

Accolade Wines North America, Inc.
Standard Purchase Terms for the Purchase of Goods and Services

The Standard Purchase Terms apply to any order for the supply of Goods or Services (**Purchase Order**) placed with the Supplier by Accolade Wines North America, Inc. trading as Accolade Wines (**Accolade**) and together with the Purchase Order, constitute a contract between the Supplier and Accolade (**Contract**). The Contract is deemed to be accepted by the Supplier upon the earlier of:

- the Supplier's written or verbal acknowledgement of receipt of this document and the Purchase Order, or if the Supplier has previously signed the Standard Purchase Terms, the Supplier's written or verbal acknowledgment of the Purchase Order; or
- the Supplier commencing to supply the Goods or perform the Services, (the **Commencement Date**).

1. Contract

- 1.1 The Contract commences on the Commencement Date and concludes on the date on which the Goods have been supplied or the Services performed (as applicable) to the satisfaction of Accolade in accordance with the Contract, subject to clause 15.
- 1.2 All terms and conditions of the Supplier are expressly excluded from the Contract.

2. Orders

All Purchase Orders submitted by Accolade to the Supplier constitute a revocable offer to purchase Goods or Services from the Supplier on the terms of the Contract. Accolade will not be liable for any order not issued or confirmed by a Purchase Order.

3. Goods – delivery, title and risk

- 3.1 Delivery of Goods to Accolade (**Delivery**) takes place when the Goods are fully unloaded at the Premises.
- 3.2 Title and risk in the Goods and any product of the Services passes to Accolade upon Delivery, except that if the Goods and/or any product of the Services are paid for before Delivery then title shall pass to Accolade once payment has been made. Supplier releases and waives any claim to title after the earlier of Delivery or payment by Accolade.
- 3.3 The passing of title in the Goods and any product of the Services is without prejudice to any right of rejection to which Accolade may be entitled under the Contract or otherwise.
- 3.4 All Goods must be accompanied by the shipping documents and any information required by Accolade. All applicable fees, taxes, duties (including without limitation, any import or export duties or both) and charges are the obligation of the Supplier and Supplier agrees to defend and discharge Accolade from and against any liability, claim or lien resulting from Supplier's failure to make such payments.
- 3.5 Goods must be properly packed by the Supplier in such a way as to avoid damage to the Goods.
- 3.6 Accolade may refuse to accept partial delivery of a Purchase Order; and liability for Goods delivered in excess of the quantity ordered or not in accordance with the delivery schedule in the Purchase Order.

4. Inspection and Testing

- 4.1 Accolade may, on giving reasonable notice to the Supplier, inspect, and where practicable test the Goods or their manufacturing process or both and any Services at the premises of the Supplier or its subcontractors. The Supplier must require that its subcontractors provide access to their premises for the purpose of this clause.
- 4.2 All Goods and Services Delivered may be inspected and tested by Accolade at any time after Delivery. If Accolade considers Goods or Services to be unsatisfactory, defective or not in accordance with the Contract or any implied warranty or guarantee, Accolade may, without prejudice to any of its rights or remedies, reject the Goods or Services and in its absolute discretion:
- (a) return the Goods at the Supplier's cost for a refund of any amount paid in respect of such Goods; or
 - (b) require the Supplier to re-perform the Services and/or acquire replacement Services from an alternative supplier, at the Supplier's cost,

and the Supplier shall upon demand, pay such amounts to Accolade.

