board of directors of the Company from time to time.

**Business Day** means those days other than a Saturday, Sunday, New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Christmas Day, Boxing Day and any other day which the ASX shall declare and publish is not a business day.

**Class Order** means ASIC Class Order 03/184 (including any amendment to or replacement of that Class Order).

**Company** means Fortescue Metals Group Limited (ACN 002 594 872).

**Corporations Act** means the Corporations Act 2001 (Cth), as amended from time to time.

**Directors** means the directors of the Company from time to time and **Director** means any one of them.

**Eligible Participant** means a full or part time employee, including an executive director, of the Company or an Associated Body Corporate or such other person as the Board, in its discretion, determines.

**Exercise Condition** means in respect of an Option, any condition set out in the Offer which must be satisfied before that Option can be exercised or any other restriction on exercise of that Option specified in the Offer or in these Rules.

**Group** means the Company and all Associated Bodies Corporate.

**Lapsing Date** means, in respect of an Option, the date which is five (5) years after the date of the grant of that Option, or such other date as the Board determines in its discretion with respect to that Option at the time of the grant of that Option.

**Last Withdrawal Date** means:

- (a) in relation to an Option granted prior to 1 July 2009, the ten (10) year anniversary of the date of grant of the Option; and
- (b) in relation to an Option granted on or after 1 July 2009, the seven (7) year anniversary of the date of grant of the Option.

**Listing Rules** means the official listing rules of ASX as amended from time to time.

**Nominee** has the meaning given in Rule 5.4.

**Offer** means an offer made to an Eligible Participant to subscribe for one or more Options under the Scheme.

**Offer Document** means a document that contains the Offer.

**Option** means an option granted pursuant to these Rules to acquire one Share upon and subject to the terms of these Rules and the terms of the relevant Offer.

**Option Exercise Price** means the exercise price of an Option, as determined in accordance with Rule 6.

**Marketable Parcel** has the meaning given to that term in the Listing Rules.

**Participant** means an Eligible Participant or a Nominee of an Eligible Participant to whom Options have been granted under the Scheme.

**Permanently Disabled** means, in relation to a Relevant Person, a Relevant Person who is deemed, at the discretion of the Board, to be totally and permanently disabled.

**Relevant Person** means:

- (a) in respect of an Eligible Participant, that person; and
- (b) in respect of a Nominee of an Eligible Participant, that Eligible Participant.

**Rules** means the rules of the Scheme set out in this document and as amended from time to time.

**Scheme** means the scheme established in accordance with these Rules.

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

**Shareholder** means a holder of Shares.

**Trigger Event** means:

- (a) the despatch of a notice of meeting to Shareholders to consider a scheme of arrangement between the Company and its creditors or members or any class thereof pursuant to section 411 of the Corporations Act;
- (b) the announcement to the ASX of, or receipt by the Company of, a bidder's statement in respect of a takeover bid for the Company; or
- (c) the date upon which any person, either alone or together with any associates (as defined in the Corporations Act), acquires a relevant interest in more than 50% of the issued Shares,

or any similar event which the Board determines, in its discretion, is a Trigger Event.

**Trust** means the "Fortescue Metals Group Limited Employee Share Trust", being an employee share trust established by the Company for the sole purpose of subscribing for or acquiring, delivering, allocating and holding Shares for the benefit of Participants and participants in other employee equity plans established by any member of the Group from time to time.

**Trust Deed** means the trust deed entered into between the Company and the Trustee on or around 31 May 2011.

**Trustee** means Pacific Custodians Pty Limited (ABN 66 009 682 866) which has been appointed by the Company, and which agrees to act, as the initial trustee of the Trust on the terms and conditions set out in the Trust Deed.

**Withdrawal Notice** means a written notice given by a Participant to the Company requesting that some or all of the Participant's Shares held by the Trustee on behalf of the Participant be sold or transferred to the Participant or as that Participant directs, which notice must:

- (a) be signed by the relevant Participant;
- (b) specify the number of Shares to be sold or transferred; and

- (c) be in the form set out in Schedule 2 or as otherwise approved by the Board.

