

# TERMS & CONDITIONS

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E. AMOUNTS RECEIVED BY THE COMPANY MAY BE APPLIED FIRST AGAINST INTEREST, CHARGES AND EXPENSES.

F. INTEREST ON OVERDUE AMOUNTS MAY BE CHARGED AT A RATE OF 2.0% PER CALENDAR MONTH OR PART THEREOF AND THE CUSTOMER SHALL BE LIABLE FOR, AND EXPRESSLY UNDERTAKES TO PAY, ALL SUCH INTEREST.

G. ANY PAYMENT MADE BY OR ON BEHALF OF A CUSTOMER WHICH IS LATER AVOIDED BY THE APPLICATION OF ANY STATUTORY PROVISION SHALL BE DEEMED NOT TO DISCHARGE THE CUSTOMER'S INDEBTEDNESS AND, IN SUCH AN EVENT, THE PARTIES ARE TO BE RESTORED TO RIGHTS WHICH EACH RESPECTIVELY WOULD HAVE HAD IF THE PAYMENT HAD NOT BEEN MADE.

H. THE CUSTOMER SHALL BE LIABLE FOR, AND EXPRESSLY UNDERTAKES TO PAY, ALL FEES (INCLUDING AN ADMINISTRATION FEE IN AN AMOUNT TO BE SET FROM TIME TO TIME BY THE COMPANY) FOR ALL COSTS INCURRED AS A RESULT OF ANY CHEQUE OR ELECTRONIC BANK-ING TRANSACTION BEING DISHONoured FOR WHATEVER REASON.

CREATED BY MERCANTILE CPA 2018

## MINIMUM ORDERS

SOMM WINE MERCHANTS HAS A POLICY WHERE THE CUSTOMER MUST BUY TWO DOZEN WINES TO RECEIVE FREE DELIVERY. ANY ORDER UNDER TWO DOZEN WILL INCUR A FREIGHT CHARGE

## DELIVERY

THE COMPANY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL LOSS OR DAMAGE, ARISING FROM DELAY IN DELIVERY OR FAILURE TO DELIVER GOODS, EITHER WHOLE OR IN PART, DUE TO CIRCUMSTANCES BEYOND ITS CONTROL

## CREDIT CARDS

A 1.5% SURCHARGE WILL APPLY TO ALL PAYMENTS VIA CREDIT CARD

## DEFECTS

A. THE CUSTOMER SHALL INSPECT THE GOODS UPON DELIVERY AND WILL, WITHIN 48 HOURS, NOTIFY THE COMPANY OF ANY DEFECTS, SHORT DELIVERIES OR ANY FAILURE TO FULFIL ANY

## QUOTATION OR ORDER

B. THE CUSTOMER WILL, WITHIN A REASONABLE TIME FOLLOWING DELIVERY, GRANT THE COMPANY ACCESS TO THE GOODS IN ORDER TO INSPECT FOR ANY ALLEGED DEFECTS

C. SHOULD THE CUSTOMER FAIL TO NOTIFY THE COMPANY WITHIN THE SPECIFIED PERIOD THEN THE GOODS SHALL BE DEEMED TO BE IN COMPLIANCE WITH THE ORDER AND FREE FROM ANY DEFECT WHATSOEVER.

A. THE COMPANY WARRANTS THAT GOODS SUPPLIED SHALL BE OF MERCHANTABLE QUALITY

B. THE COMPANY DOES NOT WARRANT THAT THE GOODS ARE FIT FOR A PARTICULAR PURPOSE AND, EXCEPT OR UNLESS OTHERWISE STATED HEREIN, WARRANTIES RELATING TO TITLE, DEFECTS OR CONFORMITY OF THE GOODS ARE EXPRESSLY EXCLUDED.

C. RETURNS WILL BE ACCEPTED ONLY IF PRIOR ARRANGEMENTS HAVE BEEN MADE WITH THE COMPANY AND CHARGES, INCLUDING BUT NOT LIMITED TO RE-STOCKING FEES, MAY APPLY

D. ANY COSTS ASSOCIATED WITH THE RETURN OF GOODS FOR THE PURPOSE OF A WARRANTY CLAIM SHALL BE THE RESPONSIBILITY OF THE CUSTOMER

A. NOT WITHSTANDING RETENTION OF TITLE PROVISIONS AS PER CLAUSE 3 HEREOF, THE RISK IN GOODS PURCHASED SHALL PASS TO THE CUSTOMER UPON DELIVERY TO THE CUSTOMER OR ITS AGENT OR A CARRIER NOMINATED BY THE CUSTOMER

B. IF ANY OF THE GOODS ARE DAMAGED OR DESTROYED PRIOR TO THE TITLE PASSING TO THE CUSTOMER, THE COMPANY IS ENTITLED, WITHOUT AFFECTING ANY OTHER RIGHTS AND REMEDIES UNDER ANY AGREEMENT, TO ANY INSURANCE PROCEEDS PAYABLE FOR THE GOODS.

