

CONDITIONS OF SALE OF VINE TRAIL LIMITED

1 Definitions

- 1.1 "Seller" means Vine Trail Limited
- 1.2 "Buyer" means the person, firm or company placing an order with the Seller.
- 1.3 "Consumer" has the meaning given in clause 11.2.
- 1.4 "Contract" means the contract between the Seller and Buyer for the sale and purchase of the Products in accordance with these Conditions.
- 1.5 "Products" means the Products which are the subject of the Buyer's order and which are to be supplied to the Buyer by the Seller under these Conditions.
- 1.6 "Reserves" means goods stored by or on behalf of the Seller for the Buyer in accordance with clause 8.

2 Formation of Contract

- 2.1 All Products sold by the Seller are sold subject to these Conditions and these Conditions shall be the sole terms and conditions of any sale by the Seller to the Buyer and shall form the entire agreement between the Seller and Buyer. Terms and conditions on the Buyer's order form or other similar document shall not be binding on the Seller and the placing of an order for or the acceptance of the Products by the Buyer shall indicate unqualified acceptance of these Conditions of Sale.
- 2.3 The Contract shall come into existence upon an order for Products being placed by the Buyer and which is then explicitly accepted by the Seller.
- 2.4 A quotation for the Products given by the Seller shall not constitute an offer and shall be subject to market and currency fluctuations, changes in duty and VAT rates, and availability of stock.
- 2.5 No representative, agent or sales person has the Seller's authority to vary, amend or waive any of these Conditions of Sale on behalf of the Seller and no amendment or addition to any of these Conditions shall be deemed to have been accepted unless accepted in writing by the Seller.

3 Orders and delivery

- 3.1 Where the Buyer is an individual, that Buyer (i) confirms they are at least 18 years old by placing an order; and (ii) must place an order for a minimum of 12 bottles.
- 3.2 Orders are accepted by the Seller subject to clause 6.4 and the availability of the Products ordered.
- 3.3 Within Bristol delivery is free. Unless otherwise agreed, or a minimum of 5 cases has been ordered, delivery of Products outside Bristol will be made at the cost of the Buyer to the address specified in the Buyer's order by any method of transportation regarded as suitable by the Seller at its discretion. Delivery shall be completed on the Products' arrival at the location specified in the order.
- 3.4 Although the Seller will use its reasonable efforts to meet delivery dates, it shall not be liable to the Buyer for any loss or damage, whether direct, indirect or consequential if it is delayed or prevented, in whole or in part, from delivering the Products.
- 3.5 If the Buyer refuses or fails to take delivery of the Products on the date of delivery, the Seller will be entitled at its discretion to store the Products at the risk of the Buyer and the Buyer shall in addition to the price payable under clause 5 pay any additional costs of carriage incurred.
- 3.6 All Products must be inspected by the Buyer immediately on delivery. Subject to clause 11.4 in cases where the Buyer is a Consumer, if any Products are damaged or lost or if (subject to clause 3.4) there has been short delivery, the Buyer must endorse the consignment note accordingly and submit a detailed written claim to the Seller within 24 hours of delivery of the Products. The Buyer's signature on the consignment note without any such endorsement shall release the Seller from any liability in respect of damage or loss in transit or short delivery.
- 3.7 Products requested in writing to be left unsigned for are left at the Buyers own risk and the Seller accepts no liability for such Products being stolen.

4 Risk

- 4.1 Except as otherwise provided in these Conditions, the risk of loss or damage to the Products shall pass to the Buyer upon delivery in accordance with clause 3.3.

5 Price

- 5.1 The price payable for the Products shall be as stated in the Seller's price list, or quotation relating to the Products, subject to the terms of these Conditions, or as otherwise stipulated in writing by the Seller.
- 5.2 The price is exclusive of the cost of delivery in accordance with clause 3.3 and exclusive of Value Added Tax, which shall be added to the price unless otherwise stipulated in writing by the Seller. The price includes duty unless otherwise stated.

