

MAJESTIC COMMERCIAL TERMS OF SALE

AGREED TERMS

These Terms govern the supply of goods by Majestic to business customers on an order-by-order basis. They apply unless and to the extent that alternative terms are expressly agreed in writing between Majestic and the Customer.

1. About us

1.1 **Company details.** Majestic Wine Warehouses Limited (company number 01594599) (**we** and **us**) is a company registered in England and Wales. Our registered office is at Majestic House, The Belfry, Colonial Way, Watford, Hertfordshire, WD24 4WH. Our VAT number is GB894864750. We supply goods through a range of commercial channels, including our online ordering portal, store managed accounts, email and telephone ordering.

1.2 **Contacting us.** To contact us in relation to an Order or this Contract, please contact your usual Majestic Commercial account manager, your local store or email commercialsupport@majestic.co.uk. How to give us formal notice of any matter under the Contract is set out in clause 21.

2. Our contract with you

2.1 **Our contract.** These terms and conditions (**Terms**) apply to the order by you and the supply of goods by us to you (**Contract**). The Terms apply to the exclusion of any other terms that you seek to impose or incorporate, or that are implied by trade, custom, practice or course of dealing. These Terms apply to all Orders placed by you, whether via our online ordering portal, by email, by telephone or through your relevant store or account manager.

2.2 **Entire agreement.** The Contract constitutes the entire agreement between you and us in relation to its subject matter and supersedes all prior agreements, arrangements and understandings between us relating to the supply of the Goods. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty that is not set out in the Contract.

2.3 **Your copy.** You should print a copy of these Terms or save them for future reference.

3. Placing an order and its acceptance

3.1 **Placing your order.** Orders may be placed by you via your relevant Majestic Commercial account manager or through a Majestic store. Each order placed by you constitutes an offer to purchase the goods specified in that order (**Goods**) in accordance with these Terms.

3.2 **Accuracy of Orders.** You are responsible for ensuring that the details of each order, including quantities, delivery information and any specifications, are complete and accurate. We are under no obligation to accept an order that is incomplete or contains errors.

3.3 **Acknowledging receipt of your order.** Where an order is placed electronically, we may acknowledge receipt of the order. Any such acknowledgement does not constitute acceptance of the order and does not give rise to a binding contract.

3.4 **Acceptance of Orders.** No order shall be deemed accepted and no contract shall come into existence unless and until we issue a written acceptance of the order (**Order Confirmation**) or dispatch or make available the Goods for delivery, whichever occurs first.

3.5 **Refusal of Orders.** We reserve the right to decline or reject any order at our discretion. If we do not accept an order, we will notify you as soon as reasonably practicable and, where any payment has been taken in respect of that order, we will reimburse you accordingly.

4. Minimum Purchase

4.1 No minimum purchase amount or volume commitment applies under this Contract unless expressly agreed in writing between Majestic and the Customer.

4.2 Where a minimum purchase amount is agreed, the details of that minimum purchase amount (including any applicable measurement period and consequences of non-achievement) shall be set out in a separate written agreement or schedule agreed by the parties, and shall apply in addition to these Terms.

5. Exclusivity and Customer Support

5.1 Where expressly agreed in writing between Majestic and the Customer (including in an Order Confirmation or separate written agreement), the Customer may be appointed as a preferred or exclusive customer for specified categories of Goods.

5.2 Where exclusivity applies:

- a) the Customer agrees to purchase such categories of Goods exclusively (or to the agreed percentage) from Majestic; and
- b) Majestic may provide certain commercial support and incentives to the Customer (Customer Support), which may include (without limitation) retrospective rebates, marketing support, listing support, free stock, training or other agreed benefits.

5.3 Any Customer Support is conditional upon:

- a) the Customer complying with these Terms and any agreed payment terms;
- b) the Customer achieving any agreed minimum purchase amounts or other performance criteria; and
- c) the Customer complying with any applicable exclusivity commitments.

