



ASX, NASDAQ and Media Release

25 August 2022

## Share Purchase Plan – Letter to Eligible Shareholders and SPP Booklet

**Melbourne, Australia; 25 August 2022** – Opthea Limited (ASX:OPT; NASDAQ: OPT) (**Opthea**), a clinical stage biopharmaceutical company developing novel therapies to treat highly prevalent and progressive retinal diseases, confirms its share purchase plan (“**SPP**”) offer opens today. Attached is:

- a copy of a letter being sent to each Opthea shareholder who, as at 7.00pm (Melbourne time) on Friday, 12 August 2022, was shown on Opthea’s register of shareholders to have an address in Australia or New Zealand (provided that such shareholder is not in the United States and is not acting for the account or benefit of a person in the United States) (**Eligible Shareholder (SPP Offer Letter)**); and
- a copy of the share purchase plan offer booklet available for download at <https://opt2022spp.thereachagency.com>.

Eligible Shareholders who have provided an e-mail address will be sent an e-mail communication. Eligible Shareholders who have not provided an e-mail address will receive the SPP Offer Letter via post.

The SPP offer is expected to close at 5.00pm (Melbourne time) on Friday, 16 September 2022.

### About Opthea

Opthea (ASX:OPT; Nasdaq:OPT) is a biopharmaceutical company developing novel therapies to address the unmet need in the treatment of highly prevalent and progressive retinal diseases, including wet age-related macular degeneration (wet AMD) and diabetic macular edema (DME). Opthea’s lead product candidate OPT-302 is in pivotal Phase 3 clinical trials and being developed for use in combination with anti-VEGF-A monotherapies to achieve broader inhibition of the VEGF family, with the goal of improving overall efficacy and demonstrating superior vision gains over that which can be achieved by inhibiting VEGF-A alone. To learn more, visit [www.opthea.com.com](http://www.opthea.com.com) and follow us on Twitter and LinkedIn.

### Inherent Risks of Investment in Biotechnology Companies

There are a number of inherent risks associated with the development of pharmaceutical products to a marketable stage. The lengthy clinical trial process is designed to assess the safety and efficacy of a drug prior to commercialization and a significant proportion of drugs fail one or both of these criteria. Other risks include uncertainty of patent protection and proprietary rights, whether patent applications and issued patents will offer adequate protection to enable product development, the obtaining of necessary drug regulatory authority approvals and difficulties caused by the rapid advancements in technology. Companies such as Opthea are dependent on the success of their research and development projects and on the ability to attract funding to support these activities. Investment in research and development projects cannot be assessed on the same fundamentals as trading and manufacturing enterprises. Therefore, investment in companies specializing in drug development must be regarded as highly speculative. Opthea strongly recommends that professional investment advice be sought prior to such investments.



**Not an offer**

This ASX announcement is not a disclosure document and should not be considered as investment advice. The information contained in this ASX announcement is for information purposes only and should not be considered an offer or an invitation to acquire Company securities or any other financial products and does not and will not form part of any contract for the acquisition of New Shares.

In particular, this ASX announcement does not constitute an offer to sell, or a solicitation of any offer to buy, any securities in the United States or any other jurisdiction in which such an offer would be illegal or impermissible. The securities to be offered and sold in the SPP have not been, and will not be, registered under the U.S. Securities Act of 1933, as amended (the "U.S. Securities Act"), or the securities laws of any state or other jurisdiction of the United States. No public offering of securities is being made in the United States. Accordingly, the securities to be offered and sold in the SPP may only be offered and sold outside the United States in "offshore transactions" (as defined in Rule 902(h) under Regulation S of the U.S. Securities Act ("Regulation S")) in reliance on Regulation S, unless they are offered and sold in a transaction registered under, or exempt from, or in a transaction not subject to, the registration requirements of, the U.S. Securities Act and applicable U.S. state securities laws.

**Authorized for release to ASX by Megan Baldwin, CEO & Managing Director**

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**NOT FOR DISTRIBUTION OR RELEASE IN THE UNITED STATES**

Dear Shareholder

25 August 2022

**OPTHEA LIMITED (ASX: OPT)  
SHARE PURCHASE PLAN**

On 15 August 2022, Opthea Limited ACN 006 340 567 (**Opthea**) announced it was conducting a Share Purchase Plan to raise approximately A\$5 million (**SPP**).

The SPP will provide an opportunity for eligible shareholders to subscribe for up to \$30,000 worth of new fully paid ordinary shares in Opthea (**New Shares**) at the issue price, without incurring any brokerage or other transaction costs. New Shares will be issued at the issue price of A\$1.15, being the same price as the Placement announced by Opthea on 15 August 2022.

In respect of the SPP, **Eligible Shareholders**, are shareholders who:

- held Opthea ordinary shares on the Record Date of 7.00pm (Melbourne time) on Friday, 12 August 2022;
- had a registered address in Australia or New Zealand; and
- are not in the United States, and not acting for the account or benefit of persons in the United States.

