

TRADING TERMS

These Trading Terms apply to any order for the supply of goods (**Purchase Order**) placed by the Customer with Accolade Wines Australia Limited ABN 86 008 273 907 (**Accolade Wines**) and together with an Order Confirmation (as defined by these Trading Terms), constitute a contract between the Customer and Accolade Wines (**Contract**).

1. DEFINITIONS: **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. **Accolade Wines** includes its successors and assigns. **Customer** means the person or persons named in Part B of these Trading Terms as the Customer. **goods** means all products and services supplied by Accolade Wines to the Customer under any Contract or Purchase Order or arrangement between Accolade Wines and the Customer.

2. GENERAL: These Trading Terms shall prevail over any terms of the Customer, which are expressly excluded.

3. ACCEPTANCE OF A PURCHASE ORDER: A Purchase Order will not be deemed to be accepted by Accolade Wines (and a Contract for the sale and purchase of goods specified in a Purchase Order will not be formed) unless or until Accolade Wines has provided a written order confirmation to the Customer (**Order Confirmation**). To the extent of any inconsistency between a Purchase Order and an Order Confirmation, an Order Confirmation shall prevail. Accolade Wines may terminate, revoke or cancel a Purchase Order at any time prior to dispatch of the goods to the carrier nominated by a Customer.

4. PRICE: All prices given by Accolade Wines are effective as at the date on which the price is given and unless otherwise specified, all prices are FOB Outer Harbour and are exclusive of any delivery costs (freight, loading and insurance) and government charges which, if applicable, will be for the Customer's account. The Customer is responsible for the payment of any fees, sales, use, gross receipts, value added, property or other taxes, duties, or customs fees that are levied on the sale, use, import, or distribution of the goods.

5. PAYMENT: All monies in connection with goods acquired by the Customer are payable on date specified in the Accolade Wines invoice. Payment is to be made to the place for payment provided in Accolade Wines' invoice. Interest may be charged at Accolade Wines 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 Accolade Wines in connection with any overdue amount shall be recoverable as a debt immediately due to Accolade Wines 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 Accolade Wines.

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

7. RISK, AND DELIVERY: Unless otherwise agreed in writing, all goods shall be sold and delivered on a Free on Board basis (Incoterms 2012) from Outer Harbour, Adelaide (**Place of Delivery**). Risk in the goods passes at the Place of Delivery and title to any goods passes in accordance with clause 13.

8. CHANGE IN PARTICULARS: The Customer agrees that it must promptly notify Accolade Wines 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 Accolade Wines 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 Accolade Wines may terminate any Purchase Order or this Contract by notice in writing and without prejudice to the Customer's obligation to pay to Accolade Wines all monies payable.

9. CLAIMS: Any claims by the Customer for defective goods must be made to Accolade Wines in writing within 30 days of the date of receipt by the Customer of the goods, except in the case of hidden defects not reasonably detectable by the Customer in which case notice of claim must be made within 30 days of actual discovery of such defect by the Customer (whichever occurs later). 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. Accolade Wines shall credit the Customer the Customer's landed cost (including freight, warehousing and other direct costs) of any item of goods which is not merchantable, if the defect was directly caused by circumstances existing before risk in the goods passed to the Customer

10. EXCLUSION OF LIABILITY: All conditions and warranties are hereby expressly excluded to the full extent permitted by law. So far as the law permits Accolade Wines 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 Accolade Wines.

11. INDEMNITY: The Customer will indemnify, and keep indemnified, Accolade Wines against all actions, proceedings, liabilities, claims, demands, costs, expenses or losses suffered or incurred by Accolade Wines as a direct or indirect result of any warranty passed on by a Customer to any other person without the consent of Accolade Wines (except a warranty implied by law), any breach of law on the part of the Customer, any damage to any property, or injury or death to any person, caused or contributed to by any defect in any item of goods (to the extent that the defect was caused or contributed to by circumstances existing after risk in the relevant item of goods passed to the Customer), any breach by the Customer of the Contract, or any negligent or unlawful act or omission of the Customer, its officers, agents, affiliates or sub-contractors.

12. LATE OR NO DELIVERY: Any time or date stated by Accolade Wines 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 Accolade Wines determine that Accolade Wines are or may be unable to supply within a reasonable time or at all a Purchase Order may be cancelled by Accolade Wines and in that event the Customer shall have no claim against Accolade Wines whatsoever.

13. TITLE 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 Accolade Wines, the Customer holds the goods as Accolade Wines' fiduciary, bailee and agent and the goods must be kept separate and readily identifiable as Accolade Wines' goods. If any goods belonging to Accolade Wines are sold or otherwise disposed of then the Customer shall hold the proceeds on trust for Accolade Wines. The Customer acknowledges that Accolade Wines shall have a security interest which attaches over any goods that the Customer has not paid for in full.

14. LABEL COMPLIANCE: The goods are to be labelled with the labels ordinarily applied by Accolade Wines in the market in which the goods are packaged. The Customer is responsible for ensuring that the design and content of the labels meet the requirements of all laws and regulations of the country in which the goods are intended to be sold, including applying any additional labelling or over-sticker required in order to comply with all requirements of all laws and regulations of the resale country.

15. PERFORMANCE & REPRESENTATIONS: A Contract constitutes the entire agreement between the parties as to its subject matter and supersedes all prior agreements, arrangements and understandings relating to that subject matter.

16. CONFLICT: Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability.

17. MISCELLANEOUS: These Trading Terms and any Contract are subject to the laws of South Australia, excluding the 1980 United Nations Convention on Contracts for International Sale of Goods and the parties submit to the non-exclusive jurisdiction of the Courts of South Australia. The rights and obligations of the parties will not merge on completion of any transaction under these terms and conditions. Accolade Wines may amend these terms and conditions by written notice to Customer. A party may only waive a breach of a Contract in writing signed by that party and any such waiver is limited to the instance referred to in writing.

