

ANCHORAGE WINES NEW ZEALAND LIMITED

TERMS AND CONDITIONS OF TRADE

1. Parties And Definitions To This Agreement

- 1.1. "The Company" for the purposes of this agreement, shall mean Anchorage Wines New Zealand Limited, any person or entity acting for or on behalf of Anchorage Wines New Zealand Limited or with the permission or authority of Anchorage Wines New Zealand Limited.
- 1.2. "Customer" shall mean the Customer, any person or entity acting for or on behalf of the Customer or with the permission or authority of the Customer as detailed on any quotation, estimate, work authority or notation as provided by the Company to the Customer.
- 1.3. "Guarantor" shall mean any person (or persons), or entity, who agrees to be held liable for the debts incurred by the Customer in the course of business between the Customer and the Company on a principal debtor basis.
- 1.4. "Services" shall mean all services supplied by the Company to the Customer and includes any recommendations or consultancy advice.
- 1.5. "Price" shall mean the price payable for the goods and or service as agreed between the Company and the Customer in accordance with clause 3 of this contract.

2. Goods And Services

- 2.1. The Goods and Services provided shall be described on our invoices, quotation, and/or work authorisation, or any other such form as provided by the Company (Anchorage Wines New Zealand Limited) to the Customer.
- 2.2. The price shall be At the Company's sole discretion, one or more of the following:
 - (a) The price as quoted by the Company to the Customer. The quoted price shall not alter providing the Customer accepts the Company's quote in writing within seven (7) days of the date of the quotation.
 - (b) The Company's price as specified on the Company's current price list and/or hourly rate as when the goods and/or service is provided.
- 2.3. Any change or variation to the specified work, design, plan or service provided, will be charged on the same rates as per the Company's quoted price. Charges for the variation to the quoted work will be invoiced as a variation to the quotation or agreed work and shall be payable immediately on the completion of the work.

3. Payment Terms

- 3.1. Payment shall be at the Company's sole discretion one or more of the following:
 - 3.1.1. At the Company's sole discretion a 25% deposit shall be payable by the Customer on the placement of any order for Goods or Services unless otherwise agreed between the Company and the Customer.
 - 3.1.2. Payment to approved customers shall be made by instalments in accordance with the Company's payment schedule.
 - 3.1.3. Payment in full shall be due no later than (20th) twentieth day of the month following the date stated on the invoice, which is delivered to The Customer or posted to the Customer's address or address for notices.
 - 3.1.4. Payments will be made as agreed between the Company and the Customer. If no payment arrangement is made or payment terms agreed then payment shall be due as stated on the Invoice in cash, cheque, or by, or by direct credit to the Company's nominated account.
 - 3.1.5. Payment shall not be deemed to have been received unless the payment is made in cash or cleared funds are deposited in the Company's nominated account. Any other form of payment will not be accepted as paid until the transaction is deemed to be honoured.
 - 3.1.6. GST and other taxes and duties that may apply will be added to the Price unless they are expressly included in the Price.

4. Acceptance Of Terms Of Trade

- 4.1. Any engagement of the Company's Services including the supply of goods to the Customer shall constitute acceptance of the Terms and Conditions of Trade of the Company by the Customer. Should more than one Customer enter into this agreement the Customers shall be jointly and severally liable for payment in full of the Price.
- 4.2. The Customer must be either the rightful legal owner or have the full authority of the legal owner of the Property or Land to enter into a contract or provide instructions to the Company to undertake work or provide goods or services.
- 4.3. The Terms and conditions of this agreement can only be amended with the written consent of the Company and shall be binding on the Customer.
- 4.4. In the event that the Customer proposes any change to the structure of the Customers business, a change in Shareholding, Name, Directors, Premises, postal address, registered office or Sale of the business the Customer shall give no less than fourteen (14) days written notice of the proposed change or changes. If any loss is incurred by the Company the Customer shall be liable for any loss suffered by the Company due to the Customer not complying with this provision.