- 4.3 Any inspection is without prejudice to any rights or remedies that accrue to Accolade and shall not relieve the Supplier of its obligations under the Contract.
- 5. Delay, refusal or failure to supply**
- 5.1 Time is of the essence in respect of each obligation of the Supplier under the Contract. If the Supplier does not supply the Goods or perform the Services at the time or times specified in the Contract then, without prejudice to any other rights or remedies, Accolade may terminate the Contract immediately by written notice to the Supplier.
- 5.2 The Supplier must immediately notify Accolade in writing if the Supplier anticipates that the performance of any of its obligations under the Contract may or will be delayed.
- 5.3 If Accolade terminates the Contract pursuant to this clause 5, the Accolade Parties will have no liability on any basis in respect of the termination.
- 5.4 If the Supplier fails or refuses to deliver Goods or provide Services in compliance with the Contract, Accolade may arrange an alternate supply of the relevant Goods and Services and the cost of doing so will be a debt due and payable by the Supplier.
- 6. Prices and terms of payment**
- 6.1 The price for the Goods and Services will be as stated in the Purchase Order exclusive of sales tax. The total price includes all ancillary costs including, without limitation, delivery, packaging and insurance costs and all applicable fees, taxes, duties and charges. No additional charges will be paid unless agreed by Accolade in writing in advance.
- 6.2 Invoices must be sent by email by the Supplier to Accounts Payable, Accolade Wines, accoladewines@bscs.basware.com by electronic transmission after the supply of the Goods or Services.
- 6.3 All invoices must include all detail required by Accolade, including, without limitation the Accolade Purchase Order number, the date of the Purchase Order, a description of the relevant Goods and Services, the date of supply and the components of the price (including any sales and other taxes).
- 6.4 Payment for Goods and Services delivered must be made by Accolade on the first business day following 60 days from the end of the month of invoice, subject to the Goods and Services conforming with the Contract and the receipt of complete and accurate tax invoices and documentation.
- 6.5 Each party shall do all things that may be necessary or desirable to enable or assist the other to claim any input tax credit, adjustment or refund in relation to any amount of tax paid or payable in connection with the Contract.
- 6.6 The making of a payment by Accolade to the Supplier is not to be taken as evidence that any of the Goods have been delivered or Services have been performed in accordance with the Contract.
- 6.7 Without limiting its other rights, Accolade may deduct or set-off from payments to the Supplier any amounts which the Supplier must pay to Accolade or which relate to any claim that Accolade may have against the Supplier.
- 7. Supplier's Obligations**
- 7.1 The Supplier must supply the Goods and perform the Services in accordance with the Contract to the satisfaction of Accolade.
- 7.2 Without limiting any other provision of the Contract, the Supplier must ensure the Goods and any product of the Services supplied to Accolade are:
- (a) to the maximum extent possible, free from risks to health and safety;
 - (b) compliant with all relevant federal and California State occupational safety and health (**OSHA**) legislation, regulations and law, including, but not limited to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 ; and

- (c) clearly and durably labelled in a manner that identifies the Goods and provides all necessary information in relation to the proper and safe use, maintenance and storage of the Goods.
- 7.3 The Supplier must supply the Goods with all relevant information pertaining to their use, maintenance and storage and any relevant technical information, including health and safety information, in a manual or similar.
- 7.4 The Supplier must at all times:
- (a) exercise due care, skill, diligence and judgment and at all times act in good faith and in accordance with the highest professional principles and standards;
 - (b) not, without the written consent of Accolade, make or permit any change in the composition, characteristics or origin of the Goods or Services;
 - (c) ensure the Services are undertaken safely;
 - (d) where the Services are provided at the Premises:
 - (1) identify all reasonably foreseeable hazards and minimize such risks;
 - (2) ensure all Supplier Parties involved in the provision of the Services are provided with sufficient information, instruction, training and supervision to ensure their health and safety and that of other persons; comply with the directions and protocols notified by Accolade from time to time; and do not interfere with or interrupt the operations of Accolade and the work of other contractors; and
 - (3) ensure the Services are carried out in compliance with any relevant federal or California state OSHA or labor and wage legislation, regulations and law;
 - (e) supply the Goods and perform the Services within the agreed timeframes;
 - (f) be familiar with, and comply with, all relevant laws;
 - (g) comply with the directions and protocols notified by Accolade from time to time;
 - (h) prepare and submit, as required by Accolade, reports on the performance by the Supplier of its obligations under the Contract;
 - (i) not represent that it is associated with Accolade; and
 - (j) not do or be involved in anything which may impair the reputation or intellectual property of Accolade.
8. **Access to Premises**
- 8.1 If the Contract requires the Supplier to perform Services at the Premises, Accolade will provide sufficient access to the Premises to enable the Supplier to perform the Services, save that Accolade may from time to time impose restrictions on access to the Premises including where the Supplier has not complied with clause 11.
- 8.2 The Supplier must, and must ensure that the Supplier Parties promptly report to Accolade any accident, dangerous occurrence or condition, security threat, other incident or potential incident on the Premises.
- 8.3 Accolade may require the Supplier to provide Accolade with an OSHA risk assessment in respect of the Supplier's performance of the Contract (**Risk Assessment**), which must address those matters specified by Accolade.
- 8.4 Accolade may, but is not obliged to, monitor the Supplier's compliance with the Risk Assessment and the Supplier must cooperate with such monitoring and provide all documents or information requested by Accolade from time to time.
9. **Supplier warranties**
- 9.1 The Supplier undertakes and warrants to Accolade and its successors and assignees that:
- (a) the Goods are free from any charge or encumbrance;
 - (b) the Goods will correspond with any samples in quality, be of acceptable quality, free from all defects and fit for any purpose made known to the Supplier by Accolade whether expressly or by implication;
 - (c) the Goods and Services will satisfy Accolade's requirements and comply with the Specifications;
 - (d) the Goods will be free from foreign bodies, contamination and fit for human consumption (as relevant);
 - (e) the Services will be supplied with due care and skill;
 - (f) it has the power and has obtained all permits, licences, consents and authorizations required to enter into and perform the Contract;
 - (g) it will ensure that all the Supplier Parties engaged in the performance of the Contract comply with the Contract; and
 - (h) it has no other obligations which may conflict with or adversely affect its ability to perform the Contract.
- 9.2 If Accolade is of the opinion that the Supplier is in breach of its OSHA obligations or is otherwise not complies with the laws and registrations applicable to it, Accolade may direct the Supplier to suspend the performance of the Contract in whole or in part. The Supplier must immediately comply with such direction and rectify the breach at its own cost. If the Supplier fails to rectify the breach Accolade may have the obligation performed by others and the costs of doing so will be a debt due and payable by the Supplier.
10. **Liability**
- 10.1 The Supplier indemnifies, and will keep indemnified each of the Accolade Parties from all liabilities, losses, costs and expenses suffered or incurred by any of them arising directly or indirectly as a result of or in connection with:
- (a) any breach by the Supplier Parties of the Contract;
 - (b) the death of, any injury to, or loss of property of, any person as a result of or in connection with the performance of the Services or delivery of the Goods, in or on any premises at which the Services are performed or Goods are manufactured or delivered;
 - (c) Supplier's failure to comply with all laws and regulations applicable to the production and supply of the Goods or performance of the Services and direction of its employees or agents;
 - (d) any negligent or wilful act or omission of the Supplier Parties; and
 - (e) the Goods or Services infringing or allegedly infringing intellectual property rights of a third party.
- 10.2 The Supplier is responsible for any non-compliance with the Contract by any of the Supplier Parties.
11. **Insurance**
- 11.1 The Supplier must effect and maintain on and from the Commencement Date:
- (a) product and public liability insurance cover for at least \$10 million; and
 - (b) such other insurance cover (including, without limitation, professional indemnity, workers compensation and third party motor vehicle cover) as would be reasonably expected of the Supplier or as reasonably requested by Accolade,
- and the Supplier must, upon demand, provide to Accolade a certificate of insurance and a copy of each policy in respect of such insurances.
12. **Intellectual property rights**
- 12.1 The Supplier warrants to Accolade that it will not infringe intellectual property rights of any third party in connection with the supply of the Goods and Services or the performance of the Contract.
- 12.2 All intellectual property developed, created or conceived by the Supplier in connection with the Contract will vest in Accolade upon creation. The Supplier must promptly execute all documents and do all things necessary to give effect to this clause 12.2.
- 12.3 All intellectual property of Accolade provided to the Supplier will remain the exclusive property of Accolade.
- 12.4 The Supplier may only use any intellectual property of Accolade with the prior written consent of Accolade and on the terms specified by Accolade from time to time.
- 12.5 The Supplier must obtain all written unconditional and irrevocable consents and waivers permitted by law to all acts or omissions by

