



## TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS TO TRADE CUSTOMERS

At Just Perfect Wines, we are committed to delivering a consistently excellent service to our customers. Our terms and conditions for the supply of our goods are given below, so our customers know what to expect, and in the unlikely event that things go wrong, so customers know we will do our utmost to put things right.

### 1 Interpretation

1.1 Definitions. In these Conditions, the following definitions apply:

**Business Day** means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Conditions** means the terms and conditions set out in this document.

**Contract** means the contract between us and you for the sale and purchase of the Goods in accordance with these Conditions.

**Force Majeure Event** means has the meaning given in **clause 10**.

**Goods** means the goods (or any part of them) set out in the Order.

**Order** means your order for the Goods.

**Us** or **We** (as the case may be) means Julia Phillips t/a Just Perfect Wines of 31 Chervil Close, Stoke-on-Trent, ST3 7YD.

**You** means the person or firm or company who purchases the Goods from us.

### 2 Basis of contract

2.1 These Conditions apply to the Contract to the exclusion of any terms of yours or any terms which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by you to purchase the Goods in accordance with these Conditions. You are responsible for ensuring that the terms of the Order and any applicable customisation submitted by you are complete and accurate.

2.3 The Contract constitutes the entire agreement between us and you acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given (on our website or otherwise) by or on behalf of us which is not set out in the Contract.

2.4 Any samples, drawings, descriptive matter, or advertising produced by us and any descriptions or illustrations contained in our catalogues, brochures or on our website are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract.

2.5 A quotation for the Goods given by us shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.

### 3 **Goods**

3.1 The Goods are described on our website or in our catalogue or brochure as modified by any applicable customisation.

3.2 To the extent that the Goods are to be manufactured or amended in accordance with a customisation supplied by you, you shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by us in connection with any claim made against us for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with our use of the customisation. This **clause 3.2** shall survive termination of the Contract.

3.3 We shall have the right to amend the customisation of the Goods if required by any applicable statutory or regulatory requirements.

### 4 **Delivery**

4.1 We shall deliver the Goods to the location set out in the Order or such other location as you and us may agree (the "Delivery Location") at any time after we notify you that the Goods are ready.

4.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

4.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.4 If we fail to deliver the Goods, our liability shall be limited to the price of the Goods.

4.5 If you don't take or accept delivery of the Goods at the Delivery Location, then, except where such failure or delay is caused by a Force Majeure Event or our failure to comply with our obligations under the Contract:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the Business Day after the day on which we attempted to deliver the Goods to the Delivery Location;
- (b) we shall store the Goods until delivery takes place, and charge you for all related costs and expenses (including insurance); and
- (c) you shall be liable for any and all costs incurred by us in both the original attempt to deliver and any subsequent deliveries to you.

4.6 If 10 Business Days after the day on which we attempted to deliver the Goods to the Delivery Location you have not taken or accepted delivery of them, we may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, we will account to you for any excess over the price of the Goods or charge you for any shortfall below the price of the Goods.

## 5 **Quality**

5.1 We warrant that on delivery, the Goods shall:

- (a) conform in all material respects with their description and any applicable customisation;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979)

5.2 Subject to **clause 5.3**, if:

- (a) you give notice in writing to us within 48 hours of delivery of the Goods at the Delivery Location that some or all of the Goods do not comply with the warranty set out in **clause 5.1**; and
- (b) we are given a reasonable opportunity of examining such Goods; and
- (c) you (if asked to do so by us) return such Goods to our place of business at your cost,

We shall either replace the defective Goods, or refund the price of the defective Goods in full.

5.3 We shall not be liable for Goods' failure to comply with the warranty set out in **clause 5.1** in any of the following events:

- (a) you make any further use of such Goods after giving notice in accordance with **clause 5.2**;
- (b) the defect arises because you failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of us following any customisation instructions from you;
- (d) you alter or repair such Goods without our written consent;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Goods differ from their description or customisation as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Except as provided in this **clause 5**, we shall have no liability to you in respect of the Goods' failure to comply with the warranty set out in **clause 5.1**.

5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Conditions shall apply to any repaired or replacement Goods supplied by us.

## 6 **Title and risk**

6.1 The risk in the Goods shall pass to you on completion of delivery.

6.2 Title to the Goods shall not pass to you until we have received payment in full (in cash or cleared funds) for:

- (a) the Goods; and
- (b) any other goods or services that we have supplied to you in respect of which payment has become due.

6.3 Until title to the Goods has passed to you, you shall:

- (a) hold the Goods on a fiduciary basis as our bailee;
- (b) store the Goods separately from all other goods held by you so that they remain readily identifiable as our property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (e) notify us immediately if it becomes subject to any of the events listed in **clause 8.2**; and
- (f) give us such information relating to the Goods as we may require from time to time,

but you may resell or use the Goods in the ordinary course of its business.

6.4 If before title to the Goods passes to you, you become subject to any of the events listed in **clause 8.2**, or we reasonably believe that any such event is about to happen and notify you accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy we may have, we may at any time require you to deliver up the Goods and, if you fail to do so promptly, enter any premises of yours or of any third party where the Goods are stored in order to recover them.

## 7 **Price and payment**

7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in our published price list in force as at the date of delivery.

7.2 The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to you.

7.3 We may invoice you for the Goods on or at any time after the completion of delivery.

7.4 Our invoices are payable on receipt and time of payment is of the essence.

7.5 If you fail to make any payment due to us under the Contract by the due date for payment, then you shall pay interest on the overdue amount at the rate of 8% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.

7.6 You shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies it may have, set off any amount owing to us by you against any amount payable by us to you.

## 8 **Insolvency or incapacity**

8.1 If you become subject to any of the events listed in **clause 8.2**, or we reasonably believe that you are about to become subject to any of them and notify you accordingly, then, without limiting any other right or remedy available to us, we may cancel or suspend all further deliveries under the Contract or under any other contract between you and us without incurring any liability to you, and all outstanding sums in respect of Goods delivered to you shall become immediately due.

8.2 For the purposes of **clause 8.1**, the relevant events are:

- (a) you suspend, or threaten to suspend, payment of your debts, or are unable to pay your debts as they fall due or admit inability to pay your debts, or (being a company or limited liability partnership) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) are deemed either unable to pay your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) have any partner to whom any of the foregoing apply;
- (b) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors;
- (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up;
- (d) (being an individual) you are the subject of a bankruptcy petition or order;
- (e) a creditor or encumbrancer of yours attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
- (f) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you;
- (g) (being a company) the holder of a qualifying charge over your assets has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;
- (i) any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in **clause (a)8.2(a) to clause 8.2(h)** (inclusive);
- (j) you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business;
- (k) your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
- (l) (being an individual) you die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or become a patient under any mental health legislation.

8.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## 9 **Limitation of liability**

9.1 Nothing in these Conditions shall limit or exclude our liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) defective products under the Consumer Protection Act 1987

9.2 Subject to **clause 9.1**:

- (a) we shall under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) our total liability to you 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 exceed the price of the Goods.

## 10 **Force majeure**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

## 11 **General**

### 11.1 **Assignment and other dealings.**

- (a) We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of our rights or obligations under the Contract.
- (b) You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without our prior written consent.

11.2 **Severance.**

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

11.3 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

11.4 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

11.5 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by us.

11.6 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

11.7 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).