## 1.2 Interpretation

In these Rules unless the context otherwise requires:

- (a) headings are for convenience only and do not affect its interpretation;
- (b) an obligation or liability assumed by, or a right conferred on, 2 or more persons binds or benefits all of them jointly and each of them severally;
- (c) the expression **person** includes an individual, the estate of an individual, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to any person includes that person's legal personal representatives, executors, administrators, successors and permitted assigns, including any person taking by way of novation and, in the case of the Trustee, includes any substituted or additional trustee;
- (e) a reference to any document (including these Rules) is to that document as varied, novated, ratified or replaced from time to time;
- (f) 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;
- (g) words importing the singular include the plural (and vice versa) and words indicating a gender include every other gender;
- (h) a reference to a clause, schedule, exhibit or annexure is a reference to a clause, schedule, exhibit or annexure to or of these Rules and a reference to these Rules includes any schedule, exhibit or annexure to these Rules;
- (i) 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; and
- (j) a reference to **\$** or **dollar** is to Australian currency.

## 2. PURPOSE

The purpose of the Scheme is to:

- (a) encourage participation by Eligible Participants in the Company through Share ownership; and
- (b) attract, motivate and retain Eligible Participants.

## 3. COMMENCEMENT

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

## 4. OPTION GRANTS

### 4.1 Entitlements

The entitlement of Eligible Participants to be offered Options will be determined by the Board in their absolute discretion and will take into account skills, experience, length of

service with the Company, remuneration level and such other criteria as the Board consider appropriate in the circumstances.

#### 4.2 **Number of Options**

Subject to Rule 4.4, the number of Options (if any) to be offered to an Eligible Participant from time to time will be determined by the Board in their absolute discretion and in accordance with these Rules and Applicable Laws.

#### 4.3 **No Consideration**

Options issued under the Scheme will be issued for no consideration.

#### 4.4 **Limitation of Offers**

(a) Unless the Board determines otherwise, the Company will not issue Shares on exercise of Options if the total number of Shares that would be issued on exercise of those Options, when aggregated with:

- (i) the number of Shares which could be issued were each outstanding offer or grant with respect to Shares, units of Shares and options or rights to acquire unissued Shares, under the Scheme or any other employee or non-executive Director share scheme of the Company to be accepted or exercised; and
- (ii) the number of Shares issued, during the previous 5 years pursuant to the Scheme or any other employee or non-executive Director share scheme of the Company,

but disregarding any offer made, or option or right acquired or Share issued by way of or as a result of:

- (iii) an offer to a person situated at the time of receipt of the offer outside Australia; or
- (iv) 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 Act; or
- (v) an offer that did not require the giving of a Product Disclosure Statement because of section 1012D of the Corporations Act; or
- (vi) an offer made under a disclosure document (as defined in section 9 of the Corporations Act) or Product Disclosure Statement,

would exceed 5% of the total number of issued Shares at that time.

(b) If the Company makes an Offer which does not comply with the terms and conditions set out in the Class Order, the Company must comply with Chapter 6D of the Corporations Act at the time of that Offer.

#### 4.5 **Quotation**

Options will not be quoted on ASX. However, application will be made to ASX for official quotation of the Shares allotted pursuant to the exercise of Options.

## 5. OFFERS OF OPTIONS

### 5.1 Determination by the Board

The Board, acting in their absolute discretion, may:

- (a) offer Options to an Eligible Participant from time to time as determined by the Board and in exercising that discretion, may have regard to some or all of the following:
  - (i) the Eligible Participant's length of service with the Group;
  - (ii) the contribution made by the Eligible Participant to the Group;
  - (iii) the potential contribution by the Eligible Participant to the Group; or
  - (iv) any other matter the Board consider relevant; and
- (b) impose conditions, including performance-related conditions, on the right of a Participant to exercise any Option being offered.

### 5.2 Offer Document

An Offer must be made using an Offer Document.

### 5.3 Personal Offer

Subject to Rule 5.4, an Offer is personal and is not assignable.

### 5.4 Renunciation

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. 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. 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 that Eligible Participant and that both the Eligible Participant and the Nominee agree to be bound by these Rules.

### 5.5 Time Period

An Eligible Participant (or permitted Nominee) may only accept an Offer within the time period specified in the Offer Document.

### 5.6 Transfers or encumbrances

Without the prior approval of the Board, Options may not be transferred or encumbered.

## 6. OPTION EXERCISE PRICE

In respect of any proposed Offer, the Board may determine the Option Exercise Price for that Offer in its absolute discretion, but in any event it must not be less than the greater of:

- (a) the volume weighted average share price of Shares traded on ASX during the 5 ASX trading days immediately preceding the date on which the Options are offered to an Eligible Participant; and

- (b) 20 cents.

