

TRADING TERMS

1. DEFINITIONS: In this document **insolvent** means insolvent or insolvent under administration (each as defined in the Corporations Law), in receivership, in receivership and management, in liquidation, in provisional liquidation, administration, wound up, subject to any arrangement, assignment or composition or protected from any creditors under any statute or dissolved (other than to carry out a reconstruction while solvent). **payable** in relation to an amount means an amount which is currently payable or will or may be payable in the future. **person** includes firm, partnership, committee, and incorporated and unincorporated bodies. **we, us or our** means Accolade Wines Australia Limited ABN 86 008 273 907 trading as Accolade Wines and its successors and assigns. **customer** means the person or persons named on the front of this document as the customer and if there are more than one, means each of them separately and every two or more of them jointly. **goods** means all products and services supplied by us to the customer under any contract or arrangement between us and the customer. **document** means this credit application document comprising the schedule, these trade terms, the guarantee and the privacy statement. The singular includes the plural and vice versa. A reference to any thing includes the whole or each part of it.

2. GENERAL: These terms and conditions shall prevail over any terms of the customer unless the contrary is expressly agreed by us in writing signed by an authorised manager or solicitor acting for us.

3. PRICE: All prices given by us are effective as at the date on which the price is given and are subject to alteration without notice to the customer. Unless otherwise specified, all prices are inclusive of any delivery costs (including freight, loading and insurance) and government charges which, if applicable, will be for the customer's account. We shall charge fees for performance of services including, without limitation, a management fee to administer transit insurance, an account management fee following a default by the customer or administration fee following dishonour of a cheque. Details of fees are available upon request.

4. PAYMENT: All monies in connection with goods acquired by the customer in any month are payable on the last business day in the immediately following month. Payment is to be made to the place for payment provided in our tax invoice and if none is provided to our address set out in the schedule. We may charge interest at our discretion on any monies on any account whatsoever that are overdue, calculated at the corporate overdraft reference rate offered by the Commonwealth Bank of Australia as at the first business day of each month. Any costs, fees (including cheque dishonour fees) and expenses including any legal or debt collection agency costs incurred by us in connection with any overdue amount shall be recoverable as a debt immediately due to us by the customer and in the case of legal costs on a full indemnity solicitor-client basis. The customer shall not set off or rely on any equitable right of set off with respect to any amount payable to us. We may in our discretion deduct from, set-off against and/or otherwise reduce or deem satisfied any obligation it may have to the customer to the extent of any obligation that the customer may have to us (whether present or future, certain or contingent, ascertained or sounding only in damages) on any account whatsoever.

5. DEFAULT: The customer shall be in default if any money is not received when due or there are reasonable grounds for us to form the opinion that the customer is insolvent or will not perform its obligations on any account whatsoever. In that event the customer shall be taken to have requested and we shall automatically suspend further trade. In the event of default we may also, at our discretion, withhold any delivery, enter any premises and seize any goods that are reasonably believed to be our property and sell them to pay any money payable or damages and/or by written notice terminate any or all contracts with the customer.

6. CHANGE IN PARTICULARS: The customer agrees that it must promptly notify us of any sale of its business, cessation of trade, the vacation of premises of the business or commencement of business at new premises. The customer must also advise of any change to its address or contact phone numbers. If the customer is a company then it must notify us of any change in control of the customer. Upon any notification of change of ownership of the business or a change of control of the customer either the customer or us may terminate this document by notice in writing to the other but without prejudice to the customer's obligation to pay to us all monies payable.

7. CLAIMS: It is the responsibility of the customer to verify goods received are in all respects in accordance with the customer's order and suitable for intended use. Any claim for incorrect supply of goods must be notified by the customer to us within 7 days of receipt of the goods. Within 14 days thereafter full particulars and substantiation of the claim must be made by the customer in writing to us. Any claim which the customer does not notify or substantiate within such time (time being of the essence) shall be deemed to have been absolutely waived.