5.4 Where a retrospective rebate or other incentive is agreed:

- a) it shall be calculated in accordance with the agreed structure and reference period;
 - b) it shall only become payable once the relevant conditions have been satisfied in full; and
 - c) Majestic may withhold, reduce or reclaim such amounts where the Customer is in breach of the Contract or fails to meet the applicable conditions.
- 5.5 Unless otherwise expressly agreed in writing, no exclusivity, minimum purchase obligation or Customer Support shall apply.

6. Forecasts

6.1 Where expressly agreed in writing, the Customer shall provide Majestic with forecasts of its anticipated requirements for Goods.

6.2 Such forecasts shall:

- a) be provided at the intervals agreed between the parties;
- b) cover the period specified by Majestic (which may include rolling forecast periods); and
- c) be prepared in good faith.

6.3 Unless otherwise expressly agreed, forecasts are indicative only and do not constitute binding Orders.

6.4 Where the parties agree that forecasts are binding:

- a) the Customer shall purchase the forecasted quantities; and
- b) Majestic shall use reasonable endeavours to supply such quantities.

6.5 If Majestic reasonably anticipates that it will be unable to meet any forecasted requirements, it shall notify the Customer and the parties shall agree appropriate alternative arrangements.

7. Our goods

7.1 Any descriptions, specifications, samples, images or illustrations of the Goods (including any provided on our online ordering portal or in marketing materials) are for general information purposes only and are intended to give an approximate indication of the Goods. They do not form part of the Contract.

7.2 We do not warrant that any images or descriptions of the Goods are accurate in every detail. Variations in colour, packaging, labelling, vintage or other characteristics may occur.

7.3 The packaging of the Goods may differ from that shown in any images or illustrations.

7.4 We reserve the right to amend the specification of the Goods where required to comply with any applicable statutory or regulatory requirement or where changes are made by the manufacturer or supplier, provided that such amendment does not materially affect the quality of the Goods.

7.5 Majestic reserves the right to discontinue or substitute any Goods at any time, provided that any substitution does not materially and adversely affect the quality of the Goods supplied under an accepted Order.

8. Returns and refund

8.1 Where expressly agreed in writing, the Customer may be entitled to return Goods on a 'sale or return' basis (Returned Goods), subject to any additional restrictions agreed between the parties and Majestic's sole discretion at all times.

8.2 Unless otherwise agreed in writing, sale or return is permitted up to a maximum of 25% of the cash value of the original Order and is also capped at 25% per SKU.

8.3 The Customer must notify Majestic in writing of its intention to return the relevant Goods within 7 days of delivery and must not arrange return or collection unless and until the relevant authorisation (where required) has been obtained.

8.4 Returned Goods shall:

- a) be in full, unopened and undamaged cases (only full cases may be accepted);
- b) be in resalable condition and of current label and vintage (no back vintages); and
- c) not be bespoke or otherwise non-returnable items, and (for dated stock, such as beers/softs) have at least 6 months remaining before the expiry date unless otherwise pre-agreed in writing.

8.5 Majestic shall arrange collection of Returned Goods within 14 days of the relevant request (or such other period as agreed). Any collection must be pre-approved by the relevant store manager and ASM and booked in advance.

8.6 Following inspection and acceptance of the Returned Goods, Majestic shall issue a credit note for the applicable amount within a reasonable period. Where applicable, any refunded stock should be offset (on the same invoice) against the sale of any new stock being sold to the Customer.

8.7 Majestic may levy a restocking and handling charge of up to 25% of the invoiced value of the Returned Goods, which shall be deducted from any credit note issued under this clause.

8.8 Majestic reserves the right to reject any Returned Goods which do not comply with this clause.

8.9 Except as expressly set out in this clause, Goods are non-returnable and non-refundable.

9. Delivery, transfer of risk and title

9.1 Delivery of the Goods shall take place in accordance with Majestic's delivery arrangements as notified to the Customer from time to time. Any delivery dates provided are estimates only and time for delivery shall not be of the essence. Delivery may be affected by a Force Majeure Event, in which case clause 20 shall apply.

