

General Terms & Conditions

Note to Customer – We will only do business with you on the basis of these General Conditions, and each agreed delivery of products will be treated as a separate contract: see below for further details.

Please ensure that you have read and understand these terms and conditions (the “Terms”) before you place an order for any wines, including any En Primeur Wines, listed in the Lupton Wine Ltd directory (the “Goods”) or request for your Goods to be housed in the warehouse operated by Lupton Cellars Ltd on behalf of Lupton Wines Ltd

You may place an order for Goods (an “Order”) by telephone on **01488 682593** email to mark@luptonswine.com or info@Luptonwines.com, post to The Weirs, Chilton Foliat Hungerford, RG17 0TG or via our website www.luptonwines.com. Requests for storage of Goods or other wines in the warehouse operated by Lupton Cellars Ltd, or delivery of any such Goods from the warehouse, should be made by post to the address referred to above and marked for the attention of “Lupton Cellars Ltd, or by email to info@Luptonwines.com

1. Information about us

1.1 Lupton Wines Ltd (“we”, “us”, “our”) is a company registered in England and Wales under company number and registered address The Weirs, Chilton Foliat, Hungerford, RG17 0TG

2. Formation of Contract

2.1 These Terms shall become binding on you:

2.1.1 in the case of an Order for Goods (other than En Primeur Wines), on the date the Goods are dispatched to you, or when we issue you with an invoice in respect of your Order, whichever is earlier;

2.1.2 in the case of an Order for En Primeur Wines, when we issue you with an invoice or confirmation in respect of your Order; or

2.1.3 when we agree to store your Goods or other wines in the warehouse operated by Lupton Cellars Ltd on behalf of us (“Reserves”).

2.2 At the point the Terms become binding you have entered into a contract between you and us for the supply of the Goods and these Terms form part of that contract. The contract applies to you to the exclusion of any and all terms and/or

conditions that may be submitted by or for you under any Order and these shall not form any part of the Terms or contract between you and us. We shall not be bound by any clerical or arithmetical errors in documents issued by us in relation to your Order.

2.3 We may change the Terms from time to time and you should check these regularly as the Terms which are in place when you Order will be binding upon you. None of our employees or agents has the right to bind us to any verbal agreement which does not comply with these Terms.

2.4 If at any time any provision of the Terms or contract between you and us is, becomes or is found to be illegal, invalid or unenforceable (in whole or in part), the legality, validity and enforcement of the remainder of the contract shall not be affected.

3. Placing an Order for Goods

3.1 By placing an Order, you agree that you are capable of entering into legally binding contracts and you are the legal age to purchase alcohol in your country of residence.

3.2 We are free to accept or decline Orders at our absolute discretion.

3.3 The availability of the Goods will be checked after we have issued you with an order acknowledgement. If, for any reason, we are unable to fulfill your Order (or any part thereof), you will be advised by us and, if we have already debited your payment card, the appropriate amount will be credited to the card or account used to place your Order.

3.4 Subject to clause 4.7, the Goods will be held at your risk on: (a) delivery to you or into Reserves, as appropriate; (b) where the Goods are to be delivered to a third party acting on your behalf, when the Goods are so delivered; or (c) in the case of En Primeur Wines, when we issue you with an invoice in respect thereof. For the avoidance of doubt, ownership of the Goods shall remain with us until we have received payment in full of all sums due for the Goods, including delivery and packing charges.

3.5 If you fail to accept delivery of any of your Goods, or we are unable to deliver the Goods on time because of your act(s) and/or omissions(s), then you are liable for all costs and expenses associated with the delivery.

3.6 The quantity of any consignment of Goods as recorded by us on dispatch shall be conclusive evidence of the quantity received by you on delivery unless you can provide evidence proving the contrary.

