



AUSTRALIAN VINTAGE LTD

---

Australian Vintage Ltd  
ABN 78 052 179 932

# **AVG Performance Rights and Option Plan Rules**

**6 August 2012**  
**(as amended 3 September 2015)**

## CONTENTS

---

1.	Definitions and Interpretation.....	3
2.	Purpose.....	8
3.	Commencement.....	8
4.	Maximum Performance Rights and Option allocation.....	8
5.	Eligibility and grant .....	9
6.	Performance Right terms.....	10
7.	Exercise .....	11
8.	Leavers .....	12
9.	Lapse of Rights .....	12
10.	Listing .....	12
11.	Disposal restrictions .....	12
12.	Rights attaching to Shares.....	13
13.	Withdrawal of Shares and transfer of Shares.....	15
14.	Arrangements with Trustee.....	17
15.	Capital reconstructions .....	17
16.	Forfeiture.....	18
18.	Administration .....	19
19.	Plan amendment .....	20
20.	No employment contract.....	21
21.	ASIC relief.....	22
22.	Non-exclusivity .....	22
23.	General .....	22

## AVG PERFORMANCE RIGHTS AND OPTION PLAN RULES

### 1. Definitions and Interpretation

---

#### 1.1 Definitions

In these Rules, unless the context otherwise requires, the following terms and expressions will have the following meanings:

**Acceptance** means the form provided to Eligible Participants in order to accept an Invitation to apply for a grant of Performance Rights.

**Applicable Law** means any one or more or all, as the context requires of:

- (a) the Corporations Act;
- (b) the Listing Rules;
- (c) the constitution of the Company;
- (d) the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth), each as amended from time to time;
- (e) any practice note, policy statement, regulatory guide, class order, declaration, guideline, policy, procedure, ruling, judicial interpretation or other guidance note made to clarify, expand or amend (a), (b), (c), and (d) above; and
- (f) any other legal requirement that applies to the Plan.

**ASIC** means the Australian Securities and Investments Commission.

**Associated Body Corporate** means:

- (a) a related body corporate of the Company;
- (b) a body corporate which has a relevant interest in not less than 20% of the voting shares of the Company; or
- (c) a body corporate in which a Company has a relevant interest in not less than 20% of the voting shares.

**ASX** means the ASX Limited (ABN 98 008 624 691) trading as the Australian Securities Exchange.

**Board** means the board of directors of the Company, a committee appointed by the board of directors of the Company as constituted from time to time, or any person who is provided with

delegated authority by the board from time to time.

**Business Day** means a day on which banks are open for general banking business in South Australia, excluding Saturdays, Sundays or public holidays in South Australia.

**Company** means Australian Vintage Ltd (ABN 78 052 179 932) or in the event the name of the company is changed by special resolution, the new name of the company.

**Competitor** means a person who, or organisation which, directly or indirectly operates a same or similar business to that operated by the Group, as determined by the Board from time to time.

**Corporations Act** means the Corporations Act 2001(Cth) as amended from time to time.

**Director** means a director of the Company or of any member of the Group.

**Eligible Participant** means the Directors, Employees, and any other person determined by the Board in its sole and absolute discretion.

**Employee** means any full-time or part-time employee of the Group.

**Exercise Price** means the exercise price payable by a Participant to acquire a Share upon the exercise of an Option as specified by the Board in the Invitation in its sole and absolute discretion.

**Expiry Date** means a date subsequent to the Grant Date as determined by the Board in its sole and absolute discretion and specified in the Invitation after which the Performance Rights or Options lapse and may no longer vest.

**Forfeiture Conditions** means any conditions imposed by the Board upon a Participant under which the Participant will be required to forfeit his or her rights or interests in all or a specified number or proportion of the Shares held by the Trustee on behalf of the Participant and all other entitlements flowing from, or resulting from holding, those Shares.

**Forfeited Shares** means, in respect of any Shares held by the Trustee on behalf of a Participant, Shares which have been forfeited by a Participant or which a Participant is required to forfeit under clause 16.

**Good Leaver** means a Participant who is not an Other Leaver, and includes where a Participant ceases employment or office due to Redundancy, Retirement, Permanent Incapacity, or death.

**Grant Date** means the date on which Performance Rights or Options are granted to a Participant following the acceptance of an Acceptance.

**Group** means:

- (a) the Company;
- (b) each Associated Body Corporate of the Company; and
- (c) any other entity the results of which form part of the consolidated financial results of the Company for financial reporting purposes.

**Invitation** means an invitation to an Eligible Participant to apply for the grant of Performance Rights or Options under these Rules.

**Invitation Letter** means a letter from the Company to an Eligible Participant, which contains the Invitation.

**Listing Rules** means the listing rules, market rules or operating rules of a financial market in respect of which the Company's shares are quoted or are the subject of an application for quotation, including but not limited to the official listing rules of the ASX (as relevant).