9.2 Delivery shall be deemed complete on unloading of the Goods at the delivery address specified in the Order, or where applicable, when the Goods are collected by the Customer or its carrier. Risk in the Goods shall pass to the Customer on completion of delivery.

9.3 Title to the Goods shall not pass to the Customer until Majestic has received payment in full (in cleared funds) for the Goods and any other sums due to Majestic under the Contract.

9.4 If Majestic fails to deliver the Goods, Majestic's liability shall be limited to the costs and expenses reasonably incurred by the Customer in obtaining replacement goods of a similar description and quality in the cheapest market available, less the price of the Goods. Majestic shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or by the Customer's failure to provide adequate delivery instructions or other relevant information.

9.5 If the Customer fails to take delivery of the Goods within one Business Day of Majestic notifying the Customer that the Goods are ready for delivery, Majestic may store the Goods at the Customer's risk and expense or resell or otherwise dispose of part or all of the Goods. Majestic may account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods, together with any reasonable storage, insurance and handling costs.

9.6 Majestic may deliver the Goods by instalments, which shall be invoiced and paid for separately.

9.7 Each instalment shall constitute a separate contract. Any delay in delivery of, or defect in, an instalment shall not entitle the Customer to cancel any other instalment.

10. Retention of Title

10.1 Until title to the Goods has passed to the Customer in accordance with clause 9.3, the Customer shall:

10.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Majestic's property;

10.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

10.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and

10.5 give Majestic such information as Majestic may reasonably require relating to the Goods and the Customer's ongoing financial position.

10.6 At any time before title to the Goods passes to the Customer, Majestic may require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product, and if the Customer fails to do so promptly, Majestic may enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

10.7 If the Customer resells or otherwise disposes of any Goods before title has passed to the Customer, the Customer shall hold the proceeds of such sale or disposal (including any insurance proceeds) on trust for Majestic and shall keep such proceeds in a separate identifiable account and shall not mix them with any other monies. The Customer's right to resell or use the Goods in the ordinary course of its business shall terminate immediately if any of the events referred to in clause 19.1(d) to clause 19.1(f) (inclusive) occurs.

10.8 The Customer shall notify Majestic immediately if any third party asserts any claim or right over the Goods in which title has not passed to the Customer, or if any of the events referred to in clause 19.1(d) to clause 19.1(f) (inclusive) occurs or is reasonably likely to occur.

11. International delivery

11.1 Unless expressly agreed by Majestic in writing, the Goods are supplied for delivery within the United Kingdom, Isle of Man and Jersey only.

11.2 Where Majestic agrees to supply Goods for delivery outside the United Kingdom or Jersey, such supply shall be subject to any additional terms notified by Majestic, and the Customer shall be responsible for all applicable import duties, taxes, customs clearance charges and compliance with all applicable laws and regulations of the destination country.

11.3 Majestic shall have no liability for any delay, loss or failure to deliver the Goods arising from customs processes, import controls or the Customer's failure to comply with applicable laws or requirements relating to international delivery.

12. Price of goods and delivery charges

12.1 The price of the Goods shall be the price quoted or otherwise confirmed by Majestic at the time the Order is accepted, or, where no price is expressly confirmed, Majestic's applicable price list in force at the time of supply.

12.2 Prices may be amended by Majestic from time to time, but any change in price shall not affect an Order that has already been accepted by Majestic.

12.3 All prices are exclusive of value added tax (VAT). Where VAT is chargeable, the Customer shall pay VAT at the applicable rate in addition to the price of the Goods, subject to receipt of a valid VAT invoice.

12.4 Prices are exclusive of delivery, packaging, insurance and transport charges, which shall be payable by the Customer in addition to the price of the Goods unless otherwise agreed in writing.

