

Corney & Barrow Hong Kong Limited TERMS & CONDITIONS OF SALE

These terms and conditions ("**Terms and Conditions**") apply to and form part of every contract between Corney and Barrow Hong Kong Limited (BRC No. 70502707) ("**Corney & Barrow**") and its customers ("**Customer**"). No terms and/or conditions which the Customer may seek to impose may be implied by trade, custom, practice or course of dealing shall apply or have effect.

1. DEFINITIONS

In these Terms and Conditions:

"**Customer**" means any Private Customer or Trade Customer as the case may be;

"**Goods**" means the products or services to be supplied by Corney & Barrow to the Customer;

"**GST**" means goods and services tax;

"**VAT**" means value added tax;

"**Private Customer**" means a Customer who is not a Trade Customer; and

"**Reserves**" means goods stored by or on behalf of Corney & Barrow in accordance with paragraph 7; and

"**Trade Customer**" means a Customer who purchases Goods with a view to resale in the ordinary course of its business and/or who Corney & Barrow notifies is classified as such.

2. PRICES AND PAYMENT TERMS

- 2.1 Corney & Barrow reserves the right to require payment for Goods at the time of order.
- 2.2 In cases where Corney & Barrow approves deferred payment terms then (unless Corney & Barrow agrees other payment terms):
 - (a) invoices to Private Customers must be paid within 30 days after the invoice date; and
 - (b) invoices to Trade Customers must be paid on or before the 21st day of the month following the month in which the invoice date falls.
- 2.3 All prices are quoted in Pounds Sterling or Hong Kong Dollars. Any applicable tax, duty and delivery charges will be added at the time of order or, in the case of Customer Reserves held in bond, when the relevant Reserves are delivered or collected.
- 2.4 For Customers outside Hong Kong, payment must (unless made at the time of order) be received prior to shipment of the relevant Goods or within 30 days after the date of invoice, whichever is the earlier. Customers outside Hong Kong who arrange their

own delivery are responsible for the payment of any applicable tax and duty (or their equivalent) in the country of delivery.

- 2.5 Payments due to Corney & Barrow can be made by major credit or debit card, cheque, or by direct electronic transfer (bank details available on request). Corney & Barrow may refuse to accept cash settlement of amounts due and will always refuse cash sums in excess of \$60,000 Hong Kong dollars.
- 2.6 Any increase in freight charges, duty, tax and/or changes in rates of exchange following payment will be passed on to the Customer if shipping and/or clearance from bond have not occurred prior to such increases. Similarly, if duties are reduced before shipping and/or clearance from bond, any reductions will be credited to the Customer.
- 2.7 If any amount remains unpaid after the due date for payment, then Corney & Barrow reserves the right at its sole and absolute discretion to do any or all of the following:
- (a) charge interest at 2% per month on any amount remaining unpaid after the due date, calculated from the due date until the actual date of payment;
 - (b) review and/or remove retrospectively any special trading terms previously agreed in relation to the transaction(s) to which those overdue accounts relate (including discounts, in which case Corney & Barrow may re-invoice the Goods at their full price);
 - (c) require payment of all other unpaid amounts invoiced to the Customer (whether or not then due and payable); and/or
 - (d) suspend any future deliveries to the Customer.
- 2.8 Corney & Barrow reserves the right to charge an administration fee of not less than \$180.00 Hong Kong dollars for each cheque unpaid by the Customer's bank, including but not limited to cheques which are returned marked "Please represent".
- 2.9 All payments to be made by the Customer shall be made in full, without any deduction, withholding, set-off or counterclaim.
- 2.10 In no circumstances will Corney & Barrow be obliged to proceed with a Customer's purchase of wine at an incorrect price even if Corney & Barrow has accepted the Customer's order for wines displayed at the incorrect price and/or failed to inform the Customer of the error.

3. **DELIVERY**

- 3.1 Delivery within Hong Kong (except for Lantau and Outlying Islands) is free of charge for orders of 1 case (9 litre case equivalent) or more. All other deliveries, including those overseas, are charged at the prevailing rate.
- 3.2 Delivery within Hong Kong will normally be made within 3 working days after acceptance by Corney & Barrow of the Customer's order.