**Nominal Consideration** means payment by the Company to the Participant of \$10.00.

**Nominated Party** means an individual related to the Eligible Participant or an entity with which the Eligible Participant has an association acceptable to the Board.

**Notice of Exercise** means a notice in the form set out in Schedule A to these Rules or as otherwise approved by the Board from time to time.

**Option** means an entitlement of a Participant granted under this Plan to be allocated a Share subject to the satisfaction of any Vesting Conditions and payment of the Exercise Price, to be held on trust by the Trustee for a Participant pursuant to these Rules.

**Other Leaver** means a Participant who ceases to be an employee or officer of the Group in any of the following circumstances:

- (a) the employment of the Participant is terminated, or the Participant is dismissed from office (as the case may be), due to serious or wilful misconduct, wilful disobedience, negligence or incompetence, insubordination, behaviour which damages or is likely to damage the business or reputation of the Group or any of its clients, or any other conduct justifying termination of employment or office without notice at common law;
- (b) the Participant resigns or ceases their employment or office with the Group (as the case may be) and commences employment, or holds the office of director, or directly or indirectly holds more than 5% of the issued capital with a Competitor in breach of any post-termination restrictions in their contract of employment or associated documentation; or
- (c) the Participant is ineligible to hold their office for the purposes of Part 2D.6 of the Corporations Act or as a result of any relevant corporations or securities law.

**Participant** means a person who has been offered or granted Performance Rights or Options pursuant to these Rules.

**Performance Right** means an entitlement of a Participant granted under this Plan to be allocated a Share subject to the satisfaction of any Vesting Conditions, to be held on trust by the Trustee for a Participant pursuant to these Rules. For the avoidance of doubt, a Performance Right has a Nil exercise price.

**Permanent Incapacity** means a condition the effect of which is, in the opinion of the Board, to prevent a Participant from continuing to be an Eligible Participant engaged in a similar capacity as they held prior to the condition being acquired or in any occupation with the Group for which he or she is reasonably qualified by education, training and experience.

**Plan** means the AVG Performance Rights and Option Plan in respect of which these Rules apply.

**Plan Share** means any Share held by the Trustee on behalf of a Participant upon automatic exercise of a Performance Right or exercise of an Option.

**Redundancy** means where a Participant's position is made redundant, there is no acceptable alternative position available within the Group, and the Participant's employment is terminated by a member of the Group by reason of redundancy.

**Retirement** means where a Participant intends to permanently cease all gainful employment permanently in circumstances where the Participant provides, in good faith, a written statutory declaration to the Board to that effect.

**Rights Issue** means any rights affecting a Share entitling the holder of the Share to acquire additional Shares.

**Rules** means these rules in respect of the operation of the Plan as amended from time to time.

**Secretary** means the company secretary of the Company.

**Security Interest** means a mortgage, charge, pledge, lien, encumbrance or other third party interest of any nature.

**Share** means a fully paid share in the capital of the Company.

**Share Trading Policy** means the Company's share trading policy as amended from time to time.

**Shareholder** means any holder of issued share capital in the Company.

**Trust** means the "AVG Employee Share Scheme Trust", being an employee share scheme trust established by the Company for the sole purpose of subscribing for or acquiring, delivering,

allocating and holding Shares for the benefit of Participants and participants in other employee equity plans established by any member of the Group from time to time.

**Trust Deed** means the trust deed entered into between the Company and the Trustee on **6 August 2012**.

**Trustee** means AVG EST Managers Pty Ltd (ACN 159 773 967) who has been appointed by the Company, and who agrees to act, as the initial trustee of the Trust on the terms and conditions set out in the Trust Deed.

**Vesting Conditions** means any criteria, including performance requirements and time based conditions, as determined by the Board in its sole and absolute discretion, which must be met prior to the Performance Rights or Options vesting under clause 6.3(b) and being capable of exercise.

**Withdrawal Notice** means a written request given or deemed to be given by a Participant to the Company requesting that some or all of the Participant's Shares held by the Trustee on behalf of the Participant be sold, transferred to the Participant, or transferred to a person nominated by the Participant, which notice must:

- (a) be signed by the Participant;
- (b) specify the number of Shares to be dealt with by the Participant; and
- (c) be in the form set out in Schedule B to these Rules or as otherwise approved by the Board from time to time.

## 1.2 Interpretation

In these Rules unless otherwise stated or the contrary intention appears:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes all genders;
- (c) a reference to any legislation includes any modification or replacement of it and all regulations and statutory instruments issued under it and a reference to any provision of any legislation includes any modification or substitution of it;
- (d) a reference to these Rules means these Rules as amended from time to time and includes all recitals, annexures, addendums and schedules to these Rules;
- (e) a reference to a person includes a reference to the person's executors, administrators and successors or a body corporate including any person taking by way of novation and, in the case of the Trustee, includes any substituted or additional trustee;

- (f) in these Rules any reference to include means to include without limitation; and
- (g) nothing in these Rules is intended to create an agency relationship between the Trustee and the Company.