Eligible Shareholders may apply for New Shares in parcels valued at \$1,000, in \$1,000 increments up to a maximum of \$30,000. Participation in the SPP Offer is optional. Opthea retains the right to accept oversubscriptions or to scale back applications at its absolute discretion that may result in the SPP raising more or less than \$5 million.

The SPP is subject to the terms and conditions set out in the SPP Booklet. A copy of the SPP Booklet, along with instructions on how to apply for the SPP and submit payment by BPAY or EFT (for Eligible Shareholders in New Zealand only) is available online at <https://opt2022spp.thereachagency.com>.

If you have any questions in relation to the SPP please contact Computershare Investor Services Pty Limited (the **Registry**) on 1300 850 505 (within Australia) or +61 3 9415 5000 (outside Australia) at any time between 8.30am and 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) during the SPP Offer period.

**This letter is to notify you that the SPP is now open and provide you with instructions as to how to obtain a copy of the SPP Booklet and your personalised application form.**

**How to obtain a copy of the SPP Booklet and your personalised application form**

1. **ONLINE** The SPP Booklet and your personalised application form are available to view online at <https://opt2022spp.thereachagency.com>. To access this website you will need your SRN or HIN, which is displayed at the top of this letter.
2. **PAPER** You can request a paper copy of the SPP Booklet and your personalised application form by contacting the Registry on 1300 850 505 (within Australia) or +61 3 9415 5000 (outside Australia) at any time between 8.30am and 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) during the SPP Offer period.

Please note that there may be some delays in delivery of the SPP Booklet and your personalised application form via post (including because of ongoing disruption caused by COVID-19). You are encouraged to access the SPP Booklet and your personalised application form online by following the instructions on the offer website.

The SPP is scheduled to close at 5.00pm (Melbourne time) on Friday, 16 September 2022. Payment must be received before this time.

You should read the SPP carefully and in its entirety before deciding whether to participate in the SPP.

### Key Dates

Record date for SPP	7.00pm (Melbourne time) on 12 August 2022
Announcement of the SPP	15 August 2022
Opening date for applications	25 August 2022
Closing date for applications ( <b>Closing Date</b> )	5.00pm (Melbourne time) on 16 September 2022
Announcement of SPP results	23 September 2022
Allotment and issue of New Shares	23 September 2022
Despatch of holding statements for New Shares and normal trading of New Shares issued under the SPP	26 September 2022

### Action required by Eligible Shareholders

Eligible Shareholders may participate in the SPP by:

- submitting a BPAY payment if you are an Eligible Shareholder with a registered address in Australia; or
- making a payment by direct transfer, if you are an Eligible Shareholder with a registered address in New Zealand,

in accordance with the instructions provided online at <https://opt2022spp.thereachagency.com>.

For alternative payment options, please contact the Registry from 8.30am to 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) on 1300 850 505 (callers within Australia) or +61 3 9415 5000 (callers outside Australia) during the SPP Offer period.

Application Monies must be received before 5.00pm (Melbourne time) on the Closing Date. Opthea reserves the right to close the SPP early or extend the SPP in its discretion.

Participation in the SPP is optional and Eligible Shareholders may elect to do nothing. If you choose to do nothing, you will continue to hold the same number of Opthea shares, however, your interest in Opthea will be diluted. Your right to participate in the SPP is not transferable.

As noted above, you may obtain a copy of the SPP Booklet along with information about how to apply online at <https://opt2022spp.thereachagency.com>.

Capitalised terms have the meaning given to them in the SPP Booklet.

### Enquiries

For further information on the SPP please visit <https://opt2022spp.thereachagency.com> or call the Registry on 1300 850 505 (within Australia) or +61 3 9415 5000 (outside Australia) at any time between 8.30am and 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) during the SPP Offer period. Alternatively, contact your stockbroker, solicitor, accountant or other professional adviser.

Sincerely

Opthea Limited  
ACN 006 340 567

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# Opthea Limited Share Purchase Plan Booklet

Opthea Limited (ACN 006 340 567)

## **NOT FOR DISTRIBUTION OR RELEASE IN THE UNITED STATES**

Eligible Shareholders have the opportunity to participate in the SPP by applying for up to \$30,000 worth of New Shares in Opthea on the terms and conditions set out in this Booklet. Details of the offer and how to participate are set out in this Booklet.

This Booklet is not for release or distribution in the United States or, except with the consent of Opthea, elsewhere outside Australia and New Zealand. The securities referred to in this Booklet have not and will not be registered under the US Securities Act of 1933 and may not be offered or sold, directly or indirectly, in the United States or to any person acting for the account or benefit of a person in the United States.