4. Storage in Reserves

4.1 To request delivery of your Goods or any other wines into Reserves please contact us by post, to the address set out in clause 1.1 above and marked for the attention of "Lupton Cellars Ltd or by email to info@luptonwines.com. Only whole unmixed Cases may be put into Reserves. For the purpose of these Terms "Case" means a case holding 9 litre made up of 6 magnums, 12 bottles or 24 half-bottles. Spirits and non-vintage wines (other than champagne) may be stored at our discretion.

4.2 Wines purchased from other suppliers may be stored by us subject to payment of a handling charge (see clause 8). It is your responsibility to authenticate these wines upon arrival at Lupton Cellars Ltd We will not accept liability for the provenance or condition of wines purchased from other suppliers or for any defect or other fault that these wines may have or may develop.

4.3 We will use reasonable care and skill in the safekeeping and storage of all stock in Reserves, but beyond this we will not be responsible for the state and condition of stock, including (but not limited to) any change resulting in ullage or natural aging effects of the wine and/or packaging.

4.4 In the unlikely event of a dispute between us about the stock you have stored in Reserves, we shall rely on the invoices issued to you in respect of any wines in Reserves purchased from us prior to their transfer to Reserves, delivery receipts identifying the wines transferred to Reserves and the Stock Certificate, being the annual confirmation of stock held on in Reserves on your account.

4.5 If you sell any of your Goods in Reserves to a third party, you must notify us immediately, by post, to the address set out in clause 1.1 above and marked for the attention of "Lupton Cellars Ltd", or by email to info@luptonwines.com, of the identity of the third party and confirm whether they wish to continue storing the Goods in Reserves. If the third party wishes to continue storing the Goods in Reserves you must:

4.5.1 ensure that we receive written confirmation from that third party of their intention to continue storing the Goods in Reserves and their agreement to these Terms; and

4.5.2 confirm the date from which they will be liable for the Storage Charges (the "Transfer Date").

If the third party does not wish to continue storing the Goods or other wines in

Reserves you must give us notice of your intention to withdraw from Reserves, in accordance with clause 7, and the address of the third party to which the Reserves should be delivered.

4.6 You will be liable to pay the Storage Charges until we receive written confirmation from the third party and are notified of the Transfer Date (in the manner set out above), or until the date the Reserves are withdrawn, as appropriate.

4.7 We shall procure that all stock held in Reserves will be insured against damage, loss and/or theft, from the date such stock is delivered into Reserves until its withdrawal, on the basis of its current market value. Any dispute about the value of Reserves shall be referred to Sotheby's who will act as final independent arbitrator.

5. Price and Payment

5.1 Goods

5.1.1 Goods and prices listed in on any other materials by us are for your information only and do not form part of the contract. Prices listed are indicative only and may be varied by us. En Primeur Wines are offered by us for sale at the prices available on demand on each working day from our sales office (En Primeur Wines are sold by us to you under bond and so our list price does not include any VAT, taxes and duties which will be payable by you at the prevailing rates at the time when they are dispatched to you from bonded Reserves). All prices are liable to change at any time, but changes will not affect Orders for which you have already been invoiced. Unless otherwise agreed in writing by or for us, you shall pay us for all invoiced items and Goods in pounds sterling.

5.1.2 You must comply with all applicable laws and regulations of the country for which the Goods are destined. We will not be liable for any breach by you of any such laws.

5.2 Reserves

5.2.1 Reserves will be stored at our list prices (as amended from time to time) current at the time we invoice you for them ("Storage Charges").

5.2.2 Storage Charges for the period between the date on which your Goods are put into Reserves and the following July will be invoiced in arrears in July and each subsequent July or until notification of withdrawal of stock from Reserves when your final charge will be calculated.

5.3 General

5.3.1 Payment of Goods and/or Storage Charges, as applicable, is due within 30 days of the relevant invoice being issued, unless otherwise agreed in writing with us. Goods purchased for storage, or for export outside Great Britain, must be paid in full before being put into Reserves, or dispatched, as appropriate. Any and all Storage Charges must be paid in full before we deliver your Goods and other wines to you after their withdrawal from Reserves.