### **1.3 Applicable Legislation**

These Rules, the offering and granting of any Performance Rights, Options and/or Shares and the rights attaching to or interests in the Performance Rights, Options and/or Shares will at all times be subject to the constitution of the Company, the Corporations Act, any other applicable legislation from time to time, and the Listing Rules (as applicable).

### **1.4 Rounding**

Where any calculation or adjustment to be made pursuant to these Rules produces a fraction of a cent or a fraction of a Performance Right, Option or Share, the fraction will be eliminated by rounding to the nearest whole number.

### **1.5 Headings**

Headings are inserted in these Rules for convenience only and do not effect the interpretation of these Rules.

## **2. Purpose**

---

The purpose of the Plan is to:

- (a) assist in the reward, retention and motivation of Eligible Participants; and
- (b) attract new employees and/or officers to the Group.

## **3. Commencement**

---

The Plan will commence on the date determined by the Board.

## **4. Maximum Performance Rights and Option allocation**

---

An Invitation for Performance Rights and/or Options in reliance on CO 14/1000 must, at the time of making the offer, have reasonable grounds to believe that the number of underlying eligible Performance Rights and Options in a class of underlying Shares that form part of the issued capital of the listed body that have been or may be issued in any of the circumstances covered by clause 4 (a) and clause 4 (b) will not exceed 5% of the total number of underlying Shares in that class on issue:

- (a) underlying Shares that may be issued under the offer;



- (b) underlying Shares issued or that may be issued as a result of offers made at any time during the previous 3 year period under:
  - (i) an employee incentive scheme covered by this instrument; or
  - (ii) an ASIC exempt arrangement of a similar kind to an employee incentive scheme.

## **5. Eligibility and grant**

---

### **5.1 Participation**

Subject to clause 5.2, the Board may from time to time in their sole and absolute discretion determine that an Eligible Participant may participate in the Plan.

### **5.2 Limitations on participation in the Plan**

- (a) No Eligible Participant may apply to participate in the Plan if at the time of the application, he or she owns, has an interest in, or controls, ten percent (10%) or more of the issued share capital of the Company, unless the eligible participant is a foreign resident for taxation purposes.
- (b) No Participant may continue to participate in the Plan if he or she owns, has an interest in, or controls, ten percent (10%) or more of the issued share capital of the Company, unless the eligible participant is a foreign resident for taxation purposes.

### **5.3 Selection**

Following determination that an Eligible Participant may participate in the Plan, the Board may at any time and from time to time make an Invitation to the Eligible Participant.

### **5.4 Invitation**

The manner, form, content, timing and frequency of an Invitation Letter and Acceptance will be as determined by the Board in its sole and absolute discretion.

### **5.5 Nominated Party**

- (a) An Eligible Participant to whom an Invitation is made may give notice to the Company that they would prefer such Invitation be made to a Nominated Party.
- (b) The Board may in its sole and absolute discretion determine whether it will make the Invitation to the Nominated Party and on what conditions it will agree to do so.

### **5.6 Multiple Invitations**

Unless otherwise determined by the Board in its sole and absolute discretion, the Board may make any number of issues to Eligible Participants, as set out in the Invitation Letter, notwithstanding that an issue or issues may have been previously made to the Eligible Participant.

## **6. Performance Right terms**

---

### **6.1 Board determination**

The terms and conditions of Performance Rights or Options offered or granted under these Rules to each Participant will be determined by the Board and include as a minimum:

- (a) the number of Performance Rights or Options;
- (b) the Expiry Date;
- (c) the Exercise Price, if any;
- (d) Vesting Conditions (if any) and/or the Forfeiture Conditions (if any);
- (e) any disposal restrictions attaching to the Performance Rights, Options or Plan Shares;
- (f) any rights attaching to the Performance Rights, Options or Plan Shares; and

will be set out in the document evidencing the Invitation in the form of an Invitation Letter delivered to the Participant.

### **6.2 Rights entitlements**

Participants who hold Performance Rights or Options are not entitled to:

- (a) notice of, or to vote or attend at, a meeting of the members of the Company or holders of Shares; or
- (b) receive any dividends declared by the Company, as a result of solely holding Performance Rights or Options, until the Performance Rights or Options are exercised and the Trustee holds Shares on behalf of those Participants.

### **6.3 Conditions for vesting**

- (a) The Board will determine prior to an Invitation being made, the Vesting Conditions (if any) attaching to the Performance Rights or Options.
- (b) Performance Rights or Options will only vest and be exercisable if the applicable Vesting Conditions have been satisfied, waived by the Board, or are deemed to have been satisfied under these Rules.