6 Payment

- 6.1 Unless otherwise agreed in writing, the Buyer shall pay for the Products by bank transfer, cash, or cheque on receipt of and in accordance with the terms of the Seller's invoice.
- 6.2 The Seller reserves the right to charge an administration fee of not less than £15 for each cheque which is not cleared upon presentation, including cheques which are returned marked "Please represent".
- 6.3 All payments to be made by the Buyer shall be made in full, without any deduction, withholding, set-off or counterclaim.
- 6.4 In no circumstances will the Seller be obliged to proceed with a Buyer's purchase of wine at an incorrect price, even if the Seller has accepted the Buyer's order for wines displayed at the incorrect price and/or failed to inform the Buyer of the error.
- 6.5 If payment is not made when due then the Seller may, without prejudice to its other rights:
 - (a) charge interest at an annual rate of 2% above the current base rate of National Westminster Bank plc to be calculated on a day to day basis on the balance outstanding calculated from the due date until payment is made in full;
 - (b) review and/or remove retrospectively any special trading terms previously agreed in relation to the transaction(s) to which those overdue accounts relate (including discounts, in which case the Seller may re-invoice the Products at their full price);
 - (c) require payment of all other unpaid amounts invoiced to the Buyer (whether or not then due and payable); and/or
 - (d) suspend any future deliveries to the Buyer.
- 6.6 Credit terms may be offered if agreed in advance with the Seller and may be subject to credit checks undertaken by the Seller before the order is taken. The potential Buyer shall provide such information as may be reasonably requested by the Seller to enable the Seller to undertake a credit check.
- 6.7 The Seller reserves the right to cancel any credit terms at its discretion if it believes payment may not be made on the due date. Such cancellation shall be effective from the date on which it gives Buyer, whereupon the amount owing shall become immediately due.

7 Title and lien

- 7.1 The Seller shall retain title to and ownership of the Products until it has received payment in full of all sums due for all Products supplied to the Buyer. If payments received from the Buyer are not stated to refer to a particular invoice the Seller may appropriate such payments to any outstanding invoice.
- 7.2 Until payment of the purchase price the Buyer shall be the bailee of the Products for the Seller and the Products shall be stored separately from any Products which belong to the Buyer or any third party, and shall be clearly marked and identifiable as being the Seller's property. The Seller hereby licences the Buyer to sell, as the Seller's agent and bailee Products which belong to the Seller.
- 7.3 If the Buyer fails to make any payment to the Seller when due, compounds with its creditors, executes an assignment for the benefit of its creditors, has a bankruptcy order against it or, being a company, enters into voluntary or compulsory liquidation or has an administrator or administrative receiver or receiver appointed over all or part of its assets or takes or suffers any similar action in consequence of debt or becomes insolvent or if the Seller has reasonable cause to believe that any of these events is likely to occur, the Seller shall have the right, without prejudice to any other remedies:
 - (a) to enter any premises (without notice) where Products owned by it may be stored, and to repossess and dispose of such Products so as to discharge any sums owed to it by the Buyer under this or any other contract,

- (b) to require the Buyer not to resell or part with possession of any Products owned by the Seller until the Buyer has paid in full all sums owed by it to the Seller under this or any other contract,
- (c) to withhold delivery of any undelivered Products and stop any Products in transit.
Unless the Seller expressly elects otherwise, any contract between it and the Buyer for the supply of Products shall remain in existence notwithstanding any exercise by the Seller of its rights under this clause 7.
- 7.4 The Products shall, once the risk has passed to the Buyer in accordance with clause 4 or otherwise, be and remain at the Buyer's risk at all times unless and until the Seller has retaken possession of them, and the Buyer shall insure accordingly.
- 7.5 In the case of Products purchased 'en primeur', those Products may be stored in bulk in the region of their production. Until the Products are bottled and transferred to the Seller's bonded warehouse, they cannot be segregated and the Buyer may have a contractual rather than a proprietary interest in them.
- 7.6 In the event that the Seller has lost contact with a Buyer, and after taking reasonable steps to locate the Buyer, the Seller has the right to sell any products held to the account of that Buyer in the Buyer's Reserves. The proceeds of sale, net of costs of disposal, will be credited to the account of the Buyer. This might be done if a wine being stored is coming to the end of its drinking life.