5.3.2 All prices payable for the Goods (save in the case of Goods being sold under bond or exported outside the EU) and Storage Charges are subject to VAT, taxes and duties at the prevailing rate at the time of dispatch of your Order or when we issue you with an invoice for your Storage Charges, as appropriate. All orders for export outside of the EU may be subject to import duties and/or local taxes on alcohol. You will be responsible for payment of any such import duties and taxes.

5.3.3 We reserve the right to: (i) charge interest on any overdue sums at 4% above the base rate of Barclays Bank plc from the date when payment was due until the date payment is actually made; and/or (ii) cancel any discounts given in respect of any invoiced sums; and/or (iii) cancel any further deliveries to you; (iv) withdraw any credit facilities which have been offered to you; and (v) we may require you to deliver to us Goods to which title has not passed to you, as set out in clause 6.8 below and (vi) recover any Outstanding Charges in accordance with clause 11.

5.3.4 Payment of Goods and Storage Charges may be made only in your name by debit or credit card, cheque or by bank transfer to the account number specified on your invoice (quoting your Lupton account number if applicable).

5.3.5 We may, at our sole discretion, invite you to open a credit account with us. We reserve the right to conduct appropriate identity and credit checks prior to opening any such account and on a continuous basis thereafter.

5.3.6 You shall not, without our prior written consent: (a) set off any sums payable to you by us against any sums payable to us by you; or (b) deduct in advance any amounts due from us from payments due from you.

6. Delivery of an Order

6.1 Any indication as to when an Order for Goods will be delivered is an estimate only. Such estimates are given in good faith and we will use our reasonable endeavors to meet them. We do not accept liability for any failure to deliver within that time. En Primeur Wines will not be dispatched until the date on which such wines become available to us.

6.2 Delivery of the Order will be completed when we deliver the Goods to you, a nominated third party or into Reserves, as appropriate.

6.3 If you fail to take delivery from us within 7 calendar days of the date on which the Goods are due to be delivered (or, in the case of En Primeur Wines only, within 60 calendar days of any such wines being available to us to dispatch to you) then we will store the Goods in Reserves until delivery takes place or the Goods are collected; except where failure to deliver is solely our fault, you will be liable for our then current Storage Charges in respect of all Goods which have not been collected or delivered.

6.4 Risk of damage to or loss of the Goods shall pass to you upon the earlier of: (a) delivery of the Goods to you; or (b) where the Goods are collected by or for you, when the Goods are so collected.

6.5 Legal and beneficial title in the Goods shall remain with us, and shall not pass to you, until we have received payment in full of all amounts owing to us by you (including, without limitation, the amount of any interest which has accrued) in respect of: (a) all Goods the subject of the relevant contract; or (b) all other Goods supplied to you under any other contract whatsoever.

6.6 You shall not in any way pledge or charge by way of security for any indebtedness or otherwise encumber any Goods to which title has not passed to you and, if you do so, all monies payable for such Goods shall (without prejudice for any of our other rights or remedies) become immediately due and payable (whether or not already invoiced by us).

6.7 In the event of: (a) breach of clause 6.6 above; or any material breach of this Contract by you;

6.7.1 your right to possession of the Goods shall immediately cease;

6.7.2 we will automatically be deemed to rely upon clause 6.5 to retain title unless we indicate otherwise;

6.7.3 your right to resell, deal or part with the possession of any Goods in which title has not passed to you shall immediately cease;

6.7.4 you must immediately ensure that the Goods are kept separate from your own goods and from others' goods, properly stored, protected and readily identifiable as our property; and

6.7.5 may withhold delivery of any undelivered Goods and stop any Goods in transit.

6.8 Until title in the Goods passes to you (or if your right to possession has ceased), we may at any time require you to deliver the Goods immediately to us as we may direct and you irrevocably agree that we, our agents and our employees may without prior notice: (a) enter any of your premises or the premises of any third

party where the Goods are or may be stored; and (b) inspect and/or (if you fail so to deliver the Goods) repossess the Products. You shall provide access for us to those premises or shall procure that access is provided for us to those premises so that we may inspect and/or (if you fail so to deliver the Goods) repossess the Goods and thereafter sell the Goods (and retain the proceeds).