### **6.4 Non-transferable without consent**

Performance Rights and Options granted under this Plan may not be assigned, transferred, encumbered with a Security Interest in or over them, or otherwise disposed of by a Participant,

other than in accordance with clause 5.5, unless:

- (a) prior consent of the Board is obtained, which consent may impose such terms and conditions on such transfer, encumbrance or disposal as the Board sees fit; or
- (b) such assignment or transfer occurs by force of law upon the death of a Participant to the Participant's legal personal representative.

## **6.5 Rights to be registered**

Performance Rights and Options will be registered in the appropriate register (if any) of the Company.

## **7. Exercise**

---

### **7.1 Method of exercise - Performance Rights**

At the sole and absolute discretion of the Board as set out in the Invitation Letter, a vested Performance Right:

- (a) will be exercisable by a Participant by delivery to the registered office of the Company a signed Notice of Exercise; or
- (b) will be automatically exercised within the period specified by the Board in the Invitation Letter.

### **7.2 Method of exercise - Options**

At the sole and absolute discretion of the Board as set out in the Invitation Letter, a vested Option will be exercisable by a Participant by delivery to the registered office of the Company a signed Notice of Exercise and payment of the Exercise Price at any time until the Expiry Date.

### **7.3 Actions on exercise**

On completion of the exercise of Performance Rights or Options:

- (a) the Performance Rights or Options will automatically lapse;
- (b) the Board will instruct the Trustee to subscribe for, acquire and/or allocate the number of Shares for which the Participant is entitled to through the exercise of the Performance Rights or Options, and the Trustee will hold those Shares on behalf of that Participant in accordance with the terms of the Trust Deed; and
- (c) the Company will, or the Company will instruct the Trustee to, notify the Participant that the Trustee holds Shares on the Participant's behalf.

## **8. Leavers**

---

### **8.1 Good Leaver**

Where a Participant who holds Performance Rights or Options becomes a Good Leaver, all unvested Performance Rights or Options will automatically lapse, unless the Board determines in its sole and absolute discretion:

- (a) to allow some or all of the unvested Performance Rights to vest, in which case those Performance Rights will automatically exercise; and/or
- (b) to allow some or all of the unvested Options to vest, in which case those Options may be exercised within 30 days of becoming a Good Leaver.

### **8.2 Other Leaver**

Where a Participant who holds Performance Rights or Options becomes an Other Leaver, all unvested Performance Rights or Options will automatically lapse.

## **9. Lapse of Rights**

---

Unless the Board otherwise determines in their sole and absolute discretion, unvested Performance Rights and Options will lapse on the earlier of:

- (a) the cessation of employment of a Participant (other than in accordance with clause 8);
- (b) if Vesting Conditions are not achieved by the Participant;
- (c) if the Board determines in its reasonable opinion that the Vesting Conditions have not been met and cannot be met prior to the expiry of the Expiry Date; and
- (d) the Expiry Date.

## **10. Listing**

---

Unless determined otherwise by the Board in its sole and absolute discretion, Performance Rights and Options issued under the Plan will not be quoted on the ASX.

## **11. Disposal restrictions**

---

### **11.1 Board determines**

The Board may determine prior to an Invitation being made whether there will be any restrictions on the disposal of, the granting (or purporting to grant) of any Security Interest in or over, or otherwise on dealing with (or purporting to dispose or deal with), Plan Shares held by any

Participants.

## **11.2 No transfer**

Subject to clause 11.1, Plan Shares may not be transferred, encumbered or otherwise disposed of by a Participant unless:

- (a) unless all restrictions on transfer, encumbrance or disposal of the Plan Shares have been met or the Board has waived any such restrictions; and
- (b) the Participant submits a Withdrawal Notice to the Company in accordance with clause 13 and that Withdrawal Notice has been approved.

## **11.3 Board actions**

The Company may do such things and enter such arrangements with the Trustee, the Company's share registry or otherwise as it considers necessary to enforce the transfer restrictions set out in clause 11.2. Plan participants will be bound by any action by the Company under this clause 11.3.

## **12. Rights attaching to Shares**

---

### **12.1 Shares to rank equally**

Any Plan Shares issued by the Company to the Trustee on behalf of Participants for the purposes of the Plan will rank equally with all existing Shares on and from the date of issue.

### **12.2 Dividends**

A Participant will have a vested and indefeasible entitlement to any dividends declared and distributed by the Company on the Plan Shares which, at the books closing date for determining entitlement to those dividends, are standing to the account of the Participant as held by the Trustee.

### **12.3 Dividend reinvestment**

The Participant may participate in any dividend reinvestment plan operated by the Company in respect of Plan Shares held on behalf of the Participant and such participation must be in respect of all Plan Shares held on the Participant's behalf by the Trustee and not some only. Shares issued under any dividend reinvestment plan operated by the Company will be held by the Trustee on behalf of a Participant and will be subject to the same terms and conditions as the Plan Shares held on behalf of the Participant.