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## KEY DATES

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<b>Record Date</b> (the time that eligibility to participate in the SPP is determined)	7.00pm on Friday, 12 August 2022
<b>Opening Date</b>	9.00am on Thursday, 25 August 2022
<b>Closing Date</b>	5.00pm on Friday, 16 September 2022
<b>Allotment of New Shares issued under the SPP</b>	Friday, 23 September 2022
<b>Despatch of holding statements for New Shares and normal trading of New Shares issued under the SPP</b>	Monday, 26 September 2022

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All dates and times are indicative only and subject to change. Subject to the requirements of the *Corporations Act 2001* (Cth) (the **Corporations Act**), the official listing rules of the Australian Securities Exchange (**ASX**) as modified by any express written confirmation, waiver or exemption given by ASX and any other applicable laws, Opthea reserves the right to amend this timetable at any time. All times referred to in this Booklet are to Melbourne time.

## **IMPORTANT NOTICE**

This Booklet contains important information. You should read it carefully and in its entirety before deciding whether to participate in the SPP. In particular, you should note that the future market price of Shares is uncertain and may rise or fall. This means that the price you pay for New Shares may be either higher or lower than the price at which Shares are trading on the ASX at the time the New Shares are issued to you under the SPP.

The offer of New Shares under the SPP is made in accordance with Australian Securities and Investments Commission (**ASIC**) Corporations (Share and Interest Purchase Plans) Instrument 2019/547, which grants relief from the requirement to issue a disclosure document for the SPP. This Booklet is not a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

If you have any questions in relation to how to participate in the SPP after reading this Booklet, or for general queries (including in relation to your shareholding or replacement forms) please contact Computershare Investor Services Pty Limited (the **Registry**), at any time between 8.30am to 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) on 1300 850 505 (callers within Australia) or +61 3 9415 5000 (callers outside Australia) during the SPP Offer period.

Nothing in this Booklet constitutes investment, financial product, taxation, accounting or legal advice and is not a recommendation to acquire New Shares under the SPP or otherwise. This Booklet has been prepared without taking into account your particular objectives, financial situation or needs. If you are in any doubt about whether to participate in the SPP, you should seek advice from your financial, taxation or other professional adviser before participating.

### ***New Zealand***

The New Shares under the SPP are not being offered or sold to the public within New Zealand other than to existing Shareholders of Opthea with registered addresses in New Zealand to whom the offer of New Shares under the SPP is being made in reliance on the Financial Markets Conduct (Incidental Offers) Exemption Notice 2016.

This document has not been registered, filed with or approved by any New Zealand regulatory authority under the Financial Markets Conduct Act 2013. This document is not a product disclosure statement under New Zealand law and is not required to, and may not, contain all the information that a product disclosure statement under New Zealand law is required to contain.

### ***Not for distribution or release in the United States***

This Booklet does not constitute an offer of securities in any place outside Australia or New Zealand. In particular, this Booklet does not constitute an offer to sell, or a solicitation of an offer to buy, any New Shares in the United States or any other jurisdiction in which such an offer would be illegal. The New Shares to be offered and sold under the SPP have not been, and will not be, registered under the U.S. Securities Act of 1933 (**US Securities Act**), or the securities laws of any state or other jurisdiction of the United States. Accordingly, the New Shares to be offered under the SPP may only be offered or sold to persons that are not in the United States and are not acting for the account or benefit of a person in the United States in "offshore transactions" (as defined in Regulation S under the US Securities Act) in reliance on Regulation S under the US Securities Act.



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# LETTER FROM THE CHAIRMAN

25 August 2022

Dear Shareholder,

On 15 August 2022, Opthea Limited (**Opthea**) announced to ASX the entry into a Development Funding Agreement (**DFA**) with Ocelot SPV LP, a Delaware limited partnership, under which Opthea will receive up to US\$170 million in funding to support Opthea's development of OPT-302 for the treatment of wet (neovascular) age-related macular degeneration. Associated with the DFA, Opthea also announced that it had received binding commitments in respect of a placement of new fully paid ordinary shares (**Placement Shares**) to certain institutional investors to be conducted via two tranches (the **Placement**) and it announced that it intended to undertake the share purchase plan (**SPP**).

The proceeds of the Placement and SPP will be used to:

- continue advancing Phase 3 clinical trials of OPT-302 for the treatment of wet AMD through topline data readout, and to fund pre-commercialization activities, including commercial scale manufacturing, team build and market shaping; and
- provide additional working capital post the Phase 3 trial topline data readout (expected to be mid-CY24).

## The offer

The SPP is offered exclusively to all eligible shareholders<sup>1</sup>.

The SPP allows Eligible Shareholders to purchase up to \$30,000 worth of new shares (**New Shares**), without incurring brokerage or transaction costs.

The SPP is not underwritten and aims to raise up to \$5 million.<sup>2</sup>

The Issue Price under the SPP will be \$1.15 per New Share, being the same price paid by institutional investors under the Placement. Offering the New Shares at the same price as the institutional investors is a clear demonstration of the Board's focus on providing smaller Shareholders the same opportunities as the institutional investors. The Issue Price represents a 12.6% discount to the 10-day Volume-Weighted Average Price (**VWAP**) as of 10 August 2022.