5. Title To Goods

- 5.1. Ownership and Title of any goods supplied by the Company to the Customer shall not take effect until:
 - (a) The Customer has paid the Company all invoiced amounts owing for the Goods and fulfilled all obligations to the Company in relation to this agreement.
 - (b) Any form of payment made by the Customer to the Company other than cash shall not be deemed to be payment until that form of payment has been cleared in accordance with clause 4.6 and until then the Company's rights and ownership in relation to the Goods shall continue. It is also agreed that:
 - (c) Once an order for Goods or provision of Services is placed, no order may be withdrawn, revoked or cancelled without the Company's written consent.
 - (d) If any part of the goods shall become incorporated into land so as to lose its separate identity then the title of that proportion of the goods so integrated equal in value to the price owed to the Company shall be reserved and vested in the Company until all money the Customer owes to the Company has been paid in full.

6. Defects

- 6.1. The Customer shall inspect the Goods and Services provided by the Company and shall within fourteen (14) days of delivery (time being of the essence) notify the Company of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Company an opportunity to inspect the goods supplied within a reasonable time following delivery of goods if the Buyer believes the Goods are defective in any way. If the Buyer shall fail to comply with these

provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Company has agreed in writing that the Buyer is entitled to reject, the Company's liability is limited to either (at the Company's discretion) replacing the Goods or repairing the Goods.

Customer's Disclaimer

- 7.2. The Customer hereby disclaims any right to rescind, or cancel any contract with the Customer or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Customer by the Customer and the Customer acknowledges that the Works are bought relying solely upon the Customer's skill and judgment.

8. Personal Property Securities Act 1999 ("PPSA")

Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:

- (a) These terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) A security interest is taken in all Goods previously supplied by the Company to the Customer (if any) and all Goods that will be supplied in the future by the Company to the Customer.
- The Customer undertakes to:
- (c) Sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Company may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (d) Indemnify, and upon demand reimburse, the Company for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
 - (e) Not register a financing change statement or a change demand without the prior written consent of the Company; and
 - (f) Immediately advise the Company of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 15.1. The Customer and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions. The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA. Unless otherwise agreed to in writing by the Company, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA. The Customer shall unconditionally ratify any actions taken by the Company under clauses 15. to 15.1.

9. Warranty

- 9.1. To the extent permitted by statute, no warranty is given by the Company as to the quality or suitability of the Goods for any purpose and any implied warranty, is expressly excluded. The Company shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.

10. Default and Consequences of Non Payment

- 10.1. If the Customer defaults in payment of any invoice when due, the Customer shall pay all costs and disbursements incurred by the Company in pursuing the debt including legal costs on a solicitor and own Customer basis and the Company's collection agency costs. Disbursements incurred by the Company in pursuing the debt including legal costs on a solicitor and own Customer basis and the Company's collection agency costs.
- 10.2. Interest on overdue or unpaid invoices shall accrue from the date when payment becomes due daily until the date payment is received at a rate of 2.5% per calendar month and all interest shall compound monthly before and after any judgement until payment is received in full.
- 10.3. The Company at its discretion may suspend or terminate the supply of goods and/or services should the Customer, at any time be in breach of any obligation to the Company (including those relating to payment). The Company will not be liable for any loss or damages the Customer has deemed to have suffered because the Company has exercised its rights under this clause.
- 10.4. If any account remains overdue after thirty (30) days then an amount of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) whichever is the greater, shall be charged for administration fees and shall become immediately due and payable.
- 10.5. Without prejudice to the Company other remedies at law, the Company shall be entitled to cancel all or any part of any supply agreement with the Customer which remains unfulfilled and all amounts owing to the Company shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to the Company becomes overdue of payment, or in the Company's opinion the Customer will be unable to meet its payments as they become due; or
 - (b) the Customer becomes insolvent, conveys a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, liquidator, manager (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

11. Right of Cancellation

- 11.1. The Company may cancel any contract to which these Terms and Conditions apply or cancel the delivery of products or goods or Service at any time before the goods and alike are delivered by giving written notice to the Customer. On giving notice the Company shall repay to the Customer any sums paid in respect of the Price. The Company shall not be liable for any damages or losses arising from such cancellation.
- 11.2. Should the Customer cancel any contract with the Company the Customer shall be liable for any loss incurred by the Company (including but not limited to loss of profits) up to the time of Cancellation.

