EMI OPTION PARTICIPANT'S GUIDE

INTRODUCTION

This guide has been prepared to explain the main features and benefits of an Enterprise Management Incentive (EMI) share option.

EMI options can be granted to employees in trading companies which have growth potential. The terms of the option must meet the requirements of the tax legislation in order to provide potentially significant tax benefits.

The main features of the EMI option are set out in simple question and answer form; but it is important to note that this is only a guide and cannot override the terms of the EMI Option Agreement that an option holder will sign.

1. What is an option and what do the terms grant and exercise actually mean?

   An option is the right to acquire shares in the Company at a future date at a price per share fixed at the beginning. The price per share is known as the exercise price.

Grant	means the event by which the right to acquire shares in the Company occurs
Exercise	means the event by which the option holder decides to exercise their right to acquire shares in the Company by paying over the amount of money agreed at the date of grant

2. Who grants the EMI options?

   Options are granted by a Board of Directors of the Company in accordance with the formal rules of the Enterprise Management Incentive Scheme ("the EMI Scheme").

3. What is the EMI Scheme?

   The EMI Scheme is constituted by a set of detailed rules that govern the terms on which all options are granted..

4. How will an option holder know if they have been granted an EMI option?

   They will be issued with an option agreement ("the EMI Option Agreement"), which they must sign and return.

   The EMI Option Agreement will give details of the number of shares under the EMI option, the price at which they may acquire a share and any conditions that must be satisfied before the option can be exercised.

   The EMI Option Agreement will then be signed by the Company and the date of the EMI Option Agreement will be confirmed.

   They will be issued with a copy of the signed and dated EMI Option Agreement.

5. Will they have pay for the grant of an EMI option?

   No, the EMI option is granted under deed so no payment is required.

6. Over what shares are EMI options being granted?

EMI options will normally be granted over ordinary shares in the capital of the Company.

7. What are the rights of an option holder?

Holding a share option is not the same as holding a share. A share option is granted personally and may not be transferred to any other person.

They will not be entitled to attend shareholders meetings, to receive documents issued to shareholders or to receive dividends.

8. How does the option holder buy the shares?

They may buy the shares subject to the EMI option granted to them by "exercising" their EMI option either in whole or in part. This is done by completing and signing a form of exercise and returning it to the Company together with a cheque for the total exercise price for the shares over which they are exercising their EMI option.

9. When may EMI options be exercised?

The option holder may only exercise their EMI option as allowed under the terms of the scheme rules.

In general, they will not be entitled to exercise their EMI option unless and to the extent that it has vested:

You should note that the EMI option is exercisable as stated above but only to the extent that has vested at that time.

The Board have discretion to allow EMI options to be exercised within 40 days or such longer period as they think appropriate after a Disqualifying Event (see question 14).

They may never exercise their EMI option if it has lapsed (or to the extent it has lapsed).

Their EMI option will lapse and cease to be exercisable on the day before the tenth anniversary of its date of grant. It will also lapse in other circumstances that are detailed in the Rules.

In particular, their EMI option will lapse if they cease to be an employee or officer of the Company and all its Subsidiaries.

10. What are the tax consequences?

The EMI Scheme has been designed to grant options that qualify as enterprise management incentive options within the terms of the ITEPA 2003.

This will have certain tax advantages for the option holder provided that the relevant statutory conditions are satisfied until exercise of their EMI options.

The summary of the tax position in questions 11 to 13 below is for information purposes only and does not constitute financial planning, tax or legal advice.

11. Is there any tax to pay on the grant of an EMI option?

There is no liability to pay tax when EMI options are granted.

The Company will keep details of all EMI options granted and will supply details of EMI options granted to the Inland Revenue within 92 days of the date of grant of the EMI option.

12. Is there any tax to pay on the exercise of an EMI option?

If the exercise price is less than the market value of a share at the date of grant of an EMI option income tax and possibly NIC will be payable on exercise on the difference between the total exercise price and the lower of: -

i) the market value of the shares on the date on which they were granted; and
ii) the market value of the shares on the date of exercise.

Any increase in the market value of the shares after the date of grant will not normally be subject to income tax.

However, if there is a "disqualifying event" (see question 14 below) and the option holder has not exercised their EMI option within 40 days of the disqualifying event, income tax and NIC will be payable on any increase in the market value of the shares which accrues between the date of the disqualifying event and the date of exercise of the EMI option.

For the tax year ended 5 April 2018 employees' NIC is payable at the rate of 12% on monthly earnings between £680.33 and £3752.67 (annual earnings between £8,164 and £45,032) and 2% at anything above £3752.67 (£45,032)).