### **12.4 Voting rights**

- (a) The Trustee must ascertain the voting intentions of each Participant in respect of the Plan Shares held by the Trustee on their behalf on all matters to be voted on in meetings of members of the Company.

- (b) A Participant may direct the Trustee by notice in writing as to how the Participant wishes the Trustee to exercise any voting rights attaching to the Plan Shares, either generally or in respect of a particular resolution.
- (c) Where a Participant gives a direction to the Trustee under clause 12.4(a), the Trustee must act in accordance with that direction by voting by way of proxy.
- (d) Where a Participant does not give a direction under clause 12.4(a), the Trustee must not exercise any voting rights attaching to Plan Shares held on behalf of the Participant.
- (e) The Trustee must not vote on any resolution on behalf of any Plan Shares held by the Trustee on behalf of a Participant where voting occurs by a show of hands.

## **12.5 Notices of meetings**

The Company must forward to the Trustee and the Trustee must forward to a Participant a copy of any notices of meetings of members of the Company received by the Trustee, unless the Participant has notified the Trustee in writing that they do not wish to receive such notices.

## **12.6 Bonus issue**

- (a) If from time to time before the expiry of any Performance Rights or Options the Company makes an issue of Shares to the holders of Shares by way of capitalisation of profits or reserves (other than in place of dividends or by way of dividend reinvestment), then upon exercise of his or her Performance Rights or Options a Participant will be entitled to have held on their behalf (in addition to the Shares which a Participant is otherwise entitled to have held of their behalf upon such exercise), the number of Shares which would have been issued to him or her under that bonus issue if immediately before the date on which those entitlements were calculated, the Participant had duly exercised his or her Performance Rights or Options and the Shares the subject of such exercise had been duly allotted and held on their behalf.
- (b) If the Company offers Shares to holders of Shares pro-rata by way of a bonus issue (other than in place of dividends or by way of dividend reinvestment), each Participant will be entitled to participate in any bonus issue which accrues to Shares held by the Trustee on behalf of that Participant.

## **12.7 Rights to acquire Shares**

If the Company makes a Rights Issue:

- (a) the Company and/or the Trustee will send a notice to a Participant of any rights to be issued by the Company; and
- (b) within 7 days of receiving the notice referred to in clause 12.7(a), the Participant may provide the Company or the Trustee (as determined by the Company) with either:

- (i) written instructions in the form (if any) prescribed by the Board to sell some or all of the rights to the extent permitted by law; or
- (ii) written instructions in the form (if any) prescribed by the Board to acquire, to the extent permitted by law, some or all of the Shares to which the rights relate and any relevant payment for acquisition of those rights. Shares acquired pursuant to this clause 12.7 for the benefit of a Participant will be held by the Trustee on behalf of the Participant and will be subject to the same terms and conditions as the Plan Shares held on behalf of the Participant.

## **13. Withdrawal of Shares and transfer of Shares**

---

### **13.1 Shares held by the Trustee**

Subject to clause 11.1, each Participant's beneficial interests in Shares allocated to, and held by the Trustee on behalf of, the Participant, will continue to be held in the Trust and be subject to the Rules, unless and until the Shares are withdrawn by:

- (a) a Participant issuing the Company with a Withdrawal Notice;
- (b) the Board approving that notice under this clause 13; and
- (c) the Trustee acting in accordance with any such approval by the Board by transferring the legal title in those Shares to, or acting in relation to those Shares in accordance with the directions of, the Participant.

### **13.2 Submission of Withdrawal Notice**

A Participant may submit a Withdrawal Notice to the Company in respect of some or all of the Shares held by the Trustee on behalf of that Participant if and only if:

- (a) all restrictions on transfer, encumbrance or disposal of the Plan Shares have been met or the Board has waived any such restrictions;
- (b) subject to Board's sole and absolute discretion, the Shares to which the Withdrawal Notice relates are not Forfeited Shares; and
- (c) the Board has not determined that the Participant is required to forfeit their rights to, and interests in, those Shares under clause 16.

### **13.3 Approval of Withdrawal Notice**

- (a) The Board may approve the withdrawal of all or a specified number of Shares held by the Trustee on behalf of the Participant if:
  - (i) any of the following applies:

- (A) the Participant has submitted, or is deemed to have submitted, a Withdrawal Notice to the Company in respect the relevant number of Shares; or
  - (B) the Participant is no longer an Employee or Director, in which case the Participant will be deemed to have submitted a Withdrawal Notice in respect of all of the Shares; and
- (ii) the Board determines that such approval is appropriate (having regard to, among other things, whether or not circumstances have arisen which give the Board reasonable grounds to suspect that a Participant's right to or interest in those Shares would or might be liable to forfeiture under clause 16).
- (b) Where the Participant is deemed to have submitted a Withdrawal Notice in accordance with clause 13.3(a), then the Participant will be deemed to have submitted a Withdrawal Notice which requires the transfer of the legal title in those Shares to the Participant or the Participant's legal personal representative (as the case may be).