12. Delivery

- 12.1. At the Company's sole discretion delivery of the goods shall take place by any of the following means:
 - (a) The Customer takes possession of the goods at the Company's address; or
 - (b) The Customer takes possession of the goods at the Customer's nominated address (in the event that the goods are delivered by the Company or the the Company's nominated carrier).
- 12.2. At the Company's sole discretion the costs of delivery shall be additional to the Price.
- 12.3. The Customer shall make all arrangements necessary to take delivery of the goods whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods as arranged then the Company shall be entitled to charge a reasonable fee for redelivery.
- 12.4. Delivery of the goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this

agreement.

- 12.5. The Company may deliver the goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of these Terms of Trade.
- 12.6. The failure of the Company to deliver shall not entitle either party to treat the contract as repudiated. In the case of export Goods, orders accepted on an ex factory/warehouse, FOB, CIF or CFR basis or such other basis as agreed between the Customer and the Company, shall be deemed to occur in accordance with Incoterms 2000, unless otherwise stated in the contract.

13. Security Agreement

- 13.1. Despite anything to the contrary contained in these Terms and Conditions or any other rights which the Company may have:
 - (a) Where the Customer and/or the Guarantor (if any) is the owner of land, realty, asset or property capable of being charged, the Customer and/or the Customers Guarantor agree to mortgage and/or charge all or any of their joint and/or several interest in the said land, realty, asset or property to the Company or the Company's nominee to secure all amounts and other monetary obligations due and payable under these terms and conditions. The Customer and/or the Guarantor acknowledge and agree that the Company (or the Company's nominee) shall be entitled to lodge where appropriate a caveat over the said land, realty asset or property. Once all payments and other monetary obligations payable to the Company hereunder have been met the caveat shall be removed.
 - (b) The Customer and/or Guarantor shall indemnify the Company against all the Company's costs, any disbursements and any legal costs incurred on a solicitor Customer own basis in the event the Company elect to proceed in any manner in accordance with this clause and/or its sub-clauses.
 - (c) The Customer and/or the Guarantor (if any) agree to irrevocably appoint the Company's nominated attorney as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause.

14. Privacy Act 1993

- 14.1. The Customer and the Guarantor/s (if separate to the Customer) authorises the Company to: collect, use and retain any information about the Customer, for the purpose of assessing the Customer's creditworthiness or marketing products and services to the Customer; and
Disclose information about the Customer, whether collected by the Company from the Customer directly or obtained by the Company from any other party, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.

- 14.2. here the Customer and/or Guarantors are an individual the authorities under clause 14.1 are authorities or consents for the purposes of the Privacy Act 1993.

- 14.3. The Customer and/or Guarantors shall have the right to request the Company for a copy of the information about the Customer and/or Guarantors retained by the Company and the right to request the Company to correct any incorrect information about the Customer and/or Guarantors held by the Company.

15. The Consumer Guarantees Act 1993

- 15.1. If the Customer is acquiring Goods for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods and Services by the Company to the Customer.

16. Risk

- 16.1. If the Company retains ownership of the Goods nonetheless, all risk for the Goods passes to the Customer when the goods are delivered.
- 16.2. If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Company is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Company is sufficient evidence of the Company's rights to receive the insurance proceeds without the need for any person dealing with the Company to make further enquiries.

17. Dispute Resolution

- 17.1. All disputes and differences between the Customer and the Company touching and concerning this agreement shall be referred to arbitration under a single arbitrator agreed upon by both parties, or failing agreement, by two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996

18. General

- 18.1. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the existence, validity legality and enforceability of the remaining provisions shall not be prejudiced, affected or impaired.
- 18.2. These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Marlborough New Zealand or as otherwise directed by the Court.
- 18.3. The Company shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Company of these terms and conditions.
- 18.4. In the event of any breach of this contract by the Company the remedies of the Customer shall be limited to damages which under no circumstances shall exceed the contract price for Services provided and limited to the amount of monies paid to the Company by the Customer in Part or Full whichever is the lesser amount.
- 18.5. The Customer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Customer by the Company.
- 18.6. The Company may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 18.7. The Company reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Company notifies the Customer of such change.
- 18.8. The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(d) were omitted from the Contractual Remedies Act 1979.
- 18.9. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 18.10. The failure by the Company to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Company's right to subsequently enforce that provision.



