



## **SOMNOMED LIMITED 2014 SHARE PURCHASE PLAN**

### **OFFER DOCUMENT**

30<sup>th</sup> July 2014

Dear Shareholder

As part of our commitment to actively manage SomnoMed's capital base to provide SomnoMed with sufficient resources to enable the Company to double its plant capacity and fund working capital for increased revenues in existing markets and introduce digital technology to certain parts of our global production processes, as well as fund working capital and operational activities in new markets, the Company announced recently the placement of \$5.145 million worth of shares to a number of sophisticated and professional investors at an issue price of \$1.50 per shares. In addition to the above amount, parties associated with the Chairman and other Directors of the Company will be subscribing \$405,000 equating to 270,000 shares, subject to shareholder approval.

At the same time the board of directors considered the position of its existing shareholders and looked for a way to offer all shareholders the opportunity to participate in this investment, at the same price as the sophisticated and professional investors, who are taking the placement of shares.

As a result SomnoMed is pleased to announce its 2014 Share Purchase Plan, which offers the existing shareholders the opportunity to participate in the capital raising up to a maximum of 1 million shares, equating to \$1.5 million. Thus the 2014 Share Purchase Plan (the "Plan") proposed to you through this offer gives you the opportunity to acquire further ordinary shares in SomnoMed ("new shares"). No brokerage or other charges will apply to shares acquired under this Plan.

Funds raised will be used to assist in financing SomnoMed's growth mentioned above and provide additional working capital.

This Offer Document sets out the terms and conditions of the offer under the Plan. By applying for new shares under the Plan, you will have agreed to be bound by the terms and conditions set out in this Offer Document and the Plan Rules.

Applications to acquire new shares under the Plan must be made on the Application Form which accompanies this Offer Document. Applications and payment for new shares must be received by the share registry by 5.00pm Sydney time on 15<sup>th</sup> August 2014 ("Closing Date").

#### **SUMMARY**

- **Eligible shareholders entitled to purchase up to \$15,000 of ordinary new shares**
- **Issue Price will be \$1.50 per ordinary new share**
- **Application will be made for the listing on the Australian Stock Exchange of securities offered pursuant to this SPP**
- **No brokerage or additional transaction costs**
- **Offer closes 5.00pm (Sydney time) on 15<sup>th</sup> August 2014**

## Participation

Participation in the Plan is open to all shareholders registered as holders of ordinary shares of SomnoMed at 700pm Sydney time on 24<sup>th</sup> July 2014 and whose address in SomnoMed's share register is in Australia or New Zealand.

The Board of SomnoMed has determined it is not lawful or practical for shareholders in other jurisdictions to participate in the Plan.

Participation is entirely at the option of shareholders.

Offers made under the Plan are not renounceable. **This means that only the shareholder whose name is recorded on the register of shareholders may accept the offer under the Plan.** Shareholders cannot transfer their right to acquire shares under this offer to another person.

The Application Form includes pre-printed details of your name, as it is recorded on the register.

Each registered shareholder may only participate once in the offer up to the maximum limit of \$15,000. Joint holders may apply even if one or more of them have applied for new shares in their own right in respect of a separate holding.

If you have more than one registered holding and you hold shares in one or more of those holdings as trustee for a specified beneficiary, you may apply once on behalf of each specified beneficiary.

The Application Form includes a certification by the applicant, which is required by law, that the amount subscribed under this offer, together with amounts subscribed in any similar plan offer by SomnoMed in the last 12 months by the applicant, does not exceed \$15,000.

Each applicant should be able to make the certification because the last Share Purchase Plan offer by SomnoMed Limited closed in November 2007.

SomnoMed reserves the right to reject any application where the maximum application limit or any other term of the Plan has not been complied with.

## Pricing

The price per share for each new share issued under this offer ("issue price") is \$1.50.

We recommend that you obtain your own financial advice in relation to this offer and consider price movements of shares in SomnoMed before accepting this offer.

## Allocation of shares

SomnoMed is seeking to raise up to a maximum \$1.5 million from the Plan offer. Shares will be issued to applicants up to the maximum amount of \$1.5 million being reached.

If applications for more than \$1.5 million are received, the Board will scale back applications received to a maximum of \$1.5 million.

### **Allocation of shares (cont.)**

The Board may decide to issue to any person fewer shares than that person applied for under the Plan if the issue of those shares, either alone or in conjunction with the issue of shares under other applications received by SomnoMed, would contravene any law or the Listing Rules of ASX.