3.3 Notwithstanding acceptance by Corney & Barrow of any order, all Goods are offered for sale subject to availability.

3.4 Delivery of recent vintages lying in stock outside the UK will be delayed until the Goods are shipped into the UK. Shipment into the UK in these circumstances will be made at the earliest suitable date. Delivery of broking stock will not take place until Corney & Barrow has taken possession of the relevant stock.

4. **TITLE AND RISK**

4.1 Subject (in the case of Trade Customers) to paragraph 5;

(a) Goods purchased and held 'in bond' as Reserves shall remain the property of Corney & Barrow until Corney & Barrow has received payment in full (in cash or cleared funds) for those Goods (excluding GST/VAT, duty and delivery charges); and

(b) Goods purchased and held 'duty paid' as Reserves, or not held as Reserves, shall remain the property of Corney & Barrow until Corney & Barrow has received payment in full (in cash or cleared funds) for those Goods (including any applicable GST/VAT, duty and delivery charges).

4.2 In the case of Goods purchased 'en primeur', those Goods may be stored in bulk in the region of their production. Until the Goods are bottled and transferred to Corney & Barrow's bonded warehouse, they cannot be segregated and the Customer may have a contractual rather than a proprietary interest in them.

4.3 Risk of loss or damage to Goods shall pass to the Customer when the Goods are physically delivered to or collected by, either the Customer or an agent acting on behalf of the Customer.

5. **RETENTION OF TITLE – TRADE CUSTOMERS**

5.1 Until such time as Corney & Barrow receives payment in full (in cash or cleared funds) for all Goods that Corney & Barrow has from time to time supplied to a Trade Customer (including any applicable GST/VAT, duty and delivery charges), all such Goods supplied to that Trade Customer shall remain the property of Corney & Barrow.

5.2 Until ownership of the Goods has passed to a Trade Customer, the Trade Customer shall (unless the Goods are held as Reserves or have been resold in accordance with paragraph 5.3):

(a) store the Goods separately from other goods of the Trade Customer and/or keep them in such a way (at no cost to Corney & Barrow) that they can be readily identified as being the property of Corney & Barrow;

(b) hold the Goods on a fiduciary basis as Corney & Barrow's bailee;

(c) not destroy, deface or obscure any identifying mark on or relating to the Goods; and

- (d) maintain the Goods in satisfactory condition and keep them insured on behalf of Corney & Barrow for their full replacement value against all risks.
- 5.3 Until ownership of the Goods has passed to Trade Customer, Corney & Barrow grants the Trade Customer the right to resell the Goods in the ordinary course of business at full market value on the basis that the Trade Customer has no authority to enter into any contract of sale on Corney & Barrow's behalf, but does so as principal, and provided that the Trade Customer shall hold in trust and pay to Corney & Barrow on demand the net proceeds of any such sale to the extent that any sums are owed by the Trade Customer to Corney & Barrow.
- 5.4 Without prejudice to any other remedy that Corney & Barrow may have, Corney & Barrow may, at any time, revoke the Trade Customer's power of sale under paragraph 5.3 by notice to the Trade Customer if the Trade Customer is in default of payment of any sum whatsoever due to Corney & Barrow, or if any cheque (or other negotiable instrument) drawn by the Trade Customer in favour of Corney & Barrow is dishonoured on presentation for payment, or if Corney & Barrow has bona fide doubt as to the solvency of the Trade Customer.
- 5.5 A Trade Customer's power of sale under paragraph 5.3 shall automatically cease if, in the case of a Trade Customer who is an individual, that Trade Customer has a bankruptcy order made against him/her or makes an arrangement or composition with his/her creditors, or, in the case of a Trade Customer which is an entity, that Trade Customer becomes insolvent is being wound-up, enters into an arrangement or take-over or reconstruction or amalgamation or merger, or is placed into administration, administrative receivership, compulsory or voluntary liquidation or a receiver is appointed over all or any of its assets or the Trade Customer enters into any other bankruptcy or winding up proceedings or any analogous insolvency proceedings in any other applicable jurisdiction. A Trade Customer shall notify Corney & Barrow without delay if any of the events specified in this paragraph occurs.
- 5.6 Upon the revocation of the Trade Customer's power of sale under paragraph 5.4 or its automatic cessation under paragraph 5.5, all amounts payable in respect of all Goods supplied shall become due and payable to Corney & Barrow immediately whether or not such amounts are then due and payable.
- 5.7 Each Trade Customer grants Corney & Barrow, its agents and employees (with such transport as is necessary) an irrevocable licence at any time to enter any premises of the Trade Customer, or to which the Trade Customer has access, where Goods may be or are believed to be situated for the purpose of inspecting the Goods to which Corney & Barrow has title or, where the Trade Customer's power of sale has been revoked or ceased, to recover any Goods to which Corney & Barrow has title. Corney & Barrow may dispose of the recovered Goods as to discharge any sums owed by the Trade Customer to Corney & Barrow.
- 5.8 The rights of Corney & Barrow set out in this paragraph 5 shall remain in full force and effect notwithstanding termination of the relevant contract with the Trade Customer.
- 5.9 Corney & Barrow may maintain an action for the purchase price of the Goods notwithstanding that ownership of them has not passed to the Trade Customer.