## **7. WHEN OPTIONS MAY BE EXERCISED**

### **7.1 Exercise**

- (a) Subject to this Rule 7, a Participant will be entitled to exercise an Option granted if all Exercise Conditions of the Option have been satisfied or waived and the Option is otherwise capable of exercise in accordance with the terms of the relevant Offer and these Rules.
- (b) An Option may not be exercised if it was issued in accordance with the Class Order and the Class Order prohibits the exercise of the Option.
- (c) Once an Option is capable of exercise in accordance with this Rule 7.1, it may be exercised at any time up until 5.00pm (Perth time) on the Lapsing Date.

### **7.2 One or Several Parcels**

Subject to Rule 7.1, Options may be exercised in one or more parcels of any size, provided that the number of Shares issued, transferred or allocated upon exercise of the number of Options in any parcel is not less than a Marketable Parcel.

### **7.3 Conditions of Exercise**

If a Participant is granted Options in respect of an Offer, unless otherwise agreed by the Directors, a Participant may not:

- (a) during the period of 12 months after the date of grant of the Options, exercise more than 25% of those Options granted;
- (b) during the period of 24 months after the date of grant of the Options, exercise more than 50% of those Options granted; and
- (c) during the period of 36 months after the date of grant of the Options, exercise more than 75% of those Options granted.

### **7.4 Adjustment to Terms of Exercise**

- (a) The Board will have the power to make adjustments to or vary the terms of exercise of an Option. Any proposed variation or adjustment will be subject to the Listing Rules.
- (b) No adjustment or variation of the terms of exercise of an Option will be made without the consent of the Participant who holds the relevant Option if such adjustment or variation would have a materially prejudicial effect upon the Participant (in respect of his or her outstanding Options), other than an adjustment or variation introduced primarily:
  - (i) for the purpose of complying with or conforming to present or future State, Territory, Commonwealth or foreign legislation governing or regulating the maintenance or operation of the Scheme or like schemes;
  - (ii) to correct any manifest error or mistake; or
  - (iii) to enable a member of the Group to comply with Applicable Laws, applicable foreign laws, or a requirement, policy or practice of ASIC or other foreign or Australian regulatory body.



## 7.5 Lapsing of Options

Unless otherwise determined by the Board, in their sole discretion, a Participant's Options which have not been exercised will lapse and all rights in respect of those Options will thereupon be lost if:

- (a) the Relevant Person ceases to be an employee or director of a member of the Group for any reason whatsoever (including without limitation resignation or termination for cause) except for the reasons set out in Rule 7.5(b):
  - (i) immediately if the Exercise Conditions of those Options have not been met; or
  - (ii) 15 days thereafter if the Exercise Conditions of those Options have been met;
- (b) the Relevant Person dies, becomes Permanently Disabled, resigns employment on the basis of retirement from the workforce or is terminated by reason of redundancy by the relevant member of the Group:
  - (i) immediately if the Exercise Conditions of those Options have not been met; or
  - (ii) 6 months thereafter if the Exercise Conditions of those Options have been met;
- (c) the Exercise Conditions of those Options are unable to be met in the Board's reasonable opinion; or
- (d) the Lapsing Date has passed;

whichever occurs earlier.

## 7.6 Entitlement

Each Option entitles the holder to subscribe for and be allotted, transferred or allocated one Share.

## 8. MANNER OF EXERCISE OF OPTIONS

### 8.1 Delivery to Company Secretary

Options granted to a Participant may only be exercised by delivery to the Company's secretary (at a time when the Options may be exercised) of:

- (a) the certificate issued for the Options or, if the certificate for the Options has been lost, mutilated or destroyed, a declaration to that effect, accompanied by an indemnity in favour of the Company against any loss, costs or expenses which might be incurred by the Company as a consequence of its relying on the declaration that the certificate has been lost, mutilated or destroyed;
- (b) a notice in the form of Schedule 1 addressed to the Company and signed by the Participant:
  - (i) stating that the Participant exercises the Options and specifying the number of Options which are exercised; and

- (ii) if required by the Company, specifying the subregister of the Company in which the Shares referred to in Rule 8.2(a) are to be recorded; and
- (c) payment to the Company of an amount equal to the Option Exercise Price multiplied by the number of Options which are being exercised unless there is no exercise price payable in respect of the Options to be exercised.