#### **13.4 Timing of consideration of a Withdrawal Notice**

The Board may adopt procedures for the consideration of a Withdrawal Notice, which may (among other things), specify times, intervals or period at or during which the Board will consider whether or not to approve a Withdrawal Notice submitted by Participants from time to time.

#### **13.5 Board not to unreasonably withhold approval**

The Board must not unreasonably withhold its approval of the withdrawal of Shares that are the subject of a Withdrawal Notice validly submitted by a Participant under this clause 13 or deemed to have been, or deemed to have been submitted by a Participant in accordance with this clause 13. For the avoidance of doubt, nothing in this clause 13 requires the Board to:

- (a) deal with a Withdrawal Notice at an earlier time than the next time specified under any procedure adopted by the Board under clause 13.4;
- (b) approve the Withdrawal Notice where in the Board's reasonable opinion the Shares will or may be liable to forfeiture under clause 16; or
- (c) approve a Withdrawal Notice where the Board is permitted by clause 13.6 to decline to act on that Withdrawal Notice.

#### **13.6 Repayment of moneys owed by Participants**

If a Participant owes money to any member of the Group, the Board may decline to act on a Withdrawal Notice submitted, or deemed to have been submitted, by the Participant until



arrangements (which are satisfactory to the Board) have been made for the payment of the money.

### **13.7 Company's Share Trading Policy**

At all times Participants must comply with any Company Share Trading Policy.

### **13.8 Subject to law**

This disposal restriction is subject to any disposal required by law.

## **14. Arrangements with Trustee**

---

### **14.1 Agreements between the Company and the Trustee**

The Company may determine and conclude agreements with the Trustee, and enforce or prosecute any rights and obligations under such agreements, without reference or recourse to the Participants under this Plan. Pursuant to and in accordance with any such agreements, the Company:

- (a) must provide funds to the Trustee in order to allow the Trustee to subscribe for, and/or acquire, shares to be held on behalf of Participants under this Plan;
- (b) may pay the Trustee for services provided in connection with this Plan;
- (c) may remove the Trustee and appoint a new trustee (and make any necessary arrangements or provisions for the transfer of Shares held by the Trustee for Participants to a new trustee); and
- (d) may otherwise exercise any rights, responsibilities or powers afforded to it under the Trust Deed.

### **14.2 Costs of the Trustee**

The Board may determine the manner in which any costs associated with the Trustee and the performance by the Trustee of its role and duties under this Plan and the Trust Deed, and costs incurred in the course of such performance are to be borne.

## **15. Capital reconstructions**

---

If the capital of the Company is reconstructed the Performance Rights, Options and/or Plan Shares (as the case may be) will be treated in accordance with the Listing Rules of the ASX, whether or not those Listing Rules apply to the Company.

## **16. Forfeiture**

---

### **16.1 Forfeiture Condition**

An Invitation may contain a term to the effect that the Shares held under this Plan are subject at all times to Forfeiture Conditions. Clause 16.2 does not apply to Shares offered under this Plan which have been sold, transferred or otherwise dealt with in accordance with these Rules and which are no longer held under the terms of this Plan or in the Trust.

### **16.2 Forfeiture events**

While Shares held by the Trustee on behalf of a Participant are subject to this clause 16, if the Board determines that the Participant:

- (a) has committed an act of fraud;
- (b) is ineligible to hold their office for the purposes of Part 2D.6 of the Corporations Act; or
- (c) is found to have acted in a manner that the Board considers to be gross misconduct or in such other circumstances as may be specified in an Invitation, the Participant will forfeit any right or interest in the Shares of the Participant under the Plan and the Board will notify the Trustee accordingly.

### **16.3 Effect of forfeiture**

- (a) Where a Participant's rights and interests in all or a specified number of Shares are required to be forfeited under this clause 16, the Company will pay to the Participant Nominal Consideration in consideration of the forfeiture of all of the Participant's rights and interests in the relevant number of Shares.
- (b) For the avoidance of doubt, no consideration or compensation (other than the Nominal Consideration referred to in clause 16.3(a)) will be payable to a Participant for or in relation to the forfeiture by the Participant of his or her rights to, and interests, in Shares.

### **16.4 Dealing in Forfeited Shares**

- (a) The Board in its sole and absolute discretion may determine that Forfeited Shares are to be sold, transferred or otherwise disposed of or allocated to other existing or new Participants or to participants in any other employee equity plan operated by the Company and may, where applicable, give the Trustee such directions as it determines to give effect thereto including how any proceeds from the sale of Forfeited Shares are to be applied.
- (b) Pending the disposal or allocation of Forfeited Shares, the Board will have the sole and absolute discretion as to how the proceeds from any Forfeited Shares dealt with under clause 16.4 and may direct the Trustee accordingly and a Participant releases and will hold harmless the Trustee, the Company, each Director, and each member of the Group against any claim or liability in respect thereof.

