

SUNWAY BERHAD

TERMS OF REFERENCE OF EMPLOYEES' SHARE OPTION SCHEME COMMITTEE

The expressions used in these Terms of Reference, except where the context otherwise requires, shall have the same meaning in the By-Laws for the Employees' Share Option Scheme.

1. MEMBERSHIP

- (a) The Committee shall be appointed by the Board and shall be composed of not fewer than three (3) in number.
- (b) The members of the Committee shall elect a chairman from among their number.
- (c) In the event of any vacancy in the Committee resulting in the number of members being reduced to below three (3), the Board shall, within three (3) months fill the vacancy.
- (d) The Board shall have the discretion as it deems fit to rescind and/or revoke the appointment of any person(s) in the Committee.

2. FUNCTIONS

Pursuant to By-Law 23, the Committee shall administer the Employees' Share Option Scheme ("**Scheme**") in such manner as it shall in its discretion deem fit and with such powers and duties as are conferred upon it by the Board including the powers to:-

- (a) subject to the provisions of the Scheme, construe and interpret the Scheme and option(s) granted under it, to define the terms therein and to recommend to the Board to establish, amend and revoke rules and regulations relating to the Scheme and its administration. The Committee, in the exercise of this power may correct any defect, supply any omission, or reconcile any inconsistency in the Scheme or in any agreement providing for an option(s) in a manner and to the extent it shall deem necessary to expedite and make the Scheme fully effective.
- (b) determine all questions of policy and expediency that may arise in the administration of the Scheme; and
- (c) generally exercise such powers and do all acts and things and enter into any transactions, agreements, deeds, documents or arrangements, make rules, regulations or impose terms and conditions or delegate part of its power relating to the Scheme, which the Committee may in its discretion consider to be necessary or desirable for giving full effect to the Scheme.

3. POWERS AND AUTHORITY

- 3.1 Pursuant to By-Law 3, the Committee has the discretion:
- (a) to decide on any other eligibility criteria for purposes of selecting an Eligible Person from time to time;
 - (b) to select any Eligible Person to participate in the Scheme whose decision shall be binding and final;
 - (c) to approve the participation of an Eligible Person in more than one share option scheme implemented by any company within the Sunway Group;
 - (d) to decide whether an Executive Director or an employee of the Sunway Group who during the Duration of the Schedule becomes an Eligible Person is eligible to participate in the Scheme.
- 3.2 Pursuant to By-Law 4.1, the Committee has the discretion to offer such number of options to eligible employees in accordance with the Scheme after taking into consideration, inter alia, the eligible employees' position within the Sunway Group, fulfillment of the eligibility criteria stated in By-Law 3, work performance, and/or such other factors as the Committee deems fit.
- 3.3 Pursuant to By-Law 9.6, the Committee shall have the right at its discretion by notice in writing to that effect served on the relevant Grantee:-
- (a) to suspend the right of any Grantee who is found to have contravened the written policies and guidelines of the Sunway Group and/or the terms and conditions of the Grantee's employment (whether or not such contravention may give rise to a disciplinary proceeding being instituted) to exercise his/her Vested Option(s). In addition to this right of suspension, the Committee may impose such terms and conditions as the Committee shall deem appropriate in its discretion, on the right of exercise of his/her Vested Option(s) having regard to the nature of the contravention provided always that in the event such contravention would result in the dismissal or termination of service of such Grantee, the Vested Option(s) shall immediately cease without notice, upon pronouncement of the dismissal or termination of service of such Grantee; or

- (b) to suspend the right of any Grantee who is being subjected to disciplinary proceedings (whether or not such disciplinary proceedings may give rise to a dismissal or termination of service of such Grantee or may be found to have had no basis or justification) to exercise his/her Vested Option(s) pending the outcome of such disciplinary proceedings. In addition to this right of suspension, the Committee may impose such terms and conditions as the Committee shall deem appropriate in its discretion, on the right of exercise of his/her Vested Option(s) having regard to the nature of the charges made or brought against such Grantee, provided always that:
 - (i) in the event such Grantee is found not guilty of the charges which gave rise to such disciplinary proceedings, the Committee shall reinstate the right of such Grantee to exercise his/her Vested Option(s);
 - (ii) in the event such Grantee is found guilty resulting in the dismissal or termination of service of such Grantee, the Vested Option(s) shall immediately cease without notice, upon pronouncement of the dismissal or termination of service of such Grantee notwithstanding that such dismissal or termination may be subsequently challenged by the Grantee in any other forum;
 - (iii) in the event such Grantee is found guilty but not dismissed or whose services were not terminated, the Committee shall have the right, independent of the findings, to determine at its discretion whether or not Grantee may continue to exercise his/her Vested Option(s) and if so, to impose such terms and conditions as it deems appropriate, on such exercise;
 - (iv) in the event that no decision is made and/or disciplinary proceedings are not concluded prior to the expiry of the Option Period or any other shorter period available to the Grantee to exercise the Grantee's Vested Option (as the case may be), the Vested Option of such Grantee shall immediately lapse on the expiry of the Option Period or such shorter period available to the Grantee to exercise the Grantee's Vested Option, without notice;
 - (v) notwithstanding whether or not disciplinary proceedings have been initiated against a Grantee, the Committee shall at its discretion determine whether or not the Grantee may continue to exercise his/her Vested Option.
- 3.4 By-Law 22.1 stipulates that the Committee may at any time and from time to time recommend to the Board any additions, amendment to and/or modification of any of the provisions of the By-Laws as it shall in its discretion deems fit. The Board shall have the power by resolution to add, amend and/or modify any of the provisions of the By-Laws upon such recommendation.

- 3.5 By-Law 22.2 provides that the approval of the shareholders of the Company in general meeting shall not be required in respect of additions or amendments to or deletions of the By-Laws provided that no addition, amendment or deletion shall be made to the By-Laws (including matters specified in the Listing Requirements to be contained in the By-Laws or such other matters as may be determined by Bursa Securities from time to time), which would render the rights of any Grantee or group of Grantees more favourable.
- 3.6 Such other authorities as governed by the By-Laws and/or are conferred upon the Committee by the Board from time to time.

4. MEETINGS

- (a) Meetings of the Committee may be called at any time by the chairman of the Committee.
- (b) The quorum for the meeting shall be two (2) members.
- (c) Where necessary and appropriate, any decision of the Committee can be made by a majority of the members via a Circular Resolution.

5. REPORTING

The chairman of the Committee shall report the proceedings of each Committee Meeting to the Board.

6. SECRETARY

The secretary to the Committee shall be the Company Secretary.