## **8.2 Issue, allocation and transfer of Shares**

If the items specified in Rule 8.1 are delivered in accordance with that Rule, subject to the Listing Rules (if relevant):

- (a) the Board will instruct the Trustee to subscribe for, acquire and/or allocate, within 10 Business Days of delivery of the documents referred to in Rule 8.1, the relevant number of Shares together with any additional Shares to which the Participant is entitled pursuant to Rules 9 and 10 in consequence of the exercise of the Options, and the Trustee will hold those Shares on behalf of that Participant in accordance with the terms of the Trust Deed;
- (b) the Company will, or the Company will instruct the Trustee to, notify the Participant that the Trustee holds Shares on the Participant's behalf; and
- (c) the Company will cancel the certificate delivered pursuant to Rule 8.1(a) and, if any Options which have not lapsed remain unexercised, deliver to the Participant a replacement certificate reflecting the number of those Options which remain unexercised.

Subject to the Trustee receiving from the Company sufficient funds to subscribe for or acquire the Shares, the Board may, in its absolute discretion instruct the Trustee to either subscribe for new Shares or acquire Shares on market to be held on a Participant's behalf, or instruct the Trustee to use a combination of both alternatives.

## **8.3 Death of Participant**

If a Participant has died, the Participant's legal personal representative will stand in the place of the Participant for the purposes of Rules 8.1 and 8.2 subject only to prior production to the Company of such evidence as would be required to otherwise permit the legal personal representative to become registered as a Shareholder.

## **8.4 Beneficial Owner of Shares**

From and including the date on which the Trustee holds any Shares on behalf of a Participant in accordance with these Rules, the Participant will:

- (a) be the beneficial owner of those Shares; and
- (b) subject to Rule 8.6 and Applicable Laws, be entitled to deal with those Shares as beneficial owner.

## **8.5 Equal Rank**

A Share issued, transferred or allocated on exercise of an Option will rank equally in all respects with Shares already on issue on the date of exercise of the Option, except for entitlements which had a record date before the date of issue, transfer or allocation of that Share.

## **8.6 Official Quotation**

The Company will make application to ASX for official quotation of Shares which are issued, transferred or allocated pursuant to Rule 8.2.

## **9. NOTICE OF ADJUSTMENTS AND CUMULATION OF ADJUSTMENTS**

### **9.1 Cumulation of Adjustments**

Effect will be given to Rule 10 such that the effect of any successive applications of Rule 10 is cumulative, with the intention being that any future adjustments will take into account any previous adjustments.

### **9.2 Notice of Adjustments**

Whenever the number of Shares comprised in an Option or the Option Exercise Price is adjusted pursuant to these Rules, the Company will give notice of the adjustment to the Participant together with calculations on which the adjustment is based.

## **10. NEW ISSUES AND ADJUSTMENTS FOR RIGHTS ISSUES**

### **10.1 Participation generally**

There are no participating rights or entitlements inherent in the Options and Participants will not be entitled to participate in new issues of capital offered to Shareholders unless the Options have been exercised, and the Shares are issued, transferred or allocated and registered in respect of the Options before the record date for determining entitlements to the new issue. However, the Company will ensure that for the purposes of determining entitlements to any such issue, the record date will be at least 7 Business Days after the issue is announced. This will give Participants the opportunity to exercise their Options prior to the date for determining entitlements to participate in any such issue.

### **10.2 Rights Issues**

If the Company makes a pro rata issue of securities (except a bonus issue) to Shareholders (other than an issue in lieu or in satisfaction of dividends or by way of dividend reinvestment) the Option Exercise Price shall be reduced according to the formula specified in the Listing Rules.

### **10.3 Bonus issues**

In the event of a bonus issue of Shares being made pro rata to Shareholders, (other than an issue in lieu of dividends), the number of Shares issued, transferred or allocated on exercise of each Option will include the number of bonus Shares that would have been issued if the Option had been exercised prior to the record date for the bonus issue. No adjustment will be made to the Option Exercise Price.

### **10.4 Reorganisation**

The terms upon which Options will be granted will not prevent the Options being reorganised as required by the Listing Rules on the reorganisation of the capital of the Company.

## **11. OVERRIDING RESTRICTIONS ON ISSUE AND EXERCISE**

Notwithstanding these Rules or the terms of any Option, no Option may be offered, granted or exercised and no Share may be issued, transferred or allocated under the Scheme if to do so:

- (a) would contravene Applicable Laws; or
- (b) would contravene the local laws or customs of an Eligible Participant's country of residence or in the opinion of the Board would require actions to comply with those local laws or customs which are impractical.