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THESE TERMS AND CONDITIONS, INCLUDING ANY CREDIT LIMITS SET BY THE COMPANY, ARE EFFECTIVE FROM THE DATE OF ACCEPTANCE BY THE CUSTOMER AND MAY BE AMENDED OR SUSPENDED FROM TIME TO TIME BY NOTICE GIVEN BY THE COMPANY BY ANY MEANS. UNLESS OR EXCEPT SPECIFICALLY EXCLUDED HEREIN, THE COMPANY AND THE CUSTOMER RETAIN ANY RIGHTS AND REMEDIES AVAILABLE TO THEM IN ANY PRIOR OR PRE-EXISTING AGREEMENT.

"GOODS" AND/OR "COLLATERAL" SHALL MEAN ALL GOODS AND/OR SERVICES SUPPLIED BY THE COMPANY TO THE CUSTOMER, OR ORDERED BY THE CUSTOMER BUT NOT YET SUPPLIED, AND INCLUDES GOODS DESCRIBED ON ANY QUOTATION, INVOICE, PURCHASE ORDER OR ANY OTHER DOCUMENT INCLUDING ANY RECOMMENDATIONS AND ADVICE AND OVER WHICH THE COMPANY MAY INTEND TO REGISTER A SECURITY INTEREST.

## PRICE

"PRICE" SHALL MEAN THE COST OF THE GOODS AS REFERRED TO IN THE COMPANY'S PRICE LISTS, PREPARED QUOTES AND/OR SPECIFIC ARRANGEMENTS AND SHALL BE SUBJECT TO CHANGE FROM TIME TO TIME WITHOUT NOTICE. ALL WHOLESALE PRICE INCLUDE EXCISE DUTY WHERE APPLICABLE BUT DO NOT INCLUDE WINE EQUALISATION TAX (WET) OR GOODS AND SERVICES TAX (GST). IN ALL CASES THE WET AND THE GST WILL BE CHARGED WHERE APPLICABLE. THE QUOTED LANDED UNIT COST (LUC) PRICE INCLUDES WET BUT DOES NOT INCLUDE GST.

## RETENTION OF TITLE

- A. PROPERTY IN ALL THE GOODS SUPPLIED SHALL REMAIN VESTED IN THE COMPANY AND SHALL NOT PASS TO THE CUSTOMER UNTIL ALL MONIES OWING TO THE COMPANY BY THE CUSTOMER TOGETHER WITH ALL COLLECTION, REPOSSESSION AND/OR LEGAL COSTS INCURRED, HAVE BEEN PAID IN FULL.
- B. THE GOODS, WHETHER AS SEPERATE CHATTELS OR AS COMPONENTS, SHALL BE STORED IN SUCH A MANNER AS TO BE CLEARLY IDENTIFIABLE AS THE PROPERTY OF THE COMPANY UNTIL TITLE HAS PASSED TO THE CUSTOMER THAT THE CUSTOMER RETURNS THE GOODS OR ANY PART OF THEM
- C. THE COMPANY MAY DEMAND AT ANY TIME UNTIL TITLE HAS PASSED TO THE CUSTOMER THAT THE CUSTOMER RETURNS THE GOODS OR ANY PART OF THEM
- D. IN THE EVENT THAT THE CUSTOMER DEFAULTS IN THE PAYMENT OF ANY MONIES OWING TO THE COMPANY, THE COMPANY AND ITS EMPLOYEES OR AGENTS SHALL HAVE THE RIGHT TO ENTER WITHOUT NOTICE UPON THE CUSTOMER'S PREMISES OR ANY OTHER PREMISES WHERE THE GOODS ARE KNOWN TO BE STORED TO REPOSSESS THE GOODS AND FOR THIS PURPOSE THE CUSTOMER SHALL GRANT REASONABLE ACCESS RIGHTS AND THE COMPANY, ITS EMPLOYEES OR AGENTS SHALL BE ENTITLED TO DO ALL THINGS REQUIRED TO SECURE REPOSSESSION.