Employers' NIC is payable at the rate of 13.8% (for the tax year ended 5 April 2018) on all earnings above £8,164 per annum.

Under the provisions of the EMI Scheme and the EMI Option Agreement the option holder is required to pay any employers' NIC arising on exercise of your EMI option. The amount of employers' NIC which is paid will be deductible from the amount charged to income tax on exercise.

Any income tax and NIC payable on exercise must either be paid by the option holder to the Company at the time of exercise or the option holder must authorise the Company to sell, immediately after exercise, a sufficient number of shares on the option holder's behalf and for the net proceeds of sale to be applied by the Company in paying their income tax and NIC liabilities.

13. What happens on a sale of the shares (i.e. after the exercise of the EMI option when the option holder has acquired shares)?

This will usually be treated as a disposal for capital gains tax purposes, and any gain that arises will be liable to capital gains tax. Where no liability to income tax arises on the exercise of an EMI option there will be a gain if the sale proceeds exceed the total acquisition price.

Where a liability to income tax arises on the exercise of an EMI option then the amount charged to income tax will be added to the total acquisition cost before calculating the gain on disposal.

Any gain chargeable to capital gains tax may be reduced by 'entrepreneurs' relief'. Entrepreneurs relief reduces the amount of capital gain to be charged to tax on the first £10m gain. This reduces the first £10m of gain to an effective tax rate of 10%.

This is on the assumption that the option holder will still be an employee at the time of the sale of his shares. If he ceases to be an employee before he sells his shares then for the period between the date he leaves and the date of the disposal of his shares less favourable rates may apply.

In order to qualify for entrepreneurs' relief, the total period of ownership of the shares and the prior holding of the share options must be at least 12 months. EMI option holders are particularly favoured as the normal 5% holding rule is dis-applied. All other criteria in order to qualify for relief needs to be met.

Any gains over £10m will be taxed at a flat rate of 20% from 6 April 2017 to the extent that he is a higher rate tax payer.

It is important to note that if an EMI option is not exercised within 40 days of a disqualifying event (see question 14 below) the qualifying period of ownership for entrepreneurs' relief will only start from the date of exercise of the EMI option and not from the date of grant.

In the event of a capital gain the option holder will be entitled to take advantage of the annual exemption (£11,300 for 2017/18 tax year) for the gains accruing to the shares (to the extent that this has not been used against gains on the disposal of other chargeable assets in that tax year).

14. What are the Disqualifying Events?

Disqualifying events can restrict the beneficial tax treatment of EMI options.

There are a number of conditions that apply to the Company and also to the option holder and a disqualifying event will occur if any one of these conditions is breached.

The Company is under no obligation to ensure that the conditions relating to the Company continue to be satisfied or that the EMI option remains eligible for tax relief. A summary of the main disqualifying events is set out in Appendix 1 to this booklet. In particular, if:

the option holder ceases to be employed by the Company, that will be a disqualifying event; or

if their contractual hours of work are below:

i) 25 hours a week; or
ii) if less, less than 75% of their working time,

there will be a disqualifying event.

15. What happens if the option holder leaves the Company and its Subsidiaries?

One of the purposes of the EMI Scheme is to reward long serving employees and for that reason most leavers will forfeit some or all of their right to exercise their EMI options.

If the option holder ceases to be an employee or officer (other than for a special reason – see question 16 below) before having exercised their EMI option it will lapse (see question 9 above).

Thus, his EMI option will cease to exist and he will no longer have the right to purchase the shares.

If he ceases to be an employee or officer for a special reason (see question 16 below) then he can retain all of his vested options but they will not be exercisable until the earliest date of exercise (see question 9 above) and will lapse six months after the first date of exercise if he has not exercised by that date.

16. What are the special circumstances?

If the option holder is permitted by the directors in their discretion to exercise his EMI option more than 40 days after he has ceased to be an employee or officer and he does so this may have adverse tax consequences. Please see questions 10 to 14 (above).

17. What would be the option holder's rights as a shareholder?

Any shares which have been purchased by the exercise of options granted under the EMI Scheme will be acquired subject to the memorandum and articles of association of the Company (or any acquiring company in the situation of a take-over where the existing options are exchanged for new options) in force from time to time.

The memorandum of association is a legal document that sets out the basic information about the Company including the objects of the Company.

The articles of association are the basic rulebook of the Company and govern, for example, the terms upon which shares in the Company may be transferred.

There may also be a Shareholders' agreement that will need to be adhered to as well.

18. What are the risks?

There are no risks associated with holding an EMI option. Whether or not the option holder exercises his EMI options to purchase shares is entirely his choice.

If he does exercise your EMI option and become a shareholder he will have the benefits of being a shareholder but will also be subject to the risks of being a shareholder. If the Company (or any acquiring company in the case of a take-over) went into liquidation, shareholders could lose some or all of their money invested in the shares.

19. What happens in the event of a take-over of the Company?

In the event of a take-over the option holder may normally exercise his EMI option (to the extent that it has vested) within six months of the take-over.

With the agreement of the acquiring company, he may be given the opportunity to exchange his EMI options for options over shares in the acquiring company. From then on he will have options over shares in the acquiring company and will be able to exercise his options over these shares in accordance with the terms of the rules.

Where he does not exercise his EMI option or the acquiring company does not allow him to exchange his EMI option for a new option, his EMI option will lapse and will no longer be exercisable (see question 9 above).

20. Does the EMI Scheme form part of the option holder's contract of employment?

The EMI Scheme does not form part of any contract of employment between the option holder and the Company (or any Group Company) and any benefits under the EMI Scheme shall not form part of his salary for any purpose, including pension fund contributions.

If the option holder ceases to be an employee or officer for any reason he will not be entitled to any compensation for loss of rights or benefits under the EMI Scheme.

APPENDIX 1
Disqualifying Events

	Disqualifying Events
1	Where the Company (or all other companies in the Group (i.e. the Company or a qualifying subsidiary) ceases to either: • trade wholly or mainly in the UK; or • conduct business on a commercial basis with a view to making a profit or where the Group starts to carry on an excluded activity (see Appendix 2) and these activities become a substantial part of its trade.
2	Loss of independence of the Company unless this is a result of a take-over or the interposition of a new holding company and there is a "rollover" of the EMI option into a corresponding right to acquire shares in the acquiring company and the relevant conditions are met.
3	Where the option holder ceases to be an eligible employee by no longer being an employee of the Group.
4	Where in any tax year, the option holder's contractual hours or actual working time amount to less than 25 hours a week or, if less, less than 75% of his working time (see Appendix 3).
5	Any variation to the terms of his EMI option which either: • increases the market value of the shares under EMI option; or • means that the EMI option no longer meets the requirements of the legislation.
6	Any alteration to the share capital of the Company which is made without the prior approval of the Inland Revenue where required under the legislation.
7	A conversion of the shares to which the EMI option relates into a different class of shares (with limited exceptions).
8	Where the option holder is granted options under an Inland Revenue approved Company Share Option Plan (CSOP) that grant and the value of the shares (at grant) over which EMI and approved options are held amount to more than £250,000.

APPENDIX TWO
LIST OF EXCLUDED ACTIVITIES

(a) dealing in land, in commodities or futures or in shares, securities or other financial instruments;
(b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;
(c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;
(d) leasing, including letting ships on charter or other assets on hire;
(e) receiving royalties or licence fees;
(f) providing legal or accountancy services;
(g) property development;
(h) farming or market gardening;
(i) holding, managing or occupying woodlands, any other forestry activities or timber production;
    (i) shipbuilding;
    (ii) producing coal;
    (iii) producing steel;
(j) operating or managing hotels or comparable establishments, or managing property used as a hotel or comparable establishment;
(k) operating or managing nursing homes or residential care homes, or managing property used as a nursing home or residential care home;
(l) provision of any activities which are excluded activities for another business.

APPENDIX THREE
Working Time Calculation

An employee will only be an eligible employee of the Group for the purposes of the EMI option if his/her actual working time (“committed time”) amounts to at least 25 hours a week or, if less, 75% of his/her working time.

For this purpose, “committed time” is the time the employee is required to spend on the business of the employing Company or the Group. It includes any time the employee would have been required to spend but for:

a. injury, ill-health or disability,
b. pregnancy, childbirth, maternity or paternity leave or parental leave,
c. reasonable holiday entitlement, or
d. not being required to work during a period of notice of termination of employment.

Calculation Method

1. For each calendar month calculate whether over the tax year to date the employee’s actual working time amounts to less than 25 hours a week or, if less, less than 75% of his working time.

2. If actual working time amounts to less than, the disqualifying event (see question 14) is taken to have occurred: -

    a. at the end of the previous calendar month; or

    b. if the calendar month for which the calculation is done is April, at the end of the previous tax year.

3. In the case of an employee who begins or ceases to be in relevant employment during the tax year, the references to that tax year shall be construed as references to the part of the tax year in which he is in relevant employment

4. If the time determined under 2 or 3 above falls before the grant of the option, the option is treated as if it had never been a qualifying EMI option.