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or on behalf of Accolade that would otherwise infringe the moral rights of any persons.

13. Confidentiality

- 13.1 Each party undertakes that it will not disclose any confidential information of the other party (save for disclosure to the Accolade Parties by Accolade) except:
- (a) with the consent of the other party and only in connection with the performance of the Contract; or
 - (b) as required by law.
- 13.2 For the purposes of this clause 13 "confidential information" includes, without limitation, the terms of the Contract and all information relating to a party which has been disclosed to or learned by the other party that was not in the public domain at the time of the disclosure other than as a result of a breach of the Contract.
- 13.3 Accolade and the Supplier are responsible for any unauthorised disclosure made by the Accolade Parties or the Supplier Parties, respectively.
- 13.4 If requested by Accolade, the Supplier must execute, and ensure that each of the Supplier Parties engaged in the performance of the Contract execute a confidentiality agreement in a form approved by Accolade.

14. Privacy

- 14.1 If the Supplier collects or has access to personal information in performing the Contract the Supplier must:
- (a) not collect, use, disclose, store or transfer such personal information except for the purposes of the performing the Contract; and
 - (b) comply with all privacy and security measures as Accolade reasonably requires from time to time.
- 14.2 The Supplier must immediately notify Accolade of any actual, potential or suspected breach of clause 14.1.