## **17. Contravention of laws**

No act will be done or determination made in accordance with these Rules where to do so would be a breach of any Applicable Laws and where any such act is done or determination made it will be considered void and to the extent possible be unwound and of no effect in respect of Performance Rights, Options or Plan Shares.

## **18. Administration**

---

### **18.1 Regulations**

The Board may make such regulations for the operation of the Plan as they consider necessary provided such regulations are consistent with these Rules.

### **18.2 Delegation**

- (a) The Board may delegate any of their powers or discretions conferred on them by these Rules to a committee of the Board or any one or more persons selected by them.
- (b) Any delegation will be for such period and upon such terms and conditions as determined by the Board from time to time.

### **18.3 Decisions Final**

Every exercise of a discretion by the Board (or its delegates) and any decision by the Board (or its delegates) regarding the interpretation, effect or application of these Rules will be final, conclusive and binding.

### **18.4 Attorney and Agent**

- (a) Each Participant hereby authorises and appoints each of the Directors and the Secretary holding office at the relevant time (or their delegate) as their agent or attorney with power to do all things necessary in the name of and on behalf of the Participant to give effect to these Rules, including and without limitation, signing Performance Rights or Share transfers, and accounting for the proceeds of the sale of forfeited Shares.
- (b) Each Participant agrees to indemnify and hold harmless any person acting as their agent or attorney in accordance with these Rules in respect of all costs, damages or losses of whatever nature arising from so acting.

### **18.5 Notice**

- (a) Address for Service
  - (i) Any notice required to be given under the Plan or the terms of the Performance Rights or Options granted, to a Participant will be sent to the address of the Participant as entered in the register unless delivered in person.

- (ii) Any notice required to be given under the Plan or the terms of a Performance Right or Option, to the Company will be sent to the registered office of the Company or such other address as is notified to Participants from time to time.
- (b) Delivery of Notices
  - (i) Any notice to be given to Participants may be delivered by hand to the Participant or by any other means specified in the constitution of the Company for delivery of notices to members.
  - (ii) Any notice to be given to the Company may be delivered by hand or by prepaid post. Notices may also be given to the Company by means of facsimile, e-mail or other mode of electronic delivery to such address as is notified by the Company to the Participant.
  - (iii) Notices delivered to Participants in accordance with the Company's constitution will be taken to be delivered in accordance with the constitution.
  - (iv) Notices delivered to the Company by pre-paid post will be taken to be delivered if properly addressed and stamped, 48 hours after mailing in Australia and 7 days after mailing outside Australia.
  - (v) Notices delivered by facsimile, e-mail or other mode of electronic delivery will be taken to be delivered on receipt of a successful transmission notice, return receipt or such other confirmation by which the sender can reasonably verify delivery.

## **19. Plan amendment**

---

### **19.1 Amendment of Plan**

- (a) Subject to the Listing Rules and the constitution of the Company, the Board may at any time amend these Rules or the terms and conditions upon which any Performance Rights or Options have been issued under the Plan.
- (b) No amendment to these Rules or to Performance Rights or Options granted under the Plan may be made if the amendment materially reduces the rights of any Participant (unless agreed by the Participant) in respect of Performance Rights or Options granted to them prior to the date of the amendment other than an amendment introduced primarily:
  - (i) for the purposes of complying with or conforming to present or future legislation governing or regulating the Plan or like plans;
  - (ii) to correct any manifest error or mistake;

- (iii) for the purpose of complying with Listing Rules; or
  - (iv) to take into consideration possible adverse taxation implications in respect of the Plan including changes to applicable taxation legislation or the interpretation of that legislation by a court of competent jurisdiction or any rulings from taxation authorities administering such legislation.
- (c) The Board may determine that any amendment to these Rules or the terms of Performance Rights or Options granted under the Plan be given retrospective effect.
- (d) Amendment of these Rules or the terms and conditions upon which Performance Rights or Options are granted under the Plan by the Board will be of immediate effect unless otherwise determined by them.
- (e) As soon as reasonably practicable after making any amendment to these Rules or the terms and conditions of Performance Rights or Options granted under the Plan the Board will give notice of the amendment to any Participant affected by the amendment. Failure by the Board to notify a Participant of any amendment will not invalidate the amendment as it applies to that Participant.

## **19.2 Amendment by Addendum**

Subject to any other provision of these Rules, the Board may from time to time amend the terms of this Plan as they will apply in particular jurisdictions or circumstances by means of an addendum to these Rules.