8. IMPLIED TERMS: All conditions and warranties are hereby expressly excluded to the full extent permitted by law. Any condition or warranty that cannot be lawfully excluded is limited to, at our option, the replacement or rectification of the goods or supply of equivalent goods or the cost of replacing or rectifying the goods or of acquiring equivalent goods.

9. INDIRECT LOSS: So far as the law permits we shall not be liable in any way whatsoever for any loss of profit or indirect or consequential loss including but not limited to any such loss because of delay, defect, fault, failure, negligence or any act, matter or thing done or not done by us.

10. DELIVERY: Any time or date stated by us for availability of goods is an estimate only and the customer shall not be relieved of any obligation to accept or pay for the goods by reason of any delay. If we determine that we are or may be unable to supply within a reasonable time or at all the contract may be cancelled by us and in that event the customer shall have no claim against us whatsoever.

11. PROPERTY IN THE GOODS: Ownership of goods in each delivery passes to the customer only when all of the goods in that delivery are paid for in full and when all of the goods in all other deliveries are paid for in full. Until then all legal and beneficial title to the goods shall remain with us, the customer holds the goods as our fiduciary, bailee and agent and the goods must be kept separate and readily identifiable as our goods. If any goods belonging to us are sold or otherwise disposed of then the customer shall hold the proceeds on trust for us. The customer acknowledges that we shall have a security interest which attaches over any goods that the customer has not paid for in full. The customer consents to the registration and perfection of the interest set out in this clause 11 for the purposes of the Personal Property Securities Act 2009 ("PPSA").

12. RISK: Unless otherwise agreed in writing, risk in the goods shall pass to the customer upon delivery of the goods to the customer or its agent or to a carrier commissioned by the customer.

13. BULK AND COMMERCIAL PURCHASES: The customer agrees that drums are transport vessels only. The customer also agrees that if drums are not returned in good condition, within the required three month period from receipt they will forfeit their deposit, unless other arrangements have been made and confirmed in writing. Sale of bulk grape juice, bulk wine, bulk brandy, bulk fortifieds, SVR, concentrate, cleanskins, customer's own brand and contract packaging are additionally governed by any written agreement signed by the parties in respect of the products/services.

14. PERFORMANCE & REPRESENTATIONS: The customer acknowledges there have been no representations or conduct giving rise to any understanding other than have been expressly recorded in writing. The customer agrees that it is not reasonable for it to (and it will not) rely on any representation or conduct that is not acknowledged in writing.

15. WAIVER: Any waiver by us under this document must be in writing and signed by us. No failure, delay or the like by us shall affect our legal rights under this document.

16. CERTIFICATES: A certificate of our General Manager, Credit Manager or any other of our employees fulfilling a like function shall in all Courts be admissible and be accepted as prima-facie evidence of any debt owed to us and/or any fact circumstance or thing stated therein that is relevant to any rights with respect to the customer.

17. MISCELLANEOUS: This document is subject to the laws of South Australia and the parties submit to the non-exclusive jurisdiction of the Courts of that place. The rights and obligations of the parties will not merge on completion of any transaction under these terms and conditions. We may amend these terms and conditions by written notice to you.

18. PPSA: The customer agrees:

- (a) that this agreement is a security agreement for the purposes of the PPSA;
- (b) to do such things as we may require from time to time to ensure that any security interest of ours is perfected under the PPSA for whatever period that we determine in our sole discretion and will reimburse and indemnify us for all expenses incurred by us in registering our security interest on the PPSA register;
- (c) that any property purchased by the customer in utilising the credit facility is commercial property for the purposes of the PPSA;
- (d) we may refuse to deliver any property until such time as we are satisfied that we have a perfected security interest in relation to that property;
- (e) nothing in sections 125, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA and Part 4.3 (other than Division 6 of Part 4.3) of the PPSA shall apply to this agreement, or the security under this agreement and to the extent permitted by the PPSA, the customer waives its rights in respect of this agreement, or the security under this agreement, to receive any notice or statement under the following sections of the PPSA:
 - a. 95 (notice of removal of an accession);
 - b. 118 (notice of decision to enforce security interest under land law);
 - c. 121(4) (enforcement of liquid assets – notice to grantor);
 - d. 123 (notice of seizure of collateral);
 - e. 130 (notice of disposal of collateral);
 - f. 132(3)(d) (statement of account following a disposal showing the amounts paid to other secured parties);
 - g. 132(4) (statement of account if there is no disposal);
 - h. 135 (notice of retention of collateral);
 - i. 157 (notice in relation to registration events);
 - j. all sections in Part 4.3 (other than those in Division 6 of Part 4.3);
- (f) no party may disclose information of the kind referred to in section 275(1) of the PPSA (except where required under section 275(7) of the PPSA) and the parties agree not to authorise the disclosure of such information at any time; and
- (g) that we may search the PPSA register for security interests granted by the customer.