6. RETURNS AND BREAKAGES

- 6.1 Returns to Corney & Barrow will only be permitted when Goods are found to have been delivered to the Customer incorrectly and the Customer notifies Corney & Barrow of the error as soon as possible (and, in any event, within 7 days) after delivery.
- 6.2 If a bottle of wine purchased from Corney & Barrow is found to be corked or below Corney & Barrow's quality standards then Corney & Barrow will replace, or issue a credit for, that bottle of wine provided that the wine is returned to Corney & Barrow within one month after delivery to the Customers address.
- 6.3 Claims for breakages will only be allowed if the Customer notifies Corney & Barrow as soon as possible (and, in any event, within 7 days) after delivery. The Customer must retain breakages and accompanying packaging for examination by Corney & Barrow or its agent.

7. RESERVE STORAGE

- 7.1 Corney & Barrow offers storage facilities in the UK with Octavian, Corsham and Great Bear, Hoddesdon to its Customers for Goods purchased from Corney & Barrow or (in accordance with paragraph 7.6) from other sources
- 7.2 Storage charges shall be at the prevailing rate plus any other taxes (where applicable) per year, per case, for any cases stored for a period of three months or more. Charges will be rendered annually in arrears or when the Reserves are delivered or collected and are to be paid in accordance with paragraph 2 or as otherwise agreed in writing with Corney & Barrow. Corney & Barrow's storage rental year runs from 1st June to 31st May. A list of Reserves will be sent to the Customer annually in June with an invoice for storage for the year ending on the immediately preceding 31st May.
- 7.3 Reserves can only be made and withdrawn in multiples of one case.
- 7.4 Customer Reserves lying in Corney & Barrow's UK storage facility can be transferred Corney & Barrow's Hong Kong facility but only if the wine was purchased from or through Corney & Barrow. Corney & Barrow can also offer storage in Hong Kong for Goods purchased from other sources in the UK provided these Goods are inspected by Corney & Barrow's broking department in the UK prior to shipment to Hong Kong; the Customer agrees to meet the cost of any inspection charges levied by the warehouse.
- 7.5 Reserves will be insured by Corney & Barrow against all risks of physical loss or damage as at the date of such loss or damage subject to the policy terms or conditions. Although it is Corney & Barrow's intention to cover the present market value of any losses, in view of the difficulty in assessing the total market value and the market value of individual rarities, Corney & Barrow can only try to ensure that full compensation is recovered in cases of loss.
- 7.6 As an additional service, Corney & Barrow can offer storage for Goods purchased from other sources. Wine collected for storage with Corney & Barrow will be subject to a collection fee. Corney & Barrow will rely solely on the accompanying

documentation provided by the Customer and/or the designated warehouse from where the wine was delivered/collected, as being valid authentication of the description and quantity of the goods upon acceptance by Corney & Barrow. Corney & Barrow will not accept liability for either the provenance or condition of goods purchased from other sources or for any defect or other fault that these goods may have or may develop. For the avoidance of doubt, goods purchased from other sources shall, as between Corney & Barrow and the Customer and subject to Corney & Barrow's rights in paragraph 8 be the property of the Customer.

- 7.7 Corney & Barrow's records will distinguish the ownership of Reserves from the ownership of Corney & Barrow's own trading stock. Reserves will not be stored on the same pallets as Corney & Barrow's own trading stock.
- 7.8 Corney & Barrow will require any Customer instructions pertaining to dealing with Reserves to be confirmed in writing before acting on those instructions.