New Shares will rank equally with existing Shares.

Participation in the SPP is optional. Eligible Shareholders who are Custodians holding Shares on behalf of Participating Beneficiaries are also invited to participate in the SPP on the terms and conditions set out in this Booklet.

## How to apply

The SPP opens at 9.00am on 25 August 2022 and closes at 5.00pm on 16 September 2022.

To apply for New Shares under the SPP:

- you must make a payment for the appropriate amount via BPAY® (noting that Eligible Shareholders in New Zealand cannot apply using BPAY unless they have an Australian bank account); or
- for Eligible Shareholders in New Zealand, via electronic funds transfer (EFT), in accordance with the instructions at <https://opt2022spp.thereachagency.com>,

so that your payment is received before **5.00pm (Melbourne time) on the Closing Date**.

For alternative payment options, please contact the Registry from 8.30am to 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) on 1300 850 505 (callers within Australia) or +61 3 9415 5000 (callers outside Australia) during the SPP Offer period.

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<sup>1</sup> Eligible Shareholders are holders of existing Opthea shares as at 7.00pm (Melbourne time) on 12 August 2022, with a registered address in Australia and New Zealand and are not in the United States and are not acting for the account or benefit of a person in the United States (**Eligible Shareholders**).

<sup>2</sup> Opthea may determine to raise a higher amount or decide to scale back applications under the SPP at its absolute discretion.

This Booklet contains further information including the terms and conditions of the SPP. I encourage you to read this Booklet and seek your own financial and tax advice in relation to the offer before deciding whether to participate.

On behalf of the Board of Opthea, I invite you to consider participation in the SPP and thank you for your continued support of Opthea.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Jeremy Levin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeremy Levin  
**Independent Chairman**

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# SPP TERMS AND CONDITIONS

## Important notice

This Booklet has been prepared by Opthea.

If you apply to participate in the SPP, you should be aware, and accept the risk, that the market price of Shares may change between the date of the SPP Offer and the date when New Shares are issued to you under the SPP. As such, it is possible that, up to or after the date you receive New Shares under the SPP, you may be able to buy Shares on the ASX at a lower price than the Issue Price under the SPP. You should seek advice from your financial, taxation or other professional adviser before participating in the SPP.

By participating in the SPP, you will be deemed to have accepted, and will be bound by, these terms and conditions.

Nothing in this Booklet or constitutes investment, financial product, taxation, accounting or legal advice and is not a recommendation to acquire New Shares under the SPP or otherwise. This Booklet has been prepared without taking into account your particular objectives, financial situation or needs. If you are in any doubt about whether to participate in the SPP, you should seek advice from your financial, taxation or other professional adviser before participating.

This Booklet does not purport to include or summarise all information that an investor should consider when making an investment decision, nor does it contain all information which would be required in a prospectus, product disclosure statement or other disclosure document prepared in accordance with the Corporations Act. This Booklet should be read in conjunction with Opthea's periodic and continuous disclosure announcements lodged with the ASX which are available at [www.asx.com.au](http://www.asx.com.au).

Unless the context requires otherwise, capitalised terms used in these terms and conditions will have the meaning given to them elsewhere in this Booklet.

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## 1 Offer

- 1.1 Opthea offers each Eligible Shareholder the opportunity to purchase up to \$30,000 worth of New Shares free of brokerage and transaction costs under the SPP subject to and in accordance with the terms and conditions set out below (such offer, the **SPP Offer**). You cannot apply for more than \$30,000 worth of New Shares, even if you receive more than one SPP Offer.
- 1.2 The SPP Offer opens at 9.00am on Thursday, 25 August 2022 (**Opening Date**) and closes at 5.00 pm on 16 September 2022 (or such other date as Opthea determines in its absolute discretion) (**Closing Date**).
- 1.3 Participation in the SPP is optional. The SPP Offer is non-renounceable and non-transferable and, therefore, Eligible Shareholders cannot transfer their right to purchase New Shares to any third party.
- 1.4 The SPP Offer to each Eligible Shareholder (whether as a Custodian or on its own account) is made on the same terms and conditions.
- 1.5 All references to \$ or dollars in this Booklet are references to Australian dollars unless otherwise indicated.

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## 2 Eligible Shareholders

- 2.1 The SPP Offer is made to Eligible Shareholders only. You are an **Eligible Shareholder** who is eligible to participate in the SPP if you:
  - (a) were registered on Opthea's share register (**Register**) as a holder of one or more shares in Opthea (**Shares**) at 7.00pm (Melbourne time) on Friday, 12 August 2022 (**Record Date**);
  - (b) have a registered address in either Australia or New Zealand; and
  - (c) are not in the United States and are not acting for the account or benefit of a person in the United States.
- 2.2 Eligible Shareholders who are "custodians" (as defined in section 4 of ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547 (**Custodians**)) may participate in the SPP Offer in accordance with clause 4.4.
- 2.3 Opthea has determined that, in its reasonable opinion, it is not practical for Opthea Shareholders (**Shareholders**) with a

registered address outside of Australia and New Zealand to participate in the SPP. Shareholders who hold Shares on behalf of persons who reside outside Australia or New Zealand including Shareholders who are in the United States or who act for the account or benefit of a person in the United States are not entitled to participate in the SPP with respect to those Shares.

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## 3 Joint holders

- 3.1 If two or more persons are registered on the Register as jointly holding Shares, they are taken to be a single registered holder of Shares for the purposes of determining whether they are an Eligible Shareholder and a certification given by any joint holder is taken to be a certification given by all of them.

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## 4 Applications for New Shares

- 4.1 Eligible Shareholders must apply for New Shares in \$1,000 increments. Applications must be for a minimum of \$1,000 and a maximum of \$30,000 worth of New Shares. If you do not wish to participate in the SPP, you may disregard this Booklet.
- 4.2 Eligible Shareholders who wish to apply for New Shares must do so in accordance with either paragraph (a) or (b) below (as applicable):

- (a) **Payment by BPAY**

To pay via BPAY you will need to:

- visit <https://opt2022spp.thereachagency.com> to access the specific biller code and the customer reference number (CRN) that is required to identify your holding. You will need to provide your Securityholder Reference Number (SRN) or Holder Identification Number (HIN) and follow the instructions provided;
- be an account holder with an Australian financial institution; and
- ensure that your payment is received by the Registry before **5.00pm (Melbourne time) on the Closing Date**.

You can only make payment via BPAY if you are the holder of an account with an Australian branch of a financial institution that supports BPAY transactions.

Please note that your financial institution may implement earlier cut-off times with regards to electronic payment. Please take this into consideration when making payment via BPAY.

(b) **Apply via EFT (for Eligible Shareholders in New Zealand only)**

If you are an Eligible Shareholders in New Zealand, you are encouraged to pay via EFT. To pay via ETF you will need to:

- visit <https://opt2022spp.thereachagency.com>. You will need to provide your Securityholder Reference Number (SRN) or Holder Identification Number (HIN) and follow the instructions provided; and
- ensure that your payment is received by the Registry before **5.00pm (Melbourne time) on the Closing Date**.

Please note that your financial institution may implement earlier cut-off times with regards to electronic payment. Please take this into consideration when making payment via EFT.

**Please note:**

If you are unable to pay via BPAY or EFT, or access the website to complete the online application, please contact the Registry from 8.30am to 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) on 1300 850 505 (callers within Australia) or +61 3 9415 5000 (callers outside Australia) during the SPP Offer period to obtain a personalised application form.

4.3 Eligible Shareholders who receive more than one offer under the SPP (for example, because they hold Shares in more than one capacity or in different registered holdings) may apply on different applications for New Shares but may not apply for New Shares with an aggregate value of more than \$30,000. For each holding of Shares, the Customer Reference Number specific to that holding should be used. Do not use the same Customer Reference Number for more than one holding of Shares.

4.4 If you are a Custodian and wish to subscribe for New Shares for one or more beneficial owners, you may apply for up to \$30,000 of New Shares for each such beneficial owner subject to you completing and submitting a certificate that complies with section 8(3) of ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547 and that confirms the following:

- (a) either:
- (i) you hold Shares on behalf of one or more other persons (each a **Participating Beneficiary**) that are not Custodians; or

- (ii) another Custodian (**Downstream Custodian**) holds beneficial interests in Shares on behalf of one or more other persons (each a **Participating Beneficiary**), and you hold the Shares to which those beneficial interests relate on behalf of the Downstream Custodian or another Custodian,

on the Record Date, and such Participating Beneficiary is not in the United States and is not acting for the account or benefit of a person in the United States;

- (b) each Participating Beneficiary has subsequently instructed you (where sub-paragraph (a)(i) applies) or the Downstream Custodian (where sub-paragraph (a)(ii) applies) to apply for Shares on their behalf under the SPP;
- (c) the number of Participating Beneficiaries;
- (d) the name and address of each Participating Beneficiary;
- (e) in respect of each Participating Beneficiary:
  - (i) where sub-paragraph (a)(i) applies, the number of Shares you hold on their behalf; and
  - (ii) where sub-paragraph (a)(ii) applies, the number of Shares to which the beneficial interests relate;
- (f) in respect of each Participating Beneficiary:
  - (i) where sub-paragraph (a)(i) applies, the number or dollar amount of New Shares they instructed you to apply for on their behalf; and
  - (ii) where sub-paragraph (a)(ii) applies, the number or dollar amount of New Shares they instructed the Downstream Custodian to apply for on their behalf;
- (g) there are no Participating Beneficiaries in respect of which the total of the application price for the following exceeds \$30,000:
  - (i) the New Shares applied for by you under the SPP in accordance with the instructions referred to in paragraph (f); and
  - (ii) any other Shares issued to you in the 12 months before the application as a result of an instruction given by them to you or the Downstream Custodian to apply for New Shares on their behalf under an arrangement similar to the SPP;

- (h) a copy of these terms and conditions was given to each Participating Beneficiary; and
- (i) where sub-paragraph (a)(ii) applies, the name and address of each Custodian who holds beneficial interests in Shares held by you in relation to each Participating Beneficiary,

(such certificate, a **Custodian Certificate**).

4.5 Applications by Custodians that are not accompanied by a duly completed Custodian Certificate will be rejected. Custodians must also certify that each Participating Beneficiary has a registered address in Australia or New Zealand. Please contact the Registry at any time between 8.30am to 5.00pm (Melbourne time) Monday to Friday (excluding public holidays) on 1300 850 505 (callers within Australia) or +61 3 9415 5000 (callers outside Australia) during the SPP Offer period for further information about the custodian application process and for a copy of the Custodian Certificate which is required to be lodged with the Registry with applicable payment. Each Custodian must not participate in the SPP on behalf of, and must not distribute this Booklet or any other document relating to the SPP to, any person in the United States. Failure to comply with these restrictions may result in violations of applicable securities laws.

4.6 If you hold Shares as a trustee or nominee for another person, but are not a Custodian, you cannot participate for beneficiaries in the manner described above. In this case, the rules for multiple single holdings apply (see section 4.3) and you may only contribute a maximum of \$30,000 in applying for New Shares. You are not eligible to participate on behalf of a person who resides outside Australia or New Zealand.

4.7 Opthea and its officers and agents may accept or reject your application for New Shares in whole or in part at their discretion including, without limitation, if:

- (a) your application does not comply with these terms and conditions;
- (b) it appears you are not an Eligible Shareholder (subject to compliance with any applicable ASIC or ASX requirements);
- (c) your application, BPAY payment or EFT Payment is not received by the Registry by the Closing Date or is otherwise incomplete or invalid;
- (d) Opthea believes that you are applying to purchase more than \$30,000 worth of New

Shares in aggregate (including as a result of Shares you hold directly, jointly or through a trust, custodian or nominee arrangement) or your application is not for an amount in a \$1,000 increment;

- (e) Opthea believes that you and one or more other registered holders of the same or similar name or address are applying to buy more than an aggregate of \$30,000 of New Shares;
- (f) your name is not recorded in the register of members on the Record Date. For example, applications by people claiming an interest in Shares through a registered holder of Shares will not be accepted;
- (g) payment of the application monies is not submitted in Australian currency; or
- (h) the amount of your BPAY payment or EFT payment is not equal to the amount of your application, in which event Opthea will:
  - (i) refund in full your application monies, without interest, and not allot any New Shares to you; or
  - (ii) allot to you the number of New Shares that would have been allotted had you applied for the highest designated amount that is less than the amount of your payment and refund to you, without interest, the excess of your application monies (unless the amount is less than \$2.00, in which case it will be donated to a charity or charities nominated by Opthea).

4.8 If you are entitled to a refund of all or any of your application monies, the refund will be paid to you, without interest, as soon as practicable by direct credit to your nominated account (as recorded with the Registry) or by cheque.

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## 5 Issue Price

- 5.1 The issue price per New Share (**Issue Price**) will be \$1.15 per New Share, being the price at which Placement Shares were issued under the Placement.
- 5.2 The current Share price can be obtained from the ASX and is listed in the financial and business section of major daily newspapers circulating in Australia.
- 5.3 You agree to pay the Issue Price per New Share for the number of New Shares calculated under clause 6.1 or, if there is a scale back, the number of New Shares calculated under clause 8.

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## 6 Calculation and issue of New Shares

- 6.1 If you apply for New Shares under the SPP, you will apply for a certain value, rather than a certain number, of New Shares (in accordance with clause 4.1). If your application is accepted, Opthea will divide the value of your application monies by the Issue Price in order to determine the number of New Shares which, subject to scale back, will be issued to you.
- 6.2 If the calculation in clause 6.1 produces a fractional number, the number of New Shares issued to you will be rounded up to the nearest whole New Share.
- 6.3 New Shares will be issued on 23 September 2022 (**Issue Date**).
- 6.4 New Shares issued under the SPP will rank equally in all respects with existing Shares as at the Issue Date.
- 6.5 Opthea will apply to the ASX for quotation of New Shares.
- 6.6 The Registry will send holding statements in respect of the New Shares issued under the SPP on or around 26 September 2022.