PART 3 - GUARANTEE AND INDEMNITY

THIS GUARANTEE AND INDEMNITY is given to us by you being the persons named and described as the "guarantor" in the schedule in consideration of the provision of goods upon credit to the person named and described as the "customer" in the schedule.

EXTENT OF YOUR OBLIGATIONS

- (a) You are liable for all the obligations under this guarantee and indemnity both separately on your own and jointly with any one or more other persons named in this guarantee and indemnity as a "guarantor".
- (b) By signing this document, you ask us to give or to continue giving trade credit to the customer, whether alone or with any other person, and you give us this guarantee and indemnity in return for us agreeing to do so.

1. GUARANTEE

- (a) You guarantee that the customer will pay us all amounts payable to us when they are due. Your guarantee continues until all these amounts have been paid in full.

2. INDEMNITY

- (a) You indemnify us against, and you must therefore pay us for, loss or costs we suffer or incur if:
 - (i) the customer does not, is not obliged to, or is unable to, pay us; or
 - (ii) we are obliged, or we agree, to pay an amount to a trustee in bankruptcy or liquidator in connection with a payment by you or the customer.
- (b) The indemnity in clause 3(a) is a continuing obligation, separate and independent from your other obligations under this guarantee and indemnity. It continues after those other obligations end.

3. INTEREST

- (a) You must pay interest calculated on daily balances on any amount you owe us from the date we ask you for the amount until you pay it. Nothing in this clause requires you to pay interest on amounts in the nature of interest payable by the customer to us.
- (b) The rate of interest to be applied to each daily balance is the corporate overdraft reference rate offered by the Commonwealth Bank of Australia as at the first business day of each month.
- (c) Each month (or any other periods we choose), we may add any overdue interest to the amount you owe under this guarantee and indemnity. You will then be liable for interest under clause 4(a) on the total amount.

4. SUSPENSION OF RIGHTS

- (a) We shall be at liberty without discharging you from liability under this guarantee and indemnity to grant time or other indulgence to the customer in respect of goods or services or both supplied by us to the customer and to compound, compromise, release, abandon, waive, vary or renew any of our rights against the customer.
- (b) Where the customer is a partnership no change in the constitution of the partnership shall affect, impair or discharge the liability of you under this guarantee and indemnity whether past, present or future.