## **19.3 Termination or Suspension**

The Board may at any time terminate the Plan or suspend the operation of the Plan for such period or periods as it thinks fit.

## **20. No employment contract**

---

Nothing in these Rules or the terms of any Performance Rights or Options:

- (a) confers upon an Eligible Participant a right to a grant or offer of a grant of Performance Rights or Options;
- (b) confers on a Participant or an Eligible Participant the right to continue as an employee or officer of a company in the Group (as the case may be);
- (c) affects the rights of a company in the Group to terminate the employment or office of a Participant or an Eligible Participant (as the case may be);
- (d) affects the rights and obligations of any Participant or an Eligible Participant under the terms of their office or employment with any company in the Group;

- (e) confers any legal or equitable right on a Participant or an Eligible Participant whatsoever to take action against any company in the Group in respect of their office or employment; or
- (f) confers on a Participant or an Eligible Participant any rights to compensation or damages in consequence of the termination of their employment by a company in the Group for any reason whatsoever including ceasing to have rights under the Plan as a result of such termination.

## **21. ASIC relief**

---

Notwithstanding any other provisions of the Plan, every covenant or other provisions set out in an exemption or modification granted from time to time by ASIC in respect of the Plan or which applies to the Plan pursuant to its power to exempt and modify the Corporations Act and required to be included in the Plan in order for that exemption or modification to have full effect, is deemed to be contained in the Plan. To the extent that any covenant or other provision deemed by this clause 21 to be contained in the Plan is inconsistent with any other provision in the Plan, the deemed covenant or other provision will prevail.

## **22. Non-exclusivity**

---

### **22.1 Non-exclusivity**

This Plan and/or the Trust will not be deemed to be the exclusive method of providing incentive compensation to Eligible Participants, nor will it preclude any member of the Group from authorising or approving other forms of incentive compensation for employees of any member of the Group.

### **22.2 Relationship to other Share Plans**

Participation in this Plan will not affect or be affected by any participation in any other employee equity plan operated by any member of the Group, except as specifically provided in the terms of that other plan.

## **23. General**

---

### **23.1 No fiduciary capacity**

The Board may exercise any power or discretion conferred on them by these Rules in the interest or for the benefit of the Company, and in so doing the Board are not required to act in the interests of another person or as requested by another person and will not be under any fiduciary obligation to another person.

## **23.2 Listing Rules**

While the Company remains admitted to the ASX, the provisions of the Listing Rules of the ASX will apply to the Plan, and to the extent that the Plan and the Listing Rules are inconsistent, the provisions of the Listing Rules will apply.

## **23.3 Governing Law**

This Plan and, any Performance Rights or Options granted under it, will be governed by, and must be construed according to, the laws of the State of South Australia and the Commonwealth of Australia.

**Schedule A**  
**NOTICE TO EXERCISE RIGHTS**

---

Company Secretary  
Australian Vintage Ltd

This Notice to Exercise Rights is subject to, and must be read in conjunction with, the AVG Performance Rights and Option Plan rules and the terms and conditions contained in the Invitation Letter.

I \_\_\_\_\_ (name)

of \_\_\_\_\_ (address)

in accordance with clause 7.1(a) of the Plan Rules, hereby exercise the following number of vested:

\_\_\_\_\_ Performance Rights: and or:

\_\_\_\_\_ Options. The Exercise Price of \$ \_\_\_\_\_ accompanies this notice.

**Note:** Rights must be exercised any multiple which constitutes a marketable parcel, unless you are exercising all of your Rights able to be exercised at that time.

Upon exercise of your Performance Rights and/or Options, the trustee of the "AVG Employee Share Scheme Trust" will subscribe for, acquire or allocate Shares and hold those Shares on your behalf.

---

Signature

Date



## Schedule B

### NOTICE OF WITHDRAWAL OF SHARES FROM THE TRUST

---

The Trustee of the "AVG Employee Share Scheme Trust"

Where Australian Vintage Ltd (ABN 78 052 179 932) ("Company") has instructed the trustee of the "AVG Employee Share Scheme Trust" ("Trust") to acquire Shares and hold those Shares on my behalf, in accordance with the AVG Performance Rights and Option Plan ("Plan") rules, I request that the Trustee of the Trust release from the Trust the following number of Shares held by the Trustee on my behalf:

\_\_\_\_\_ Shares

and provide the Trustee with the following instructions:

PLEASE TICK ONE BOX ONLY

- Please transfer the legal title in the Shares to me
- Please transfer the legal title in the Shares to my nominee:

\_\_\_\_\_  
Insert full name

- Please arrange for the sale of the Shares on my behalf and provide me with the proceeds from the sale of those Shares (less any brokerage fees or other costs incurred by the Trustee resulting from that sale)

I acknowledge that this request is subject to, and must be read in conjunction with, the Plan rules, and I agree to be bound by the Constitution of the Company.

---

Name

Signature

Date