## **12. RESTRICTION ON DISPOSAL OF SHARES**

### **12.1 Restriction Period**

Where the Board makes an offer of Options to an Eligible Participant, the Board may, in its discretion, determine that a restriction period will apply to some or all of the Shares issued, transferred or allocated to or on behalf of a Participant, following exercise of the Participant's Options (**Restricted Shares**), up to a maximum of seven (7) years from the date of grant of the Option (**Restriction Period**).

### **12.2 Waiver of Restriction Period**

The Board may, in its sole discretion, having regard to the circumstances at the time, waive a Restriction Period determined pursuant to Rule 12.

### **12.3 No disposal of Shares while restricted**

A Participant must not dispose of or otherwise deal with any Shares issued, transferred or allocated to the Participant under the Scheme while those Shares are Restricted Shares.

### **12.4 Enforcement of Restriction Period**

The Company may implement any procedure it considers appropriate to restrict a Participant from dealing with any Restricted Shares for as long as those Shares are Restricted Shares.

## **13. DIVIDENDS, VOTING RIGHTS AND NOTICES OF MEETINGS**

### **13.1 Dividends**

Where the Trustee holds Shares on behalf of a Participant, the dividends payable on those Shares will be paid by the Company to the Trustee, and the Trustee will pay any such dividends to the Participant as soon as reasonably practicable after those dividends are paid by the Company to the Trustee.

### **13.2 Voting rights**

Where the Trustee holds Shares on behalf of a Participant, a Participant may direct the Trustee by notice in writing as to how to exercise the voting rights attaching to those Shares held on the Participant's behalf by the Trustee, either generally or in respect of a particular resolution, by way of proxy. In the absence of any such direction, the Trustee must not exercise the voting rights attaching to the Shares held on behalf of the Participant by the Trustee. The Trustee must not vote in respect of any Shares it holds on behalf of a Participant if the vote occurs by show of hands.

### **13.3 Notices of meetings**

Where the Trustee holds Shares on behalf of a Participant, the Company must, or by direction of the Board the Trustee must, forward to a Participant a copy of any notices of meetings of members of the Company received by the Trustee, unless the Participant has notified the Trustee in writing that the Participant does not wish to receive such notices.

## **14. WITHDRAWAL OF SHARES AND TRANSFER OF SHARES TO PARTICIPANTS**

### **14.1 Withdrawal of Shares generally**

Any Shares held by the Trustee in the Trust for the benefit of a Participant pursuant to this Scheme, will remain held in the Trust for the benefit of the relevant Participant and subject to this Rule 14, unless and until the Shares are withdrawn from the Trust by:

- (a) the relevant Participant submitting (or being deemed to have submitted) to the Company a Withdrawal Notice;
- (b) the Board approving that Withdrawal Notice under this Rule 14; and
- (c) the Trustee acting in accordance with any such approval by the Board by transferring the legal title in those Shares, or by selling those Shares, in accordance with the direction of the Participant,

provided at all times that they are not Restricted Shares.

### **14.2 Withdrawal Notice**

A Participant may submit a Withdrawal Notice to the Company in respect of some or all of the Shares, which are not Restricted Shares, held by the Trustee on behalf of the Participant.

### **14.3 Board approval**

The Board may approve the withdrawal from the Trust of all or a specified number of Shares held by the Trustee on behalf of a Participant if any of the following applies:

- (a) the Participant has submitted a Withdrawal Notice to the Company in respect of the relevant number of Shares;
- (b) the Relevant Person ceases to be an employee of a member of the Group (in which case the Participant will be deemed to have submitted a Withdrawal Notice in respect of all of the Shares held by the Trustee on behalf of that Participant and to have directed the Trustee to transfer the legal title in those Shares to the Participant); or
- (c) the Last Withdrawal Date has been reached (in which case, the Participant will be deemed to have submitted a Withdrawal Notice in respect of all of the Shares held by the Trustee on behalf of that Participant and to have directed the Trustee to transfer the legal title in those Shares to the Participant).

### **14.4 Specified time, interval or periods for approval**

The Board may adopt procedures for the consideration of a Withdrawal Notice, which may (amongst other things) specify times, intervals or periods at or during which the Board will consider whether or not to approve a Withdrawal Notice submitted by a Participant from time to time.