If a scale back is required for any reason, the Board of SomnoMed may reduce the number of new shares, which any shareholder, or any group of shareholders, is entitled to apply for under the Plan in any manner it considers appropriate in its absolute discretion.

If applications for less than \$1.5 million are received, the Board intends to place the shortfall at no less an issue price than that offered to existing shareholders under the Plan.

The Board of SomnoMed reserves the right at its discretion to cancel the Plan at any time up to the time of issue of new shares under the Plan, or to extend the closing date.

If the Plan is cancelled, all application money received from shareholders will be returned to shareholders without interest. If SomnoMed issues a lesser number of new shares than a shareholder applied for, excess application money will be refunded to the shareholder, without interest. Any interest received on application money may be retained by SomnoMed whether or not new shares are issued under the Plan.

SomnoMed may make offers under the Plan in future years. However, at this time, the Board has not decided to make any offer other than the offer in this Offer Document.

### **Issue of shares**

Shares to be issued under the Plan will be issued within 12 business days after the Closing Date. Holding statements or continuation advices setting out the number of shares allocated to you should be received shortly after that date.

New shares issued under the Plan will rank equally in all respects with all other fully paid ordinary shares in SomnoMed on the date of issue.

SomnoMed will, promptly after issue of shares under this Plan, make application for the shares to be listed for quotation on the official list of the Australian Securities Exchange Limited.

### **Costs of Participation**

No brokerage, commissions or other transaction costs will be payable by participants in respect of the application for, and issue of, shares under the Plan.

### **Disputes**

SomnoMed may settle in any manner it thinks fit, any difficulties, anomalies or disputes which may arise in connection with or by reason of the operation of the Plan, whether generally or in relation to any participant or application, and the decision of SomnoMed will be conclusive and binding on all participants and other persons to whom the determination relates.

SomnoMed reserves the right to waive strict compliance with any provision of these terms and conditions. The powers of SomnoMed under these conditions may be exercised by the Directors or any delegate of the Directors.

## **How to accept the Offer**

Eligible Shareholders wishing to accept the Offer for Shares under the SPP have two payment options – by cheque or BPAY®, details of which are set out below. Please do not forward cash. Receipts for payment will not be issued. Cheques will only be accepted if they are drawn in Australian currency on an Australian financial institution. Application money will not bear interest under any circumstances. The Company will pay any brokerage or transaction costs.

### **To pay by cheque** you must:

- (a) complete the accompanying Application Form in accordance with the instructions set out in that form;
- (b) prepare a cheque for the appropriate amount in Australian dollars, payable to “SomnoMed Limited”;
- (c) send the Application Form and cheque to the Share Registry;

The completed Application Form and your cheque must be received by the Closing Date of 5.00pm (AEST) on 15th August 2014. Applications received after that time may not be accepted.

**To pay by BPAY** you must use the personalised reference number shown on your Application Form which is required to identify your holding. If you make your payment using BPAY, you do not need to return your Application Form.

Eligible Shareholders should be aware that their own financial institution may implement earlier cut-off times with regards to electronic payment. It is the responsibility of each Applicant to ensure that the Application money is submitted through BPAY with sufficient time for it to be processed by their own financial institution and received by the Company no later than 5.00pm (AEST) on the Closing Date.

By completing and returning the Application Form or paying by BPAY, you:

- (a) acknowledge that you have read and understood the terms and conditions of this Offer (including the risks) and subscribe for Shares in accordance with these terms and conditions;
- (b) acknowledge that your application will be irrevocable and unconditional (and cannot be withdrawn);
- (c) agree to pay the Issue Price per Share up to a maximum of the value selected on the Application Form (which cannot exceed \$15,000);
- (d) warrant you are an Eligible Shareholder;
- (e) warrant that you are eligible under all applicable securities laws to receive an offer under the SPP;
- (f) certify that you have not applied for Shares with an aggregate application price in excess of A\$15,000 under the SPP or any similar arrangements in the 12 months prior to the date of application, even though you may have received more than one offer under the SPP or received offers in more than one capacity under the SPP;
- (g) authorise the Company (and each of its officers and agents) to correct any error in, or omission from, the Application Form and complete the Application Form by inserting any missing details;
- (h) acknowledge that the Company may at any time irrevocably determine that your application is valid, in accordance with these terms and conditions, even if the Application Form is incomplete, contains errors or is otherwise defective;
- (i) acknowledge that neither the Company, nor the Share Registry has provided any investment advice or financial product advice, and that neither has any obligation to provide this advice;
- (j) acknowledge that the Company (and each of its officers and agents) is not liable for any consequences of the exercise or non-exercise of its discretions referred to in paragraph 8 below; and
- (k) agree to be bound by the Company’s constitution.