ANCHORAGE WINES NEW ZEALAND LIMITED

CREDIT APPLICATION

To be completed by applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf.

Date: _____ Ref No. _____

TRADE NAME: _____

Full Legal Name: _____

Phone: _____ Fax: _____

Mobile: _____ Email: _____

Billing Address: _____ Physical Address: _____

_____ Postcode: _____ Postcode: _____

BUSINESS DETAILS

Company Number: _____ Date Established: _____

Contact: _____ Position: _____

Phone: _____ Email: _____

DETAILS OF OWNERS / PARTNERS/DIRECTORS

Name: _____ Name: _____

Home Address: _____ Home Address: _____

_____ Postcode: _____ Postcode: _____

Home Phone: _____ Home Phone: _____

TRADE REFERENCES

Business Name 1: _____ Business Name 2: _____

Address or A/C No: _____ Address or A/C No: _____

Phone: _____ Phone: _____

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf) which form part of, and are intended to be read in conjunction with this Credit Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. ***I agree that if I am a director or a shareholder (owning at least 20% of the shares) I shall be personally liable for the performance of the Buyer's obligations in relation to this contract.***

SIGNED: _____ SIGNED: _____

Name: _____ Name: _____

Position: _____ Position: _____

ID: _____ ID: _____

DOB: _____ Date: _____ DOB: _____ Date: _____

PERSONAL/DIRECTOR'S GUARANTEE AND INDEMNITY

IN CONSIDERATION of **THE COMPANY** and its successors and assigns

("Anchorage Wines New Zealand Limited) known as AWNZN at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

("the Customer") *[Insert Company Name in Box
Provided]*

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

- GUARANTEE** the due and punctual payment to Anchorage Wines New Zealand Limited, herein known as AWNZN of all moneys which are now owing to AWNZN by the Customer and all further sums of money from time to time owing to AWNZN by the Customer in respect of goods and services supplied or to be supplied by AWNZN to the Customer or any other liability of the Customer to AWNZN, and the due observance and performance by the Customer of all its obligations contained or implied in any contract with AWNZN. If for any reason the Customer does not pay any amount owing to AWNZN the Guarantor will immediately on demand pay the relevant amount to AWNZN.
- HOLD HARMLESS AND INDEMNIFY** AWNZN on demand as a separate obligation against any liability (including but not limited to damages costs losses and legal fees (as defined hereunder in paragraph (b) hereof)) incurred by or assessed against AWNZN in connection with:
 - the supply of goods and/or services to the Customer; or
 - the recovery of moneys owing to AWNZN by the Customer including the enforcement of this Guarantee and Indemnity, and including but not limited to AWNZN's nominees costs of collection and legal costs calculated on a solicitor and own Customer basis; or
 - moneys paid by AWNZN with the Customer's consent in settlement of a dispute that arises or results from a dispute between, AWNZN, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by AWNZN to the Customer.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

- This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of moneys owing to AWNZN by the Customer and all obligations herein have been fully paid satisfied and performed.
- No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on AWNZN's part (whether in respect of the Customer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Customer's obligations to AWNZN, each Guarantor shall be a principal debtor and liable to AWNZN accordingly.
- If any payment received or recovered by AWNZN is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and AWNZN shall each be restored to the position in which they would have been had no such payment been made.
- The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.
- I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Customer to Anchorage Wines New Zealand Limited**
- I/we irrevocably authorise AWNZN to obtain from any person or company any information which AWNZN may require for credit reference purposes. I/We further irrevocably authorise AWNZN to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with AWNZN as a result of this Guarantee and Indemnity being actioned by AWNZN.
- The above information is to be used by AWNZN for all purposes in connection with AWNZN considering this Guarantee and Indemnity and the subsequent enforcement of the same.

GUARANTOR	
SIGNED: _____	FULL NAME: _____
PRESENT ADDRESS: _____	
SIGNATURE OF WITNESS: _____	NAME OF WITNESS: _____
OCCUPATION: _____	
PRESENT ADDRESS: _____	
EXECUTED as a Deed this _____ day of _____ 20_____	

- Note: 1. If the Customer is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
2. If the Customer is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member.

WARNING: THIS IS AN IMPORTANT DOCUMENT YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT