
Executive Incentive Plan Rules

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Executive Incentive Plan Rules

1 Introduction

Purpose of plan

- 1.1 The Company has established this Plan to encourage Employees to share in the ownership of the Company and to promote the long-term success of the Company as a goal shared by all Employees.

Advice

- 1.2 There are legal and tax consequences associated with participation in the Plan. Employees should ensure that they understand these consequences before accepting an invitation to participate in the Plan.
- 1.3 Any advice given by or on behalf of the Company is general advice only, and Employees should consider obtaining their own financial product advice from an independent person who is licensed by ASIC to give such advice.

2 Definitions and Interpretation

Definitions

- 2.1 In these Rules unless the contrary intention appears, terms defined in the Corporations Act or Listing Rules have the same meaning in these Rules, and:

Application means a written acceptance of an Offer for, or an application for, Awards in a form approved by or acceptable to the Board.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited or the securities market which it operates, as the context requires.

Award means:

- (a) an Option, or
- (b) a Performance Right,

as applicable.

Board means the Board of Directors of the Company.

Company means A.P. Eagers Limited (ACN 009 680 013).

Corporations Act means the *Corporations Act 2001* (Cth).

Employee means a person who is a full-time or permanent part-time employee or executive director of the Company or any related body corporate of the Company.

exercise means exercise of an Award in accordance with its terms, and includes automatic exercise in accordance with these Rules.

Exercise Price means the price payable (if any) per Share to exercise an Award.

Expiry Date means the date on which an Award lapses, being the date specified in an Offer as the Expiry Date, or fixed by a method of calculation set out in an Offer.

issue of a Share includes the transfer of an existing Share in accordance with clause 7.3.

Issue Price means the price (if any) to be paid for the issue of a Share as stated in the Offer.

Listed means the Company being and remaining admitted to the official list of the ASX.

Listing Rules means the Listing Rules of ASX and any other rules of the ASX which are applicable while the Company is Listed each as amended or replaced from time to time, except to the extent of any waiver granted by the ASX.

Offer means an offer or issue of Awards made to an Employee under clause 4. Where Awards are issued without the need for acceptance, an Offer includes the document setting out the terms of the Award.

Option means an option to acquire Shares issued under clause 3.2.

Participant means an Employee to whom Awards are issued.

Performance Right means a right to acquire a Share issued under clause 3.3.

Plan means this Executive Incentive Plan.

Restricted Award means an Award or a Share issued on exercise of an Award in respect of which a restriction on sale or disposal applies under this Plan.

Restriction Period means the period during which Awards, or Shares issued on exercise of Awards, must not be sold or disposed of, as specified in the Offer in respect of an Award.

Rules means these rules as amended from time to time.

Security Interest means an interest in an asset which provides security for, or protects against default by, a person for the payment or satisfaction of a debt, obligation or liability including a mortgage, charge, bill of sale, pledge, deposit, lien, encumbrance, hypothecation, first right of refusal, voting right or arrangement for the retention of title or any agreement, option or other arrangement to grant such an interest or right.

Share means a fully paid ordinary share of the Company.

Tax Act means the *Income Tax Assessment Act 1936*, or any legislation amending or replacing the provisions of that Act relating to the issue and exercise of Awards.

Vesting Conditions means any conditions described in the Offer that must be satisfied before an Award can be exercised or before an Award (or Share issued under an Award) is no longer subject to forfeiture.

Vesting Date means the date on which an Award is exercisable or is no longer subject to forfeiture following satisfaction of any Vesting Conditions.

Interpretation

2.2 In these Rules, unless expressed to the contrary:

- (a) terms defined in the Corporations Act have the same meaning in these Rules;
- (b) words importing:

- (i) the singular include the plural and vice versa;
- (ii) any gender includes the other genders;
- (c) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (d) a reference to:
 - (i) a person includes a firm, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes its legal personal representatives, successors and assigns;
 - (iii) a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (iv) a right includes a benefit, remedy, discretion, authority or power;
 - (v) “\$” or “dollars” is a reference to the lawful currency of Australia;
 - (vi) this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties; and
 - (vii) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them.

Headings

- 2.3 Headings are for convenience only and do not affect the interpretation of these Rules.

3 Awards that may be made under the Plan

- 3.1 The Company may, at the discretion of the Board, offer and issue Awards to Employees of the kind set out in this clause 3.

Options

- 3.2 The Company may offer or issue Options, which are rights to be issued a Share upon payment of the Exercise Price and satisfaction of specified Vesting Conditions. These terms apply unless the Offer specifies otherwise:
- (a) Options are Restricted Awards until they are exercised or expire.
 - (b) Unless a different Restriction Period is specified in an Offer, the Restriction Period for Shares issued on exercise of an Option is the period ending on the earliest of:
 - (i) when the Participant ceases to be an Employee;
 - (ii) when the Participant’s application requesting release of the restrictions on the Shares is approved by the Board;
 - (iii) when the Board, in its discretion, otherwise agrees to end the Restriction Period; and

- (iv) 7 years from the date of issue of the Option.
- (c) Options are subject to adjustment under clause 9.