8 Reserves Storage

- 8.1 The Seller offers storage facilities to Buyers for Products purchased from the Seller or (in accordance with paragraph 8.5) for products purchased from other sources.
- 8.2 Storage charges for Reserves shall be at the prevailing rate plus VAT (where applicable) per year (or part year) per case. Charges will be rendered annually in arrears or when the Reserves are delivered or collected during the course of the year, or alternatively as otherwise agreed with the Seller.
- 8.3 Reserves can only be made and withdrawn in multiples of one case.
- 8.4 Reserves are not insured by the Seller against risks of physical loss or damage.
- 8.5 The Seller's records will distinguish the ownership of Reserves from the ownership of the Seller's own trading stock.
- 8.6 The Seller may require any Buyer instructions to deal with Reserves to be confirmed in writing before acting on those instructions
- 8.7 In the event of non-payment of accounts (including storage charges), The Seller reserves the right to exercise a lien over and/or to sell some or all of a Buyer's Reserves and to deduct from the proceeds of sale any outstanding amounts.

9. Warranty

- 9.1 Subject to clause 11.8 in cases where the Buyer is a Consumer, the Seller warrants that on delivery, the Products will be of satisfactory quality and the Seller will at its option refund the purchase price of or replace free of charge any Products which its examination confirms are defective provided:
 - (a) the Buyer makes a full inspection of the Products immediately upon delivery,
 - (b) the Buyer notifies the Seller within 3 working days of any defects which it discovers,
 - (c) the Buyer has stored the Products in a suitable environment and at the appropriate temperature and,
 - (d) the Buyer delivers the Products to the Seller at the Buyer's own cost (unless the Seller agrees to collect the Products at its own discretion) within 7 working days.
- 9.2 The Seller shall not be liable to the Buyer for ullages or for any deterioration in the condition of any wine (which can occur naturally to all wines no matter how well cared for), whether that wine is in reserve storage with the Seller or stored separately by or on behalf of the Buyer.

10. Liability

PLEASE SEE CLAUSE 11.3 IF YOU ARE ACTING AS A "CONSUMER" (AS DEFINED IN CLAUSE 11.2).

- 10.1 Nothing in these Conditions shall limit or exclude the Seller's liability for:
 - (a) death or personal injury caused by its proven negligence, or the proven negligence of its employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;

- (c) defective products under the Consumer Protection Act 1987; or
- (d) any matter in respect of which it would be unlawful, under English law, for the Seller to exclude or restrict liability.
- 10.2 Subject to clause 10.1 and to clause 11.3 where the Buyer is a Consumer:
 - (a) the Seller shall under no circumstances be liable for loss of profits, loss of business, depletion of goodwill or similar losses, or for any indirect, special or consequential loss (including loss of anticipated profit or third party claims) howsoever arising either from breach or non-performance of any of its obligations under these Conditions or from the supply of or intended use of the Products, even if the Seller has been advised of the possibility of such potential loss; and
 - (b) the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances in respect of any single claim exceed the price paid or which was due to be paid by the Buyer for the order that gives rise to the claim.
- 10.3 Except as provided for in these Conditions and unless you are a Consumer (in which case none of the statutory rights are excluded), all conditions, warranties and other terms implied by statute or common law are hereby excluded from the Contract to the fullest extent permitted by law.
- 10.4 The Seller shall not be liable for any losses arising from the Buyer's subsequent use or misuse of the Products, including but not limited to their storage.