12.5 If Majestic discovers an error in the price of the Goods after an Order has been placed but before it has been accepted, Majestic may correct the error and notify the Customer. In such circumstances, the Customer may either confirm that it wishes to proceed with the Order at the corrected price or cancel the Order. If the Customer elects not to proceed, or if Majestic is unable to obtain confirmation from the Customer within a reasonable period, the Order shall be treated as cancelled and any sums paid in respect of that Order shall be refunded.

13. Payment

13.1 Subject to 13.2, the Customer must pay in advance or on delivery, or on such other terms as Majestic may specify in writing relation to any Order.

13.2 Where payment on credit terms has been expressly agreed by Majestic in writing, the Customer shall pay all invoices in full and in cleared funds within 30 days from the end of the month in which the relevant invoice is issued, or on other terms expressly agreed by Majestic in writing.

13.3 All amounts payable by the Customer under the Contract shall be paid in full and without any set off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

13.4 If the Customer fails to make any payment due to Majestic under the Contract by the due date for payment, the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the base rate of the Bank of England 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. The Customer shall pay the interest together with the overdue amount. This clause is without prejudice to any other right or remedy available to Majestic under the Contract or at law, including any rights under the Late Payment of Commercial Debts (Interest) Act 1998.

13.5 Majestic reserves the right to withdraw, suspend or vary credit terms at any time.

13.6 Majestic may, at any time, require the Customer to provide such security for payment as Majestic reasonably considers necessary, and if the Customer fails to provide such security, Majestic may suspend or cancel any Order.

14. Manufacturer's guarantee

14.1 Certain Goods supplied by Majestic may be accompanied by a manufacturer's guarantee. Where applicable, details of any such guarantee will be provided with the Goods.

14.2 Where applicable, any manufacturer's guarantee is provided by the manufacturer and not by Majestic. Nothing in this Contract affects any statutory rights or remedies available to the Customer in respect of the Goods supplied by Majestic.

15. Quality and Warranty

15.1 Majestic warrants that on delivery the Goods shall:

- conform in all material respects with their description and any applicable specification;
- be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended);
- be free from material defects in design, material and workmanship; and
- comply with all applicable statutory and regulatory requirements.

15.2 Subject to the remainder of this clause, if:

- the Customer gives written notice within 72 hours of delivery that the Goods do not comply with the warranty; and
- Majestic is given a reasonable opportunity to inspect the Goods and (where requested) the Goods are returned,

15.3 Majestic shall, at its option, repair or replace the defective Goods or refund the price paid.

15.4 Majestic shall not be liable for any breach of warranty where:

- the Customer makes further use of the Goods after giving notice;
- the defect arises from misuse, neglect, improper storage or abnormal conditions;
- the Goods have been altered or repaired without consent; or
- the defect arises from compliance with any specification supplied by the Customer.

15.5 Except as expressly set out in this clause, all other warranties and conditions are excluded to the fullest extent permitted by law.

16. Customer Compliance with Law

16.1 In performing its obligations under the Contract, the Customer shall comply, and shall procure that its personnel comply, with all applicable laws, regulations and codes of practice.

17. Data Protection

17.1 Each party shall comply with all applicable data protection laws in connection with the performance of the Contract.

17.2 To the extent that Majestic processes any personal data relating to the Customer's personnel or representatives in connection with the Contract, such processing shall be carried out in accordance with Majestic's privacy notice, as updated from time to time and available on Majestic's website.

18. Limit of Liability

18.1 Nothing in these Terms limits or excludes liability for:

- death or personal injury caused by negligence;
- fraud or fraudulent misrepresentation;
- breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- any liability which cannot legally be limited or excluded.

18.2 Subject to the above:

- Majestic's total liability in respect of product liability (including liability arising from defective products) shall not exceed £1,000,000 in aggregate; and
- Majestic's total liability for all other claims arising out of or in connection with the Contract shall not exceed the price paid for the Goods giving rise to the claim.