Performance Rights

- 3.3 The Company may offer or issue Performance Rights, which are rights to be issued a Share for nil Exercise Price upon the satisfaction of specified Vesting Conditions. These terms apply unless the Offer specifies otherwise:
- (a) Performance Rights are Restricted Awards until they are exercised or expire.
 - (b) Unless a different Restriction Period is specified in an Offer, the Restriction Period for Shares issued on exercise of a Performance Right is the period ending on the earliest of:
 - (i) when the Participant ceases to be an Employee;
 - (ii) when the Participant's application requesting release of the restrictions on the Shares is approved by the Board;
 - (iii) when the Board, in its discretion, agrees to end the Restriction Period; and
 - (iv) 7 years from the date of issue of the Performance Right.
 - (c) Performance Rights are subject to adjustment under clause 9.

4 Offers of Awards

- 4.1 Subject to clause 5, the Company may make an Offer to any Employee.

Form of Offer

- 4.2 Each Offer must be in writing (which includes email), include an Application if acceptance is required, and specify the following to the extent applicable:
- (a) the name and address of the Employee to whom the Offer is made;
 - (b) the type of Awards being offered;
 - (c) the number of Awards being offered;
 - (d) any Vesting Conditions for the Awards;
 - (e) the Issue Price and/or Exercise Price for the Awards, or the manner in which the Issue Price and/or Exercise Price is to be determined;
 - (f) the Expiry Date (if any);
 - (g) any Restriction Period (if different from those specified in clause 3.2 or 3.3, as applicable);
 - (h) any other terms or conditions that the Board decides to include; and
 - (i) any other matters required to be specified in the Offer by either the Corporations Act or the Listing Rules.

- 4.3 If required by applicable laws or the conditions to applicable ASIC relief, the Offer must include an undertaking by the Company to provide to a Participant, if a request is made before the Award is Exercised and within a reasonable period of being so requested, the current market price of the Shares.

Compliance with laws

- 4.4 No Offer will be made to the extent that any such Offer would contravene the Company's Constitution, the Listing Rules, the Corporations Act or any other applicable law.

Acceptance

- 4.5 An Award may be granted without the need for acceptance, or may be offered with a requirement that it be accepted before it will be granted.
- 4.6 If acceptance of an Offer is required, it may be accepted:
- (a) by an Employee completing and returning the Application, as required by the Offer, by not later than the date specified in the Offer; and
 - (b) if required, by the Employee making or directing payment of the total amount payable for the Awards (if any) accepted under the Offer, in the manner specified in the Offer.
- 4.7 An Offer which requires acceptance lapses if it is not accepted by the Employee to whom the Offer is made as required under clause 4.6.

5 Dilution limit

- 5.1 An Offer of Awards must not be made if the total of the following:
- (a) the number of Shares which are the subject of the Offer of Awards;
 - (b) the total number of Shares which are the subject of any outstanding Offers of Awards;
 - (c) the total number of Shares issued during the previous five years under this Plan or any other employee share scheme extended only to Employees of the Company (adjusted if necessary in each case for capital reorganisations), but not including existing Shares transferred to a Participant after having been acquired for that purpose; and
 - (d) the total number of Shares which would be issued under all outstanding Awards that have been granted but which have not yet been exercised, terminated or expired, assuming all such Awards were exercised and ignoring any Vesting Conditions,
- but disregarding any Offer made, or Award offered or issued, or Share issued by way of or as a result of:
- (e) an offer to a person situated outside Australia at the time of receipt of the offer;
 - (f) an offer that was an excluded offer or invitation as defined in the Corporations Law as in force before the commencement of Schedule 1 to the Corporate Law Economic Reform Program Act 1999;
 - (g) an offer that did not need disclosure to investors because of section 708 of the Corporations Act; or
 - (h) of offer made under a disclosure document as defined in the Corporations Act,

would exceed 5% of the number of Shares on issue at the time of the Offer.

6 Vesting and Exercise of Awards

Vesting

- 6.1 The Awards held by a Participant will vest in and become exercisable by that Participant upon the satisfaction of any Vesting Conditions specified in the Offer and in accordance with these Rules.
- 6.2 Vesting Conditions may be waived at the absolute discretion of the Board (unless such waiver is excluded by the terms of the Award).