## PAYMENT

- A. AT THE COMPANY'S SOLE DISCRETION, A DEPOSIT MAY BE REQUIRED PRIOR TO ANY SUPPLY
- B. CREDIT ACCOUNT CUSTOMERS ARE REQUIRED TO PAY ALL AMOUNTS FOR PURCHASES, IN FULL AND WITH NO DEDUCTION OR SET-OFF, NO MORE THAN 14 DAYS FROM THE END OF THE MONTH DURINF WHICH ANY GIVEN PURCHASE IS MADE
- C. IN THE EVENT OF A DISPUTE, THE COMPLETE UNDISPUTED PORTION OF THE ACCOUNT MUST BE PAID IN ACCORDANCE WITH THE PAYMENT TERMS
- D. SHOULD IT BE CONSIDERED NECESSARY BY THE COMPANY TO INCUR LEGAL AND/OR ANY OTHER EXPENSES, INCLUDING ANY SUCH EXPENSES TO ANY DEBT COLLECTION AGENCY, IN OBTAINING, OR ATTEMPTING TO OBTAIN, PAYMENT FOR AMOUNT DUE BY THE CUSTOMER, THE CUSTOMER SHALL BE LIABLE FOR ALL SUCH EXPENSES. THE CUSTOMER ACKNOWLEDGES THAT THOSE EXPENSES MAY BE CALCULATED ON A COMMISSION BASIS AT A PERCENTAGE RATE OF UP TO 25% OF THE AMOUNT DUE AND EXPRESSLY AGREES TO PAY THOSE EXPENSES IRRESPECTIVE OF THE AMOUNT OF WORK ACTUALLY PERFORMED BY THE AGENCY.

## **TERMS & CONDITIONS**

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- A. THE COMPANY MAY CANCEL THE DELIVERY OF GOODS AT ANY TIME BEFORE DELIVERY BY GIVING NOTICE TO THE CUSTOMER BY ANY MEANS
- B. THE COMPANY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, INCLUDING ANY CONSEQUENTIAL LOSS OR DAMAGE, ARISING FROM SUCH CANCELLATION
- C. THE CUSTOMER MAY CANCEL THE DELIVERY OF GOODS AT ANY TIME BEFORE DELIVERY BY GIVING NOTICE TO THE COMPANY BY ANY MEANS
- D. IN THE EVENT THAT THE CUSTOMER CANCELS DELIVERY OF GOODS, THE CUSTOMER SHALL BE LIABLE FOR ANY COSTS INCURRED BY THE COMPANY UP TO THE TIME OF THE CANCELLATION INCLUDING, BUT NOT LIMITED TO, ANY RE-STOCKING FEES INCURRED BY THE COMPANY
- A. THE LIABILITY OF THE COMPANY TO THE CUSTOMER FOR ANY REASON RELATED TO THE PERFORMANCE OF GOODS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE REPLACEMENT OR REPAIR OF THE GOODS OR THE AMOUNT PAID OR PAYABLE BY THE CUSTOMER IN RESPECT OF THE PARTICULAR GOODS.
- A. THE COMPANY ACCEPTS NO RESPONSIBILITY FOR CHANGES IN LAW WHICH MAY AFFECT SUPPLY
- B. NEITHER THE COMPANY NOR THE CUSTOMER SHALL BE LIABLE FOR ANY BREACH OF PROVISION OF ANY CONTRACT BETWEEN THEM ARISING FROM AN ACT OF THEIR RESPECTIVE GODK NATURAL DISASTER, TERRORISM, WAR OR ANY OTHER, SPECIFIED OR UN-SPECIFIED, OCCURRENCE BEYOND THE CONTROL OF EITHER PARTY.
- C. THE INVALIDITY OR UNENFORCEABILITY OF ANY PROVISION OF THESE GENERAL TERMS AND CONDITIONS SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF THE REMAINING PROVISIONS
- D. THE CUSTOMER ACKNOWLEDGES THAT ALL PURCHASES ARE MADE RELYING SOLELY UPON THE CUSTOMER'S OWN SKILL AND JUDGEMENT
- E. THE CUSTOMER WARRANTS THAT ALL PURCHASES UNDER THIS AGREEMENT ARE FOR COMMERCIAL PURPOSES ONLY AND, ACCORDINGLY, THE PROVISIONS OF THE CONSUMER CREDIT ACT WILL NOT APPLY
- F. THIS AGREEMENT IS MADE IN THE RESPECT OF THE OWNERS AND/OR DIRECTORS OF THE CUSTOMER AS AT THE DATE OF APPLICATION
- G. THE CUSTOMER AGREES TO NOTIFY THE COMPANY IN WRITING AT LEAST SEVEN (7) DAYS PRIOR TO ANY CHANGE WHATSOEVER IN OWNERSHIP STRUCTURE AND, FURTHER, INDEMNIFIES THE COMPANY AGAINST ANY LOSS OR DAMAGE THAT MAY RESULT FROM THE CUSTOMER'S FAILURE TO NOTIFY THE COMPANY OF ANY SUCH CHANGE.

### **1PM CUT OFF FOR NEXT DAY DELIVERY**

Additional fees (Excluding GST)

Repack Fee \$3.00

Single Case Delivery Fee \$9.00

Urgent Delivery \$20.00