**If you have any enquiries concerning the offer please contact Boardroom Pty Limited on (02) 9290 9600 within Australia.**

**SOMNOMED LIMITED**

**ABN 35 003 255 221**

**2014 Share Purchase Plan  
Rules**

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## 1 Purpose

- 1.1 The purpose of this Plan is to provide holders of Shares with the opportunity to acquire up to \$15,000 worth of Shares in any consecutive 12 month period whilst the Company is listed on ASX.

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## 2 Definitions

- 2.1 In this Plan, unless the context calls for another meaning:

*ASIC* means the Australian Securities & Investments Commission.

*ASX* means the Australian Securities Exchange.

*ASX Listing Rules* means the Listing Rules of ASX Limited.

*Board* means the board of directors of the Company.

*Closing Date* means the date specified as such in an Offer, as varied by the Board in its discretion.

*Company* means SomnoMed Limited ABN 35 003 255 221.

*Eligible Shareholder* means a shareholder of the Company eligible to participate in the Offer as determined under clause 4.

*Issue Price* means the subscription price for each Share determined in accordance with clause 5.5 and specified in each Offer.

*Offer* means a non-renounceable offer of fully paid ordinary shares in the Company to Eligible Shareholders under the Plan on such terms as the Board determines from time to time.

*Plan* means the 2014 SomnoMed Limited Share Purchase Plan as approved by the Board from time to time.

*Record Date* means the date specified as such in an Offer.

*Rules* means these rules of the Plan as varied from time to time.

*Shares* means new fully paid ordinary shares in the Company issued under the Plan.

### Interpretation

- 2.2 In these Rules, unless a contrary intention appears:

- (a) the singular includes the plural and vice versa and a reference to a gender includes other genders;
- (b) a reference to a person includes a corporation, firm or body of persons recognised by law and that person's successors, assignors and legal personal representatives;
- (c) references to time are to Sydney time; and
- (d) other grammatical forms of defined terms or phrases have corresponding meanings.

### **3 Commencement**

- 3.1 The Plan and these Rules commence operation on such date as the Board in its sole discretion determines.

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### **4 Eligibility to Participate**

- 4.1 Subject to clauses 4.2 and 4.3, those shareholders of the Company who will be eligible to apply for Shares under an Offer (the *Eligible Shareholders*) will be those shareholders who:
- (a) are recorded as a holder of shares in the Company's register of members at 7 p.m. on the relevant Record Date for that Offer; and
  - (b) have an address in a jurisdiction in which in the Board's reasonable opinion it is lawful and practical for the Company to offer and issue the Shares.
- 4.2 If two or more persons are recorded in the register of members as jointly holding shares in the Company, they will be taken to be a single registered holder for the purposes of the Plan. A certification by any of them in accordance with clause 5.6 will be taken to be a certification by all of them.
- 4.3 If a trustee or nominee is noted on the register of members as holding shares on account of a named beneficiary:
- (a) the beneficiary is taken to be the registered holder in respect of those shares for the purposes of the Plan; and
  - (b) any application for Shares under the Plan or certification in accordance with clause 5.6 by, and any issue of shares to, the trustee or nominee, will be taken to be an application or certification by, or an issue to, the beneficiary.
- 4.4 The Board is entitled to make a final determination as to whether any particular shareholder is an Eligible Shareholder within the terms of these Rules or not, and to change any such determination, as and when it sees fit. In making this determination, the Board may consider, among other things, whether such participation would or may be impracticable, impossible or illegal and any actual or anticipated inconvenience or expense in allowing, or investigating the possibility of allowing, such participation.
- 4.5 An Offer does not constitute an offer in any jurisdiction in which, or to any person to whom, it would not be lawful to make such an offer.

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### **5 Offer of Shares**

- 5.1 The Company may make Offers of Shares to Eligible Shareholders under the Plan from time to time on such terms as determined by the Board. The Company may cancel an Offer in its discretion.
- 5.2 Eligible Shareholders may apply only for up to a maximum of \$15,000 (or such other maximum amount permitted by law) worth of Shares under the Plan or any similar arrangements in any consecutive 12 month period, subject to any limitations contained in any Offers.
- 5.3 Each Offer made to an Eligible Shareholder is personal to that Eligible Shareholder, and is non-renounceable and may not be transferred to any other person.