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## 7 Effect of applying to participate

- 7.1 By making a payment via BPAY or EFT, you (on your own behalf and on behalf of each person for whose account or on whose behalf you are acting, if applicable):
- (a) are deemed to have accepted the SPP Offer and you irrevocably and unconditionally agree to the terms and conditions of the SPP in this Booklet in full and agree not to do any act or thing that would be contrary to the spirit, intention or purpose of the SPP;
  - (b) warrant that all details and statements in your application are true and complete and not misleading (including by omission);
  - (c) agree that your application will be irrevocable and unconditional (that is, it cannot be withdrawn);
  - (d) warrant that you are an Eligible Shareholder and are eligible and lawfully permitted to participate in the SPP and to accept the SPP Offer, and agree to provide (and if applicable direct your nominee or Custodian provide) any requested substantiation of your eligibility to participate in the SPP and

of your holding of Shares on the Record Date;

- (e) acknowledge that no interest will be paid on any application monies held pending the issue of New Shares or subsequently refunded to you for any reason;
- (f) acknowledge that Opthea and its officers and agents are not liable for any consequences of the exercise or non-exercise of discretions referred to in these terms and conditions;
- (g) agree to pay the Issue Price per New Share up to the maximum value of your BPAY payment or EFT payment, (as determined by Opthea in its absolute discretion);
- (h) acknowledge and agree that:
  - (i) you are not in the United States and are not acting for the account or benefit of a person in the United States;
  - (ii) the New Shares to be offered and sold in the SPP have not been, and will not be, registered under the US Securities Act, and accordingly, the New Shares may not be offered or sold, directly or indirectly, to any person in the United States or any person acting for the account or benefit of a person in the United States;
  - (iii) you are subscribing for and purchasing the New Shares in an "offshore transaction" (as defined in Regulation S under the US Securities Act);
  - (iv) you will not deposit the New Shares into any unrestricted depositary receipt facility established or maintained by a depositary bank until 40 days after completion of the SPP Offer;
  - (v) you agree not to send any materials relating to the SPP to any person in the United States or to any person in any country outside Australia and New Zealand;
  - (vi) that if in the future you decide to sell or otherwise transfer the New Shares, you will only do so in the standard (regular way) brokered transactions on the ASX where neither you nor any person acting on your behalf knows, or has reason to know, that the sale has been pre-arranged with, or that

- the purchaser is, a person in the United States; and
- (vii) if you are acting as a trustee, nominee or Custodian, each beneficial holder on whose behalf you are participating in the SPP is resident in Australia or New Zealand, and you have not sent this Booklet, or any materials relating to the SPP to any person in the United States or any person outside of Australia and New Zealand;
- (i) if you are applying for New Shares on your own behalf (and not as Custodian), acknowledge and agree that:
    - (i) you are not applying for New Shares with an aggregate application price of more than \$30,000 (including any New Shares which a Custodian has applied to purchase on your behalf under the SPP); and
    - (ii) the aggregate application price for the following does not exceed \$30,000:
      - (A) the New Shares the subject of the application;
      - (B) any other Shares issued to you under the SPP or any similar arrangement in the 12 months before the application;
      - (C) any other New Shares which you instruct a Custodian to acquire on your behalf under the SPP; and
      - (D) any other Shares issued to a Custodian in the 12 months before the application as a result of an instruction given by you to the custodian to apply for Shares on your behalf under an arrangement similar to the SPP,

even though you may have received more than one offer under the SPP or received offers in more than one capacity under the SPP;
  - (j) if you are a Custodian and are applying for New Shares in such capacity, acknowledge and agree that:
    - (i) you are a Custodian (as that term is defined in section 4 of ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547); and
- (ii) the information in the Custodian Certificate is true, complete and not misleading (including by omission);
  - (k) accept the risks associated with any refund that may be dispatched to you by direct credit or cheque to your address shown on the Register;
  - (l) agree to be bound by the constitution of Opthea (as amended and as it may be amended from time to time in the future);
  - (m) represent that you are in compliance with all relevant laws and regulations;
  - (n) acknowledge that Opthea may vary the timetable set out in this Booklet at its discretion by lodging a revised timetable with the ASX;
  - (o) acknowledge that the market price of Shares may rise or fall between the date of the SPP Offer and the Issue Date and that the Issue Price you pay for New Shares may exceed the market price of Shares on the Issue Date;
  - (p) acknowledge that there are risks associated with acquiring and holding Shares;
  - (q) acknowledge that none of Opthea or its subsidiaries or their respective directors, officers, employees, agents or advisers has provided you with any financial product or investment advice or taxation advice in relation to the SPP, or has any obligation to provide such advice, and that this Booklet has been prepared without taking into account the objectives, financial situation, tax position or needs of individuals;
  - (r) authorise Opthea and its officers and agents to do anything on your behalf necessary for New Shares to be issued to you in accordance with these terms and conditions and to register you as the holder(s) of New Shares issued to you;
  - (s) acknowledge that Opthea may at any time and in its absolute discretion determine that your application is valid, in accordance with the terms and conditions of the SPP, even if the application is incomplete, contains errors or is otherwise defective;
  - (t) Opthea at its absolute discretion can make reductions in issuance of New Shares under a scale back;
  - (u) declare that you are at least 18 years of age and have full legal capacity and power to perform all your rights and obligations in respect of the SPP Offer; and



- (v) authorise Opthea and its officers and agents to correct minor or easily rectified errors in, or omissions from, your application and to complete the application by the insertion of any missing minor detail.