6.9 If we cannot determine whether any Goods are the goods in respect of which your right to possession has terminated, you shall be deemed to have sold all goods of the kind sold by us to you in the order in which they were invoiced to you.

On termination of the Contract (for any reason), our (but not your) rights contained in this clause 6 shall remain in effect.

7. Withdrawal and Delivery from Reserves

7.1 Reserves may only be withdrawn as one or more complete unmixed Cases.

7.2 Standard delivery of Goods withdrawn from Reserves will normally be made within 14 days of receipt of written notice of withdrawal. However, any indication as to when the Goods from Reserves will be delivered is an estimate only. Such estimates are given in good faith and we will use our reasonable endeavors to meet them. We do not accept liability for any failure to deliver within that time.

8. Delivery, Packing and Handling Charges

8.1 Standard delivery charges, packaging charges (with respect to mixed cases), handling charges (with respect to wines stored in Reserves that have been purchased from suppliers other than us) and/or express delivery charges shall be invoiced at the applicable rate, as amended by us at our sole discretion from time to time and available on request. Please note that deliveries to destinations outside mainland Great Britain shall incur additional delivery charges, and charges may vary between destinations within mainland Great Britain. We reserve the right to charge additional delivery costs in the event of a non-delivery caused by your failure to provide adequate delivery instructions and/or your non-availability to receive the delivery.

9. Cancellation of an Order

9.1 Any amendment (including change in delivery address) or cancellation of an Order must be by post, to the address set out in clause 1.1 above, and as follows:

9.1.1 An Order for any Goods (other than En Primeur Wines) must be cancelled or amended at least 7 days prior to the day on which you are due to receive delivery of

the Goods, the Goods are due to be collected by a third party acting on your behalf, or the Goods are put into Reserves, as appropriate.

9.1.2 An Order for En Primeur Wines must be cancelled within 7 days of us issuing you with an invoice in respect thereof.

9.2 If you amend or cancel an Order, your liability to us shall be limited to payment to us of all costs we reasonably incur in fulfilling the Order until we receive your amendment or cancellation.

10. Returns of Goods Purchased

10.1 In the unlikely event that the Goods do not conform with your Order, you must notify us within seven (7) days of delivery or collection. We will replace any Goods, or credit your account with the value of the original purchase price, if we assess them to be inherently faulty. Goods and all packaging should be kept until we inform you whether or not we require you to return them to us.

10.2 If you fail to notify us of any faults in the Goods or errors in your Order within seven (7) days, you will be deemed to have accepted the Goods as satisfying your Order and will not be entitled to reject any of the Goods for any reason.

11. Outstanding Charges

11.1 If you owe us any Storage Charges or other charges for storing your Reserves or any amounts which are debts assigned to us ("Outstanding Charges") we will give you written notice, by registered or recorded delivery post to your last known address, that unless such Outstanding Charges are paid within 30 days of our giving such notice, we will sell your Goods held in Reserves by the best method reasonably available and deduct from any proceeds of sale all Outstanding Charges, any costs we have in connection with the sale plus Storage Charges to cover the period between the date we gave you notice and the date of the sale.

11.2 You will be entitled to retain any proceeds of the sale which remain after we have taken from them all our Outstanding Charges and any costs we have in connection with the sale.

11.3 For the avoidance of doubt, you will still owe us for any Outstanding Charges, which are not covered by the proceeds of sale.

12. Liability

12.1 Each party acknowledges and agrees that its liability for death or personal injury

caused by its negligence and for any liability that cannot be limited by law shall not be limited.

12.2 Our liability under clause 4.7 with respect to any loss you may incur shall be limited to such amount as we may recover under our insurance policy.