8. **LIEN**

In the event of non-payment of accounts (including storage charges), Corney & Barrow reserves the right to exercise a lien over and/or to sell some or all of a Customer's Reserves and to deduct from the proceeds of sale any outstanding amounts.

9. **LIMITATIONS OF LIABILITY**

- 9.1 Nothing in these Terms and Conditions shall exclude or limit in any way Corney & Barrow's liability or obligation under the Control of Exemption Clause Ordinance.
- 9.2 Corney & Barrow shall not be liable to the Customer for ullages or for any deterioration in the condition of any wine (which can occur naturally to all wines no matter how well cared for), whether that wine is in reserve storage with Corney & Barrow or stored separately by or on behalf of the Customer.
- 9.3 Corney & Barrow shall not be liable to the Customer for any claim (whether arising in or for contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise) under or in connection with these Terms and Conditions for:
- (a) any loss of profit, revenue, anticipated savings, business or contract; and
 - (b) any special, indirect or consequential loss.
- 9.4 Without prejudice to insurance coverage under paragraph 7.5 Corney & Barrow's total liability arising under these Terms and Conditions shall not in respect of any single claim exceed the order value including any taxes (where applicable), duty and delivery charges of the order that gives rise to the claim.
- 9.5 The Customer shall defend, indemnify and hold harmless Corney & Barrow and its affiliates from any claims, demands, loss, damage, liability of expense, including any legal fees and costs (however incurred), arising out of the acts or omissions of the Customer and its affiliates, agents, sub-contractors, officers, directors, employees or agents of any breach by the Customer for any of the provisions contained herein.

10. WEBSITE SALES

10.1 Purchases may be made via our website (www.corneyandbarrow.com.hk). Use of our website is subject to our Website Terms and Conditions, which can be found on the website.

11. GENERAL

11.1 In Hong Kong, it is illegal to sell alcohol to anyone under the age of 18 years. Similar restrictions apply in other jurisdictions. By placing an order with Corney & Barrow, the Customer confirms that he or she is at least 18 years old (or otherwise above any applicable age limit). At the time of delivery of the Customer's order, Corney & Barrow or its agent may request proof of age from the person accepting the delivery. If appropriate proof cannot be produced, Corney & Barrow or its agent may refuse to deliver the order.

11.2 Corney & Barrow may amend these Terms and Conditions from time to time. None of Corney & Barrow's employees or agents has the right to bind Corney & Barrow to any verbal agreement which does not comply with these Terms and Conditions.

11.3 Corney & Barrow shall not be liable for any failure to meet its obligations caused by circumstances beyond its control.

11.4 No delay in exercising or non-exercise by Corney & Barrow of any right, power or remedy under or in connection with these Terms and Conditions shall impair that right, power or remedy or operate as a waiver or release of it.

11.5 Where Corney & Barrow operates a joint account in the names of two or more Customers, Corney & Barrow shall (unless expressly instructed to the contrary) be entitled to accept, rely upon and act upon instructions given by any one of the Customers named on that account. If two or more Customers have a joint account with Corney & Barrow, the obligations of such Customers shall be joint and several.

11.6 If any provision, or any part of any provision, of these Terms and Conditions shall be or become illegal, invalid or unenforceable in any respect then that provision, or that part, shall be severable from these Terms and Conditions and the remainder of the provision and/or all other provisions shall remain valid and enforceable and the liability of Corney & Barrow and the Customer shall not be affected or impaired.

11.7 The Customer may not assign, transfer or otherwise deal with its rights, interests or obligations under these Terms and Conditions or enter into any transaction which would result in any of those obligations passing to another person without the prior written consent of Corney & Barrow.

12. GOVERNING LAW

These Terms and Conditions and all contracts entered into are governed by Hong Kong law and are subject to the exclusive jurisdiction of the Hong Kong Courts.

13. CONTACT DETAILS AND PREVAILING RATES FOR CHARGES

If you have any queries or comments in relation to these Terms and Conditions, or for details of the prevailing rates for charges referred to in these Terms and Conditions, you can either write to us at Unit D, 6th Floor, Nine Queen's Road Central, Hong Kong, email us at wine@corneyandbarrow.com or call us on +852 2537 3325.