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## 8 Scale back

- 8.1 Subject to clause 8.2, Opthea has determined that the amount raised through the SPP is capped at \$5 million and accordingly if demand exceeds such cap, Opthea will have the discretion to scale back applications to the extent and in the manner it sees fit (including by taking into account, among other factors, the size of your shareholding as at the Record Date).
- 8.2 Opthea may (in its absolute discretion) in a situation where total demand exceeds \$5 million, decide to increase the amount to be raised under the SPP to reduce scale back.
- 8.3 If there is a scale back, you may receive less than the parcel of New Shares for which you have applied.
- 8.4 If a scale back produces a fractional number of New Shares when applied to your parcel, the number of New Shares you will be allotted will be rounded up to the nearest whole number of New Shares.
- 8.5 If there is a scale back, the difference between the application monies received from you, and the number of New Shares allocated to you multiplied by the Issue Price, will be refunded to you without interest (unless the amount is less than \$2.00, in which case it will be donated to a charity or charities nominated by Opthea).
- 8.6 When deciding on the amount to apply for, please consider the impact of the potential scale back as it may impact the number of New Shares you receive. Your allocation may be scaled back and you will receive a refund for the balance of your application without interest (unless the amount is less than \$2.00, in which case it will be donated to a charity or charities nominated by Opthea).

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## 9 Dispute resolution

- 9.1 Opthea may settle, in any manner it deems appropriate, any difficulties, anomalies or disputes which may arise in connection with, or by reason of, the operation of the SPP whether generally or in relation to any participant or any application for New Shares, and its decision shall be conclusive

and binding on all participants and other persons to whom the determination relates.

- 9.2 The powers of Opthea under these terms and conditions may be exercised by the directors of Opthea or any delegate or representative of them.

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## 10 Variation and termination

- 10.1 Opthea reserves the right at any time to:
- (a) amend or vary these terms and conditions;
  - (b) waive strict compliance with any provision of these terms and conditions;
  - (c) withdraw the SPP Offer or suspend or terminate the SPP;
  - (d) vary the timetable for the SPP, including the Closing Date; and
  - (e) not accept an application, not issue New Shares, or issue New Shares to a value less than that applied for under the SPP by an Eligible Shareholder (including a Custodian applying on behalf of one or more beneficial holders).
- 10.2 Any such amendment, variation, waiver, suspension, withdrawal, non-acceptance or termination will be binding on all Eligible Shareholders even where Opthea does not notify you of that event.
- 10.3 In the event that the SPP is withdrawn or terminated, all application monies will be refunded without interest (unless the amount is less than \$2.00, in which case it will be donated to a charity or charities nominated by Opthea).

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## 11 Privacy policy

- 11.1 Chapter 2C of the Corporations Act requires information about a securityholder (including your name, address and details of the securities you hold) to be included in the public register of the entity in which you hold securities. This information must continue to be included in the public register if you cease to be a securityholder.
- 11.2 Opthea and the Registry may collect personal information to process your application, implement the SPP and administer your holding of Shares. The personal information contained in the Register is also used to facilitate payments and corporate communications (including financial results), annual reports and other information to be communicated to holders of Shares, and to ensure compliance with legal and regulatory requirements, including

Australian taxation laws and the Corporations Act.

- 11.3 Your personal information may be disclosed to joint investors, the Registry, securities brokers, third party service providers (including print and mail service providers, technology providers and professional advisers), related entities of Opthea and its agents and contractors, and the ASX and other regulatory authorities, and in any case, where disclosure is required or allowed by law (which may include disclosures to the Australian Taxation Office and other government or regulatory bodies or where you have consented to the disclosure). In some cases, the types of organisations referred to above to whom your personal information may be disclosed may be located overseas.
- 11.4 Opthea's privacy policy is available on its website: <https://opthea.com/privacy-policy/>. The Registry's privacy policy is available on its website: <https://www.computershare.com/au/privacy-policies/>.
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## **12 Costs of participation**

Opthea will not charge any brokerage, commissions or other transaction costs in respect of the application for, and allotment of, New Shares under the SPP.

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## **13 ASIC Corporations Instrument compliance**

A Shareholder will be ineligible to participate in the SPP if their participation would be in breach of ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547.

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## **14 Underwriting**

- 14.1 The SPP is not underwritten.
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## **15 Governing law**

- 15.1 These terms and conditions are governed by the laws in force in Victoria. Any dispute arising out of, or in connection with, these terms and conditions, or the SPP Offer, will be determined by the courts of Victoria. By accepting the SPP Offer, you agree to submit to the non-exclusive jurisdiction of the courts in Victoria. Other terms and conditions, and rights and obligations in respect of Shares, are contained in the constitution of Opthea.