Automatic Exercise

- 6.3 Unless clause 6.4 applies, the vesting of an Award on the satisfaction of any Vesting Conditions will not automatically trigger the exercise of the Award.
- 6.4 The terms of an Award which has a nil Exercise Price may provide for the Award to be exercised automatically upon vesting. Further, and whether or not the terms of the Award provide for it, the Board may in its discretion waive any requirement that an issued Award which has a nil Exercise Price be exercised by the Participant. In either case the Company will treat the Award as having been validly exercised on the Vesting Date.

Exercise of Awards

- 6.5 A Participant is, subject to this clause 6, entitled to exercise an Award on or after the Vesting Date. Any exercise must be for a minimum number or multiple of Shares (if any) specified in the terms of the Offer.
- 6.6 Awards may be exercised by the Participant delivering to the Company a notice stating the number of Awards to be exercised together with the Issue Price (if any) for the Shares to be issued.
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7 Allotment of Shares on exercise or vesting of Awards

Rights attaching to Shares

- 7.1 The Shares issued under this Plan will upon allotment:
- (a) be credited as fully paid;
 - (b) rank equally for dividends and other entitlements where the record date is on or after the date of allotment, but will carry no right to receive any dividend or entitlement where the record date is before the date of allotment;
 - (c) be subject to any restrictions imposed under these Rules or the terms of the Offer; and
 - (d) otherwise rank equally with the existing issued Shares at the time of allotment.

Quotation

- 7.2 If the Company is Listed, then as soon as practicable after the date of the allotment of Shares, the Company will, unless the Board otherwise resolves, apply for official quotation of such Shares on the ASX.

New or existing Shares

- 7.3 The Company may, in its discretion, either issue new Shares or cause existing Shares to be acquired for transfer to the Participant, or a combination of both alternatives, to satisfy the Company's obligations under these Rules.
- 7.4 If the Company determines to cause the transfer of Shares to a Participant, the Shares may be acquired in such manner as the Company considers appropriate, including from a trustee appointed under clause 7.5.

Trustee

- 7.5 The Company may appoint a trustee on terms and conditions which it considers appropriate to acquire and hold Shares, options, or other securities of the Company either on behalf of Participants or for the purposes of this Plan.

8 Restricted Awards**Restrictions**

- 8.1 A Participant must not sell, transfer, mortgage, pledge, charge, grant security over or otherwise dispose of any Restricted Awards, or agree to do any of those things, during the Restriction Period.
- 8.2 The Company may implement any procedures it considers appropriate to ensure that Restricted Awards are not disposed of during the Restriction Period, including applying a holding lock in respect of Shares.
- 8.3 Without limiting its discretions under these Rules, the Board may at any time in its discretion waive or shorten the Restriction Period applicable to an Award.

Bonus issues

- 8.4 If the Company makes a pro rata bonus issue to holders of Restricted Awards, the Shares issued to Participants under the pro rata bonus issue will be subject to the balance of the Restriction Period that applied to the Restricted Awards.

Personal representatives

- 8.5 If a Participant dies before the end of the Restriction Period, then the legal personal representative of that deceased Participant will have the same rights and benefits and be subject to the same obligations in respect of those Shares as the deceased Participant would have had or been subject to had they survived until the end of the Restriction Period.

9 Control transactions

Effect on Vesting Conditions

- 9.1 If a takeover bid is made to acquire all of the issued Shares of the Company, or a scheme of arrangement, selective capital reduction or other transaction is initiated which has an effect similar to a full takeover bid for Shares in the Company, then the Board may, in its discretion, waive unsatisfied Vesting Conditions in relation to some or all Awards. The Board's discretion may be conditional, for example on the transaction succeeding or there being a change in control.

Effect on Restriction Period

- 9.2 If a takeover bid is made to acquire all of the issued Shares of the Company, the Board may, in its discretion, permit Participants to accept the takeover bid in respect of any Shares which they hold notwithstanding that the Restriction Period in respect of those Shares has not expired. The Board's discretion may be conditional, for example on the transaction succeeding or there being a change in control.

10 Hedging unvested Awards

- 10.1 Participants must not enter into transactions or arrangements, including by way of derivatives or similar financial products, which limit the economic risk of holding unvested Awards.¹

11 Adjustments

- 11.1 This clause 11 applies to Options and Performance Rights while they remain unexercised.

New issues of shares

- 11.2 A Participant is not entitled to participate in a new issue of Shares or other securities made by the Company to holders of its Shares without exercising the Awards before the record date for the relevant issue.

Bonus issues

- 11.3 If, prior to the exercise of an Award, the Company makes a pro-rata bonus issue to the holders of its Shares, and the Award is not exercised prior to the record date in respect of that bonus issue, the Award will, when exercised, entitle the holder to one Share plus the number of bonus shares which would have been issued to the holder if the Award had been exercised prior to the record date.

Other reorganisations of capital

- 11.4 If, prior to the exercise of an Award, the Company undergoes a reorganisation of capital (other than by way of a bonus issue or issue for cash) the terms of the Awards of the Participant will be changed to the extent necessary to comply with the Listing Rules as they apply at the relevant time.

General

- 11.5 Unless otherwise permitted by the Listing Rules, the number of Shares which the Participant is entitled to receive on exercise of an Award will only be adjusted in accordance with this clause 11.
- 11.6 The Company must give notice to Participants of any adjustment to the number of Shares which the Participant is entitled to receive on exercise of an Award in accordance with the Listing Rules.

12 Tax administration

Liability for tax payments

- 12.1 Where the Company, or any of its related bodies corporate, or a trustee appointed under clause 7.5 (the *Payer*) must account for any tax (including fringe benefits tax), social security contributions, or amounts of a similar nature (in any jurisdiction) as a result of the issue or transfer of Shares, or the grant, vesting or exercise of an Award or the provision of Financial Assistance (the *Amount*), the Participant is obliged to reimburse the Payer for any part of the Amount which the Payer has paid or is liable to pay.
- 12.2 In addition, and whether or not the Payer has paid any part of the Amount, the Payer may in its discretion:
- (a) withhold up to the Amount from any cash payment or payments due to the Participant (including future wages or salaries); and/or
 - (b) withhold a number of Shares which would otherwise be provided to the Participant and sell them in order to realise the Amount (with any excess received over the Amount net of costs of sale being paid to the Participant).

The Payer may also, either instead of or in addition to exercising the above discretion:

- (c) accept payment from the Participant of the relevant Amount; or
- (d) make acceptable arrangements with the Participant for the Amount to be made available.

Information

- 12.3 Participants acknowledge that the Company may have reporting obligations in relation to participation in the Plan. Participants authorise the Company to provide information regarding their participation in the Plan, and any related information, to any tax authority or other person to the extent required by law, or by the official policy of the tax authority or a government agency.

13 Power of attorney

- 13.1 In consideration of the issue of the Awards, each Participant irrevocably appoints each director and the secretary for the time being of the Company severally as his or her attorney, to do all acts and things and to complete and execute any documents, including share transfers, in his or her name and on his or her behalf that may be convenient or necessary for the purpose of giving effect to the provisions of these Rules or the terms of an Award.

- 13.2 The Participant (or after his or her death, his or her legal personal representative) will be deemed to ratify and confirm any act or thing done under this power and must indemnify the attorney in respect of doing so.

14 Powers of the Board

- 14.1 The Plan will be administered by the Board, or a committee of the Board, which will have an absolute discretion to:
- (a) determine appropriate procedures for administration of the Plan consistent with these Rules;
 - (b) resolve conclusively all questions of fact or interpretation arising in connection with the Plan or these Rules;
 - (c) delegate to any one or more persons, for such period and on such conditions as they may determine, the exercise of any of their powers or discretions under the Plan or these Rules;
 - (d) formulate special terms and conditions (subject to the Listing Rules), in addition to those set out in these Rules to apply to Participants employed and/or resident in and/or who are citizens of countries other than Australia. Each of these special terms and conditions will be restricted in their application to those Participants employed and/or resident in and/or who are citizens of other jurisdictions; and
 - (e) amend these Rules, provided that such amendments do not materially prejudice the rights of existing Participants.
- 14.2 While the Company is Listed, the Board may only exercise its powers in accordance with the Listing Rules.

15 Commencement, suspension, termination and amendment of Plan

- 15.1 Subject to the passing of any necessary resolution approving the establishment of the Plan and the issue of the Awards, the Plan will take effect when the Board decides.
- 15.2 The Plan may be suspended, terminated or amended at any time by the Board, subject to any resolution of the Company required by the Listing Rules.

16 General provisions

Participants bound

- 16.1 Participants issued Awards under this Plan are bound by these Rules and by the Constitution of the Company.

Notices

- 16.2 Any notice required to be given by the Company to a Participant or any correspondence to be made between the Company and a Participant may be given or made by the Board or its delegate on behalf of the Company.

- 16.3 Any notice to be given by the Company may be given by email, and any reference to the Company giving or providing information or documents in writing includes doing so by email.

Effect on employee entitlements

- 16.4 Participation in the Plan does not affect an Employee's terms of employment or appointment with the Company. In particular, participation in the Plan does not detract from any right the Company may have to terminate the employment or appointment of an Employee.
- 16.5 Participation in the Plan, or the issuing of any Awards, does not form part of the Employee's remuneration for the purposes of determining payments in lieu of notice of termination of employment, severance payments, leave entitlements, or any other compensation payable to an Employee upon the termination of employment.

Governing law

- 16.6 These Rules are governed by and are to be construed in accordance with the laws of Queensland.