12.3 Subject to clauses 12.1 and 12.2, our total liability to you whether in contract, tort (including negligence) or otherwise in connection with these terms shall be limited to the annual aggregate of the price paid by you for the Goods, or, if you did not purchase any Goods from us, the Storage Charges paid by you, in the 12 month period immediately preceding the relevant liability arising.

12.4 We accept no liability for any loss or income or revenue, loss of business, loss of profits or contracts, loss of anticipated saving, loss of data or for any other indirect or consequential loss suffered by you.

13. Termination

13.1 Either of us may immediately terminate any agreement entered into which incorporates these Terms upon giving notice to that effect to the other at any time if: (i) the other is in breach of any of its obligations under these Terms and fails to remedy such breach within 30 days of receiving a written notice from the other requiring it to do so; or (ii) the other ceases or threatens to cease to carry on business, becomes, or in the reasonable opinion of the party enforcing this clause is likely to become, bankrupt or insolvent, or is otherwise unable to pay its debts as they fall due.

13.2 On termination of any agreement between us to store Goods and/or other wines in Reserves:

13.2.1 all Outstanding Charges will immediately become payable by you as set out in clause 11 above;

13.2.2 in the event you have Goods in Reserves, you must send to us, within one month, details of the address to which you wish us to deliver such Goods, and the costs of that delivery as set out in clause 8 will be payable by you before we dispatch the Goods to that address.

13.2.3 If you do not send us delivery instructions in accordance with 13.2.2 above or pay for the cost of delivery of your Goods from Reserves we will give you written notice, by registered or recorded delivery post to your last known address, that unless you send us delivery instructions and pay for the costs of delivery within 30 days of our giving such notice, we will sell your Goods held on Reserves by the best method reasonably available and deduct from any proceeds of sale any costs we have in connection with the sale plus Storage Charges to cover the period after we

gave you notice and the date of the sale and we will then send any remaining proceeds to you.

14. Events Outside Our Control

14.1 We shall not be liable for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by events outside our reasonable control (“Force Majeure Event”), nor any loss and/or damage arising from any such Force Majeure Event save to the extent that such loss and/or damage is recoverable under our insurance policy.

14.2 A Force Majeure Event includes any act, event, non-occurrence, omission or accident beyond our reasonable control and includes, in particular (without limitation), explosion, storm, earthquake, subsidence, epidemic or other natural disaster, act of war, impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport and impossibility of the use of public or private telecommunications networks.

15. Notices

15.1 Unless otherwise stated, all notices sent by you to us must be sent to Lupton Wines Ltd at the address set out in clause 1.1. We may give notice to you at either the email or postal address you provide to us in your Order or when instructing us to store your Goods in Reserves, as appropriate.

16. General

16.1 To the extent that we process any of your personal information in connection with this contract you hereby consent to such processing for the purposes of the performance of this contract and to comply with the relevant laws of the jurisdiction. We confirm that we will comply with all applicable data privacy laws.

16.2 In the event you place an Order and we amend the Terms within 14 days of the Order being placed, the Terms applicable to your Order will be those in force at the time the Order is placed, unless the change to the Terms was required by law or government or regulatory authority (in which case, any such change will apply to Orders you have previously placed that we have not yet fulfilled). You may not assign or sub-contract any of your rights or obligations under these Terms without prior written consent. We can transfer all or any of our rights or obligations under these Terms to another organization at our sole discretion.

16.3 If either of us does not exercise any of the rights we have in these Terms, or delays in exercising those rights, that shall not be seen as the surrender of those rights, or affect that person’s ability to enforce those rights at a later date.

16.4 A person who is not a party to these Terms shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.

16.5 You may not, without our prior written approval, assign, charge or otherwise dispose of all or any part of the benefit of the Contract or sub-contract any or all of your obligations under it.

16.6 These Terms and any contract entered into between us and you and any related dispute or claim (contractual or non-contractual) shall be governed by, and construed in accordance with English law. Each party irrevocably submits for all purposes of the contract (including, without limitation, any such dispute or claim) to the exclusive jurisdiction of the English courts