15. Termination

- 15.1 Accolade may, by written notice, terminate the Contract in whole or in part with respect to any undelivered Goods or Services not fully performed. If the Supplier is not in default of the Contract, the only liability of Accolade for terminating under this clause 15.1 will be to pay for:
- (a) Goods already shipped or Services fully performed prior to termination, at the agreed price;
 - (b) the proven direct reasonable costs incurred by the Supplier up to the date of termination in respect of unfinished Goods or Services not fully performed;
 - (c) completed Goods at the agreed price, but only where the Supplier is not able to otherwise dispose of them.
- 15.2 Either party may immediately terminate the Contract in whole or in part by written notice if the other party:
- (a) is in material breach of the Contract and fails to remedy such breach within 14 days of receipt of notice to do so;
 - (b) becomes insolvent, bankrupt or subject to any deed with their creditors or a winding up or administration order, has a receiver, controller or liquidator appointed, is unable to pay its debts as and when they fall due, or passes a resolution for its winding up; or
 - (c) ceases or threatens to cease carrying on business.
- 15.3 Accolade may immediately terminate the Contract by written notice if there is a change in ownership or control of the Supplier.
- 15.4 On termination of the Contract, the Supplier must refund advance payments in respect of Goods not supplied and Services not performed as at termination; and Goods or Services rejected by Accolade on or before such date.
- 15.5 Each party must take due care of and not dispose of property belonging to the other and will on request return such property, except that, if the Supplier is in default, Accolade may hold and use any of the Supplier's property, which will be returned or paid for in due course.
- 15.6 Accolade may and the Supplier will ensure that Accolade may retake possession of its property at any time by entry into any premises where it is kept.

- 15.7 Clauses 9, 10, 12, 13, 14 and 16.11 survive the expiration or termination of the Contract.

16. Miscellaneous

- 16.1 The Supplier must keep and produce on request all documentation relating to the Goods and Services including documents necessary for tracing the Goods or any part thereof for at least five years following Delivery and will ensure that its suppliers do the same. The Supplier must, at its own cost, fully cooperate with and render all necessary assistance in the event of any actual or anticipated product recall in respect of the Goods.
- 16.2 Supplier may only assign its rights or obligations under the Contract with the written consent of Accolade (not to be unreasonably withheld or delayed).
- 16.3 The Supplier must assign to Accolade the benefit of any warranties or guarantees in connection with the Goods and Services that the Supplier is granted by third parties (or if they cannot be assigned, hold them on trust). The Supplier must not sub-contract the performance of the whole or any part of its obligations under the Contract without the prior written approval of Accolade.
- 16.4 Accolade may vary, update or replace the Standard Purchase Terms by notice in writing to the Supplier. Any other amendment or variation to the Contract is not effective unless it is in writing and signed by the parties.
- 16.5 A provision of or a right created under the Contract may not be waived except by a document signed and dated by the party granting the waiver.
- 16.6 The Contract is subject to the laws of California and all disputes arising in connection with the Contract shall be submitted to the Napa County Superior Court.
- 16.7 If any provision of the Contract is held invalid, unenforceable or illegal for any reason, the Contract remains otherwise in full force apart from such provision which will be deleted.
- 16.8 The Contract constitutes the entire agreement between the parties on its subject matter and supersedes all prior representations, agreements and understandings.
- 16.9 Any notice to or by a party must be in legible writing and in English addressed as follows:
- (a) Accolade Wines:
1700 2nd Street, Suite 220
Napa, CA 94559
Fax: 707-259-1579
 - (b) Supplier: as specified in the Purchase Order.
- 16.10 When reading the Contract the terms of the Purchase Order shall take precedence to the Standard Purchase Terms.

17. Definitions

In these Standard Purchase Terms:

Accolade Parties means Accolade and its officers, employees, consultants, subcontractors and agents;

Goods means the raw materials, packaging and finished goods stated in the Purchase Order;

Premises means the premises of Accolade stated in the Purchase Order;

Services means the services stated in the Purchase Order;

Standard Purchase Terms means the terms and conditions in this document;

Specifications means the specifications in the Purchase Order and otherwise advised by Accolade from time to time;

Supplier means the supplier named in the Purchase Order and includes the Supplier Parties as the context requires;

Supplier Parties means the Supplier, its related bodies corporate and their officers, employees, consultants, subcontractors and agents.

Supplier acknowledgement Form

The Supplier has received a copy of, and has read and understood and agrees to be bound by the Accolade Standard Purchase Terms as acknowledged by the Supplier execution below:

Supplier Name:

Legal Entity Name (if different from above):

Supplier Address:.....

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Supplier Postal Address (if Different):.....

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Key Contact Name:Tel:.....

Key Contact Email:.....Fax:.....

Accounts Contact Name:Tel:.....

Accounts Contact Email: Fax:.....

Bank Account Details: Please provide Bank Account Details on Your Company Headed Paper or other formal document bearing Company name and address.

Executed by the Supplier:

Signature of authorized person

Print name and title

Date

**Please Fax to: Carolyn Kinoshita, Winery Administrator of AWNA at 707-433-8820 or
Email to: carolyn.kinoshita@accoladewinesna.com**