PART 4 - PRIVACY PROVISIONS

1. We may give information about the customer and the guarantor ("**you**") to a credit reporting agency to obtain a consumer credit report about you, and/or to allow the credit reporting agency to create or maintain a credit information file containing information about you. You acknowledge and agree that this document constitutes notice of disclosure of your credit information to a credit reporting agency as required under the Privacy Act 1988.
2. This information (which may be given before, during or after the provision of credit to the customer) may include:
 - (a) your identity particulars;
 - (b) the fact that you have applied for credit and the amount;
 - (c) the fact that we are a current credit provider to you;
 - (d) payments which are overdue by more than 60 days, and for which debt collection action has started;
 - (e) advice that your payments are no longer overdue in respect of any default that has been listed;
 - (f) information that, in our opinion, you have committed a serious credit infringement (that is, acted fraudulently or shown an intention not to comply with your credit obligations);
 - (g) cheques drawn by you for \$100 or more which have been dishonoured more than once; and
 - (h) any other information permitted to be included in a credit information file under the Privacy Act.
3. You agree that we may exchange information (including a credit report) relating to your credit worthiness with other credit providers:
 - (a) to assess an application by you for credit;
 - (b) to notify other credit providers of a default by you;
 - (c) to exchange information with other credit providers as to the status of your credit arrangements where you is in default with other credit providers;
 - (d) to assess your credit worthiness; and
 - (e) to provide a reference to another credit provider or to receive a reference from another credit provider in relation to assessing an application by you for consumer credit.
4. You understand that the information exchanged can include anything about your credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act.
5. You agree that we may obtain a credit report containing information about you from a credit reporting agency for the purpose of assessing any application made by you for commercial credit from time to time.
6. You agree that we may obtain a credit report about you from a credit reporting agency for the purpose of collecting overdue payments relating to commercial credit owed by you.
7. You understand that information contained in this document as well as other information known to us about you may be disclosed as a necessary part of an investigation into unlawful activities, or in the prevention, detection, investigation, prosecution, punishment of a criminal offence or if it is required or authorised by or under any law.
8. You understand that we will protect what information we have on file about you from misuse, loss and unauthorised access. We are committed to retaining only accurate, relevant and up to date information in any files kept. We will dispose of such information when we consider that such information is no longer required.
9. We will assume that any personal information provided by you is up to date and complete at the time it is provided, and is free from errors and omissions, is not misleading or deceptive and complies with all relevant laws. We rely on the personal information provided by you.
10. You are able to require (in writing) that we provide to you a copy of what information we have on file about you personally. (Please fax or post your request for this information to the address provided in the schedule). A charge may apply for this service.

SIGNING PAGE
CUSTOMER

It is recommended that the customer seek advice from a solicitor should the customer not understand any provision of this Credit Application

SIGNATURE: _____ NAME: _____
As (please circle) Director Sole Trader Partner(s) Company Secretary Public Officer

SIGNATURE: _____ NAME: _____
As (please circle) Director Sole Trader Partner(s) Company Secretary Public Officer

SIGNATURE: _____ NAME: _____
As (please circle) Director Sole Trader Partner(s) Company Secretary Public Officer

ON BEHALF OF: _____
(if applicable) Insert name of Company, Partnership or Incorporated Body

DATE: _____

(Each person signing the document certifies that he/she is authorised to make this application, execute this document, and provide the requested information and to order the supply of goods on behalf of the customer.)

GUARANTOR

VERY IMPORTANT NOTICE. THE GUARANTEE AND INDEMNITY CREATES A PERSONAL LIABILITY TO PAY. BY SIGNING IT YOU ACKNOWLEDGE THAT:-

- (a) YOU BECOME PERSONALLY LIABLE FOR THINGS THAT YOU MAY NOT COMPLETELY UNDERSTAND OR CONTROL
- (b) YOU HAVE BEEN REQUESTED TO GET, HAVE HAD THE CHANCE TO GET AND HAVE TAKEN AS MUCH LEGAL ADVICE AS YOU NEED
- (c) YOU ARE NOT FEELING ANY PRESSURE TO SIGN FROM ANYONE INCLUDING ANYONE YOU HAVE A MARITAL, DE FACTO, FAMILY OR OTHER RELATIONSHIP WITH.

EXECUTED AS A DEED BY THE GUARANTORS

* Please note - Witness MUST NOT be a Party to the Application

PERSON	PRINT YOUR NAME (BLOCK LETTERS)	SIGN	TODAYS DATE	DATE OF BIRTH	DRIVER'S LICENSE No.
GUARANTOR 1 ^					
*ADULT WITNESS^					
GUARANTOR 2 ^					
*ADULT WITNESS^					
GUARANTOR 3 ^					
*ADULT WITNESS^					

Original completed credit application must be returned to the Credit Department
Accolade Wines, ATTN: Credit Department, Reynell Road, REYNELLA, SA 5161

ACCOLADE WINES ACCOUNT MANAGER (Name) _____