11. Consumers

- 11.1 The Buyer acknowledges and agrees that, for the purposes of the Contract, it is purchasing the Products for business purposes and is acting in a business capacity and not as a consumer.
- 11.2 Notwithstanding clause 11.1, if the Buyer resides within the EU and is only contracting as a consumer (a "**Consumer**"), this clause 11 shall apply and shall override any contradictory provisions in these Conditions.
- 11.3 Subject to clause 10.1, which shall include any liability which may not be limited or excluded by section 31(1) Consumer Rights Act 2015 in respect of a Consumer:
 - (a) if the Seller fails to comply with these Conditions, the Seller is only liable to the Consumer for the price of the Products and for loss or damage that the Consumer suffers that is a foreseeable result of our breach of these Conditions or the Seller's negligence, but the Seller is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of the Seller's breach or if it was contemplated by the Consumer and the Seller at the time the Contract was entered into; and
 - (b) the Seller only supplies the Products to the Consumer for domestic and private use. The Consumer agrees not to use the product for any commercial, business or resale purposes, and the Seller has no liability to the Consumer for any of the losses listed in clause 10.2(a).
- 11.4 Subject to clause 11.5 and provided the Consumer does not open the bottle on receipt of the Products, the Consumer shall have the right to cancel the Contract without cause by notifying the Supplier that it wishes to cancel no later than 14 days from the date the Consumer receives the Products. Such notice must be sent by the Consumer before the cancellation period has expired. In the event of cancellation, the Consumer shall deliver the Products to the Seller at the Consumer's own cost (unless the Seller agrees to collect the Products at its own discretion) within 14 days of cancelling the Contract.
- 11.5 As the Products are alcoholic beverages which fluctuate in value according to market conditions, the Consumer does not have the right to cancel in cases where the Seller informed the Consumer (at the time it accepted the Consumer's order) that it would not be able to deliver the Products within 30 days.
- 11.6 Upon satisfactory receipt of the Products, the Seller shall within 14 days of the Buyer receiving the Products from the Seller, refund the price paid for the Products, as well as delivery costs paid by the Consumer for their initial delivery.
- 11.7 The Seller may make a deduction from the reimbursement for loss in value of the Products if the Consumer has damaged any bottle, including but not limited to, a bottle's label and capsule.
- 11.8 Notwithstanding clause 9.1, should the Products fail to meet Consumer's legal rights under the Consumer Rights Act 2015, such as being of satisfactory quality, the Consumer has the right to reject the Products within 30 days of receiving them and may be entitled to a replacement of the Products thereafter.

12. Termination

Should the Buyer make default in any payment or otherwise be in breach of its obligations to the Seller under the Contract or under any other contract with the Seller or compound with or execute an assignment for the benefit of its creditors or commit any act of bankruptcy or being a company enter into voluntary or compulsory liquidation or suffer a receiver or administrative receiver or administrator to be appointed over all or any part of its assets or take or suffer any similar action in consequence of debt or become insolvent or should the Seller have reasonable cause to believe that any of these events is likely to occur, the Seller may, by notice in writing to the Buyer, without prejudice to any other rights, forthwith suspend or cancel any uncompleted part of the Contract or stop any Products in transit or require payment in advance or satisfactory security for further deliveries under the Contract.

13. Force majeure

The Seller shall not be liable to the Buyer for any loss or damage caused to or suffered by the Buyer as a direct or indirect result of the supply of the Products by the Seller being prevented, restricted, hindered or delayed by reason of any circumstances outside the control of the Seller including, without limitation, circumstances affecting the provision of all or any part of the Products by the Seller's usual source of supply or delivery or by the Seller's normal route or means of delivery.

14. Waiver

No delay in exercising or non-exercise by the Seller of any right, power or remedy under or in connection with these Conditions shall impair that right, power or remedy or operate as a waiver or release of it.

15. Severability

If any of these Conditions (or part thereof) shall be found to be invalid, ineffective or unenforceable, the invalidity, ineffectiveness or unenforceability of such term or condition (or part thereof) shall not affect any other term or condition (or the other part of the term or condition of which such invalid, ineffective or unenforceable part forms part) and all terms and conditions (or parts thereof) not affected by such invalidity, ineffectiveness or unenforceability shall remain in full force and effect.

16. Governing law

The construction, validity and performance of the Contract shall be governed by English law and by entering into the Contract the parties submit to the jurisdiction of the English courts.

17. Rights of third parties

No provision of these Conditions shall be enforceable pursuant to the Contracts (Rights of Third Parties) Act 19.