### **14.5 Approval must not be unreasonably withheld**

The Board must not unreasonably withhold their approval of the withdrawal of Shares from the Trust that are the subject of a Withdrawal Notice validly submitted by a Participant under this Rule 14. For the avoidance of doubt, nothing in this Rule 14 requires the Board to:

- (a) deal with a Withdrawal Notice at an earlier time than the next time specified under any procedure adopted by the Board under Rule 14.4; or
- (b) approve a Withdrawal Notice where the Board is permitted by Rule 14.6 to decline to act on that Withdrawal Notice.

#### **14.6 Board may decline approval**

If a Participant owes money to any member of the Group, the Board may decline to act on a Withdrawal Notice submitted, or deemed to have been submitted, by the Participant until arrangements (which are satisfactory to the Board) have been made for the payment of the money.

### **15. TRUSTEE**

#### **15.1 Rights and obligations**

The Board may determine and conclude agreements with the Trustee, and enforce or prosecute any rights and obligations against the Trustee under such agreements, without reference or recourse to the Participants under this Scheme. Subject to the terms of the Trust Deed and without limiting the Company's rights in this regard, the Company may, pursuant to and in accordance with any such agreements:

- (a) provide funds to the Trustee in order to allow the Trustee to subscribe for and/or acquire Shares to be held on behalf of Participants under this Scheme;
- (b) pay the Trustee for services provided in connection with this Scheme and the Trust;
- (c) remove the Trustee and appoint a new trustee (and make any necessary arrangements or provisions for the transfer of Shares held by the Trustee for Participants to a new trustee); and
- (d) otherwise exercise any rights, responsibilities or powers afforded to it under the Trust Deed.

#### **15.2 Costs**

The Board may determine the manner in which any costs associated with the Trust and the costs incurred in the course of the performance by the Trustee of its role and duties under this Scheme and the Trust Deed are to be borne.

#### **15.3 Administration and holding of Shares**

The Trustee must administer the Trust and hold Shares under the Scheme in accordance with this Scheme, the Trust Deed and any procedures determined by the Company and as agreed to between the Board and the Trustee.

#### **15.4 Registration of Shares**

Where Shares are held by the Trustee on behalf of a Participant, those Shares will be registered in the name of the Trustee.

### **16. AMENDMENT OF RULES**

Subject to and in accordance with the Listing Rules (including any waiver granted under such Listing Rules), the Directors (without the necessity of obtaining the prior or subsequent consent of Shareholders of the Company in a general meeting) may from time to time amend (including the power to revoke, add to or vary) all or any provisions

of these Rules in any respect whatsoever, by an instrument in writing, provided that rights or entitlements in respect of any Option granted before the date of amendment shall not be reduced or adversely affected unless:

- (a) prior written approvals from the affected Participants are obtained; or
- (b) the amendment is introduced primarily:
  - (i) for the purpose of complying with or conforming to present or future State, Territory, Commonwealth or foreign legislation governing or regulating the maintenance or operation of the Scheme or like schemes; or
  - (ii) to correct any manifest error or mistake; or
  - (iii) to enable a member of the Group to comply with Applicable Laws, applicable foreign laws, or a requirement, policy or practice of ASIC or other foreign or Australian regulatory body.

## 17. TRIGGER EVENT

Notwithstanding these Rules, upon the occurrence of a Trigger Event, the Directors may, at their sole discretion and subject to such terms and conditions as they determine, resolve:

- (a) that the Exercise Conditions applicable to Options be waived and Options may be exercised at any time from the date of such determination, and in any number until the date determined by the Directors acting bona fide so as to permit the Participants to participate in any change of control arising from a Trigger Event, provided that the Directors will forthwith advise in writing each Participant of such determination. Thereafter, the Options shall lapse to the extent they have not been exercised; or
- (b) to use their reasonable endeavours to procure that an offer is made to Participants on like terms (having regard to the nature and value of the Options) to the terms proposed under the Trigger Event in which case the Directors shall determine an appropriate period during which the Participants may elect to accept the offer and, if a Participant has not so elected at the end of that period, the Participant's Options shall immediately become exercisable and, if not exercised within 10 days of the end of that period, shall lapse.