18.3 Majestic shall not be liable for:

- loss of profits;
- loss of sales or business;
- loss of agreements or contracts;
- loss of anticipated savings;
- loss of goodwill; or
- any indirect or consequential loss.

18.4 The Customer is responsible for maintaining appropriate insurance in respect of risks arising from its use or resale of the Goods.

18.5 The Customer shall indemnify and keep indemnified Majestic and its officers, employees and agents 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 costs calculated on a full indemnity basis) suffered or incurred by Majestic arising out of or in connection with: (a) the Customer's breach of the Contract; (b) the Customer's use, storage, handling or resale

of the Goods otherwise than in accordance with applicable law, any instructions provided by Majestic or good industry practice; (c) the Customer's failure to comply with any applicable licensing, regulatory or statutory requirements relating to the sale, supply or service of alcoholic beverages; or (d) any claim made against Majestic by a third party arising out of or in connection with the Customer's acts or omissions.

19. Termination and Suspension

19.1 Without affecting any other right or remedy available to Majestic, Majestic may suspend immediately the supply or delivery of the Goods or terminate the Contract with immediate effect by giving written notice to the Customer if:

- a) the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default for not less than 28 days after being notified in writing to make such payment;
- b) Majestic reasonably believes that the Customer's ability to pay amounts due under the Contract is at risk.
- c) the Customer commits a material breach of any term of the Contract and, where such breach is capable of remedy, fails to remedy that breach within 14 days of being notified in writing to do so;
- d) the Customer takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets, or entering any analogous procedure in any jurisdiction;
- e) the Customer suspends, ceases or threatens to suspend or cease carrying on all or a substantial part of its business; or
- f) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

19.2 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of either party that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

19.3 Any provision of the Contract which expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

20. Force Majeure

20.1 Majestic shall not 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 an event or circumstance beyond its reasonable control (**Force Majeure Event**).

20.2 If a Force Majeure Event occurs:

- a) the affected party shall notify the other as soon as reasonably practicable; and
- b) the time for performance shall be extended for the duration of the event

20.3 If the period of delay or non-performance continues for more than six (6) weeks, either party may terminate the Contract by giving not less than 10 days' written notice to the other party.

20.4 Upon termination under this clause, Majestic shall refund any sums paid for undelivered Goods, and neither party shall have any further liability to the other arising from such termination.

21. Notices

21.1 In these Terms, a reference to writing or written includes email but excludes fax.

21.2 Any notice given under or in connection with the Contract shall be in writing and shall be:

- a) delivered by hand or sent by pre-paid first-class post or other next working day delivery service to the registered office or principal place of business of the recipient; or
- b) sent by email to the email address notified by the recipient for that purpose from time to time.

21.3 Any notice shall be deemed to have been received:

- a) if delivered by hand, at the time the notice is left at the proper address;
- b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- c) if sent by email, at the time of transmission, or, if sent outside Business Hours, at the start of the next Business Day.

21.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other dispute resolution process.

21.5 In this clause 21, Business Day means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business, and Business Hours means 9.00 am to 5.00 pm on a Business Day.

22. General

22.1 Assignment and other dealings.

- a) Majestic may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or otherwise deal with any or all of its rights and obligations under the Contract.
- b) The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or otherwise deal with any of its rights or obligations under the Contract without Majestic's prior written consent.

22.2 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by or on behalf of each party (or their authorised representatives).

22.3 **Changes to these terms.** Majestic may amend these Terms from time to time. Any amended Terms shall apply only to Orders placed after the effective date of the amendment and shall not affect Orders already accepted by Majestic.

22.4 **Waiver.** A failure or delay by Majestic to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. Any waiver shall be effective only if given in writing.

22.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

22.6 **Third party rights.** The Contract is between Majestic and the Customer. No other person shall have any rights to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

22.7 **Governing law and jurisdiction.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it shall be governed by and construed in accordance with the law of England and Wales, and the courts of England and Wales shall have exclusive jurisdiction.