- 5.4 The Company may limit the total number of Shares to be issued under the Plan, and may scale back excess applications in its discretion. Applicants agree that they may be issued fewer Shares than they have applied for, in which case excess application money will be refunded without interest.
- 5.5 The Issue Price of the Shares will be determined by the Board and specified in the Offer, but will be at least 80% of the volume weighted average price of the Company's shares on the ASX during the last 5 trading days on which sales of Shares were recorded before either the date on which the Offer is announced or the date of the issue of the Shares (as selected by the Board).
- 5.6 By accepting an Offer and applying for Shares under the Plan, an Eligible Shareholder certifies that the aggregate of the Issue Price for Shares applied for under the Plan, and any other shares applied for by that Eligible Shareholder under the Plan or any similar arrangement in the 12 months before the application, does not exceed \$15,000 even though that Eligible Shareholder may have received more than one Offer under the Plan or received an Offer in more than one capacity under the Plan.
- 5.7 By accepting an Offer and applying for Shares under the Plan, an Eligible Shareholder acknowledges that:
- (a) the Issue Price will be at least 80% of the volume weighted average price of the Company's shares on the ASX during the last 5 trading days on which sales of Shares were recorded before either the date on which the Offer is announced or the date of the issue of the Shares (as selected by the Board); and
  - (b) there is a risk that the market price of the Shares may change between the date of the Offer and the date of issue of Shares, which makes it possible that Shares in the Company could be purchased on ASX for less than the Issue Price and Eligible Shareholders acquiring Shares under the Plan may not be able to sell those Shares at or above the Issue Price paid for the Shares.
- 5.8 No more than one offer may be made under the Plan in any consecutive 12 month period, and such offer must be limited to no more than 30% of the issued capital of the Company, without shareholder approval.
- 5.9 No fractions of Shares shall be issued. The Board may determine on what basis fractional entitlements will be dealt with at the time of issue.

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## **6 Issue of Shares**

- 6.1 The Board reserves the right to refuse an application for Shares under the Plan if it considers that the applicant is not an Eligible Shareholder or has not otherwise complied with the terms of the Plan. If an application is refused, the application monies received will be refunded without interest.
- 6.2 Subject to clause 6.1, Shares will be issued no later than 15 business days after the Closing Date of an Offer.
- 6.3 Shares allotted under the Plan will rank equally in all respects with all other fully paid ordinary shares in the Company on the date of issue.
- 6.4 The Company will apply for quotation on the ASX of Shares issued under the Plan.

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## **7 Modification and Termination of the Plan**

- 7.1 The Directors may at any time resolve to:
- (a) vary the Plan and any agreement relating to the Plan in compliance with the *Corporations Act 2001(Cth)*;
  - (b) suspend the operation of the Plan; or
  - (c) terminate the Plan.
- 7.2 Any variation, suspension or termination made in accordance with clause 7.1:
- (a) subject only to clause 7.3, will be effective from the date of such resolution or otherwise from a date determined by the Directors; and
  - (b) will not give rise to any liability on the part of or right of action against the Company or the Directors.
- 7.3 The Directors may at any time prescribe the manner in which notice to Shareholders of any variation, termination or suspension of the Plan will be given or deemed to have been given to Shareholders, including, without limitation, by an announcement by the Company to ASX, which notice will be effective immediately on the giving of that notice of variation, suspension or termination in the manner so prescribed by the Directors.
- 7.4 The accidental omission to give notice of any variation, suspension or termination of the Plan to any Shareholders in the manner so prescribed by the Directors pursuant to clause 7.3 or, where applicable, the non-receipt of any such notice by any Shareholders will not invalidate the variation, suspension or termination of the Plan.

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## **8 General**

- 8.1 The Plan and these Rules are to be administered in accordance with ASIC Class Order 09/425 and the ASX Listing Rules.
- 8.2 The Plan will be administered by the Board or a committee of the Board and subject to the provisions of ASIC Class Order 09/425 and the ASX Listing Rules the Board will have an absolute discretion to:
- (a) determine appropriate procedures for administration of the Plan consistent with these terms;
  - (b) resolve conclusively all questions of fact or interpretation arising in connection with the Plan or these terms; and
  - (c) delegate to any one or more persons, for such period and on such conditions as they may determine, the exercise of their powers or discretions under the Plan or these terms.
- 8.3 Participants are at all times bound by the Rules of the Plan as modified from time to time.
- 8.4 A notice under these Rules is validly given if handed to the addressee or posted by ordinary post and addressed to the addressee at his or her last known residential or registered address, or sent by facsimile or e-mail in accordance with the Company's constitution.
- 8.5 The Plan will operate until terminated by the Board.
- 8.6 These terms are governed by and construed in accordance with the laws of the State of New South Wales.