## 18. ADMINISTRATION OF SCHEME

- (a) The Directors may appoint for the proper administration and management of the Scheme, such persons as they consider desirable and may delegate thereto such authorities as may be necessary or desirable for the administration and management of the Scheme.
- (b) Subject to the provisions of these Rules, the Directors may make such regulations and establish such procedures for the administration and management of the Scheme as they consider appropriate.
- (c) The decision of the Directors as to the interpretation, effect or application of these Rules will be final.

## 19. RIGHTS OF ELIGIBLE PARTICIPANTS

Neither participation in the Scheme by the Company, an Associated Body Corporate, any Eligible Participant or Participant nor anything contained in these Rules shall in any

way prejudice or affect the right of the Company or an Associated Body Corporate to dismiss any Eligible Participant or Participant or to vary the terms of employment of any Eligible Participant or Participant. Nor shall participation or the rights or benefits of an Eligible Participant or Participant under these Rules be relevant to, or used as grounds for, granting or increasing damages in any action brought by an Eligible Participant or Participant against the Company or an Associated Body Corporate whether in respect of any alleged wrongful dismissal or otherwise.

## 20. **ATTORNEY**

Each Participant, in consideration of being granted Options:

- (a) irrevocably appoints the Company 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 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;
- (b) covenants that the Participant will ratify and confirm any act or thing done pursuant to this power;
- (c) 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
- (d) indemnifies and holds harmless each member of the Group, each Director and the attorney in respect thereof.

## 21. **ASIC RELIEF**

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

## 22. **NOTICES**

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

## 23. **GOVERNING LAW**

This Scheme is governed by and shall be construed and take effect in accordance with the laws of Western Australia.



**SCHEDULE 1**

**NOTICE OF EXERCISE OF OPTIONS**

To: The Directors  
[\*]

This "Notice of Exercise" is subject to, and must be read in conjunction with, the Fortescue Metals Group Ltd Incentive Option Scheme Rules and the terms and conditions contained in the Offer dated [insert date].

I \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_ being registered holder of the options to acquire fully paid ordinary shares in the Company (**Options**) set out on the certificate annexed to this notice, hereby exercise \_\_\_\_\_ of the abovementioned options. I/We enclose my/our cheque for \$ \_\_\_\_\_ in payment of the application monies due in respect of those shares calculated on the basis of \$ \_\_\_\_\_ per share.

*Note: Options must be exercised in multiples of 10, unless you are exercising all of your Options able to be exercised at that time.*

I authorise and direct the Company to instruct the trustee of the "Fortescue Metals Group Limited Employee Share Trust" (**Trust**) to subscribe for, acquire and/or allocate to such number of shares as I/we are entitled to following exercise of the Options and hold those shares on trust on my/our behalf under the terms of the Trust, in accordance with Rule 8.2 of the Fortescue Metals Group Ltd Incentive Option Scheme and I agree to accept such shares subject to the provisions of the Constitution of the Company.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20 .

\_\_\_\_\_  
**Signature of Holder(s)**

Cheques should be made payable to Fortescue Metals Group Ltd

Note: Participation in any employee incentive scheme may have taxation implications. We recommend that you seek your own individual taxation advice in relation to your participation in the Fortescue Metals Group Ltd Incentive Option Scheme.

**SCHEDULE 2**

**NOTICE OF WITHDRAWAL OF SHARES FROM THE TRUST**

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To the Trustee of the “Fortescue Metals Group Limited Employee Share Trust”

Where Fortescue Metals Group Limited (ACN 002 594 872) (**Company**) has instructed the Trustee of the “Fortescue Metals Group Limited Employee Share Trust” (**Trust**) to subscribe for, transfer and/or allocate shares and hold those shares on my behalf, in accordance with Rule 14 of the Fortescue Metals Group Ltd Incentive Option Scheme (**Scheme**), I request the Trustee to release from the Trust the following number of shares held by the Trustee on my behalf:

\_\_\_\_\_ shares

and provide the Trustee with the following instructions:

**PLEASE TICK ONE BOX ONLY**

1. Please transfer the legal title in the shares to me [ ]

2. Please transfer the legal title in the shares to my Nominee [ ]

\_\_\_\_\_   
 Insert full name

3. Please arrange for the sale of the shares on my behalf and provide me with the proceeds from the sale of those shares (less any brokerage fees or other costs incurred by the Trustee resulting from that sale) [ ]

I acknowledge that this request is subject to, and must be read in conjunction with, the Scheme, and I and/or my Nominee agree to be bound by the constitution of the Company.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_