

Grape Passions Ltd - Terms and Conditions

These terms and conditions should be read by you carefully as they set out the terms and conditions under which Grape Passions Ltd agrees to trade with you. Your attention is particularly drawn to clause 5 (liability).

1. Interpretation

1.1. The following definitions and rules of interpretation apply in these Conditions:

- **Conditions:** The terms and conditions set out between clause 1 and 16 (inclusive).
- **Contract:** Any contract between Grape Passions and the Customer for the sale and purchase of the Goods or Services incorporating these Conditions.
- **Customer:** The person firm or company who purchases the Goods or Services from the Seller.
- **Delivery Date:** The date that delivery is to take place, as defined in clause 4.1.
- **Delivery Point:** The place where delivery of the Goods is to take place, as set out in an acknowledgement of order.
- **Goods:** The Goods agreed to be supplied to the Customer by Grape Passions, set out in an acknowledgement of order.
- **Grape Passions:** Grape Passions Ltd (Registered in England and Wales No. 04193323)
- **Services:** The services to be provided to the Customer by Grape Passions, as set out in an acknowledgement of order.

2. Application of Terms

- 2.1. The Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2. Each order or acceptance of a quotation for Goods or Services by the Customer from Grape Passions shall be deemed to be an offer by the Customer to buy Goods or Services subject to these Conditions.
- 2.3. No order placed by the Customer shall be deemed accepted by Grape Passions until a written acknowledgment of order is issued by it, at which point the Contract shall come into existence.
- 2.4. Any quotation given to the Customer shall not constitute an offer, and is valid for a period of 60 days only from the date of issue.

3. Goods

- 3.1. The quantity and description of the Goods and the description of any Services shall be as set out in Grape Passions' quotation or acknowledgment of order.
- 3.2. All orders are subject to minimum order value of £200 plus VAT and Grape Passions reserves the right to reject any orders that do not meet the minimum order value.
- 3.3. Wines which cost under £10 plus VAT per bottle are sold in cases of 6 and Grape Passions reserves the right to reject or amend any orders that do not comply with this clause (including rounding the number of Goods up to fill the case).
- 3.4. Grape Passions warrants that on delivery the Goods shall a) conform with their description, b) be free from material defects; c) be of satisfactory quality, and d) be fit for purpose.

4. Delivery of Goods

- 4.1. Delivery of Goods shall take place at the delivery location stated in the acknowledgment of order on a specific day notified to the Customer by Grape Passions (the Delivery Date). If the Customer fails to take delivery of the Goods on the Delivery Date, Grape Passions may charge reasonable delivery charges.
- 4.2. Any date specified by Grape Passions for delivery of the Goods is subject to the Customer paying the price of the Goods before delivery unless a separate credit agreement has been entered into. Time for delivery shall not be of the essence. If no date is specified, delivery shall be within a reasonable time of the order being acknowledged by Grape Passions and (if no credit agreement exists with the Customer) payment by the Customer of the price of the Goods.
- 4.3. If for any reason the Customer fails to pay for and accept delivery of any of the Goods, or Grape Passions is unable to deliver the Goods on the Delivery Date because the Customer has not provided appropriate instructions or authorisations:
 - 4.3.1. risk in the Goods shall pass to the Customer
 - 4.3.2. the Goods shall be deemed to have been delivered; and
 - 4.3.3. Grape Passions may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance);
- 4.4. The Customer shall (where the Delivery Point is not Grape Passions' place of business) provide at the Delivery Point and at its expense adequate and appropriate equipment for unloading the Goods.

5. Liability

- 5.1. Subject to clause 5.3 Grape Passions shall not be liable to the Customer in respect of any breach of the Contract or of any representation given in connection with the Contract for any indirect or consequential loss (including, without limitation, pure economic loss, loss of business, depletion of goodwill and similar loss) costs damages charges or expenses whether caused directly or indirectly by the actions or omissions of Grape Passions its officers agents and employees (even if caused by Grape Passions' negligence).
- 5.2. Subject to clause 5.3 any liability of Grape Passions for any breach of the provisions of the Contract or any representation given in connection with the Contract and whether such claim be in contract, tort (including negligence) statute or otherwise shall be limited in all cases to the price of the Goods or Services.
- 5.3. If the Customer is a private individual purchasing for private consumption and not for re-sale this clause does not affect such customer's statutory rights.

- 5.4. Nothing in this Contract limits any liability which cannot be legally limited, including liability for: a) death or personal injury, b) fraud or fraudulent misrepresentation, c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and d) defective products under the Consumer Protection Act 1987.
- 5.5. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

6. Risk/Title of Goods

- 6.1. The Goods are at the risk of the Customer from the time of delivery (or deemed delivery under clause 4).
 - 6.2. Ownership of the Goods shall not pass to the Customer until Grape Passions has received in full (in cash or cleared funds) all sums due to it in respect of:
 - 6.2.1. the Goods; and
 - 6.2.2. all other sums which are or which become due to Grape Passions from the Customer on any account.
 - 6.3. Until ownership of the Goods has passed to the Customer the Customer shall:
 - 6.3.1. hold the Goods on a fiduciary basis as Grape Passions' bailee;
 - 6.3.2. store the Goods (at no cost to Grape Passions) separately from all other goods of the Customer or any third party, in such a way that they remain readily identifiable as Grape Passions' property;
 - 6.3.3. not destroy, deface or obscure any identifying mark or packaging including in particular any lot number on or relating to the Goods;
 - 6.3.4. allow Grape Passions, its agents and employees to enter any of the Customer's premises where the Goods are stored to allow Grape Passions to inspect the Goods; and
 - 6.3.5. maintain the Goods in satisfactory condition and keep them insured on Grape Passions' behalf for their full price against all risks to the reasonable satisfaction of Grape Passions. On request, the Customer shall produce the policy of insurance to Grape Passions.
 - 6.4. The Customer's right to possession of the Goods shall terminate immediately if:
 - 6.4.1. the Customer has a bankruptcy order made against him or enters into an arrangement or composition with his creditors or seeks a corporate or individual voluntary arrangement or enters into liquidation (whether voluntary or compulsory) or suffers the appointment of an administrator or administrative receiver or being a body corporate has a Petition presented to any court for its winding up.
 - 6.4.2. the Customer has suffered or allows any execution, whether legal or equitable, to be levied on the Customer's property, or fails to observe or perform any of the Customer's obligations under the Contract, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
 - 6.4.3. the Customer encumbers or in any way charges any of the Goods.
 - 6.5. Grape Passions shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from it.
 - 6.6. At any time before title to the Goods has passed to the Customer, Grape Passions may require the Customer to deliver up all Goods in its possession and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
 - 6.7. Where the Customer's right to possession is terminated, and Grape Passions is unable to determine which goods are the Goods in which the right to possession existed, the Customer shall be deemed to have sold all goods of the kind sold by Grape Passions to the Customer in the order in which they were invoiced to the Customer.
 - 6.8. On termination of the Contract howsoever caused Grape Passions' rights contained in this clause 6 shall remain in effect.
- ## 7. Price
- 7.1. The price for the Goods and Services shall be the price advised to the Customer by Grape Passions on acknowledgment of the order.
 - 7.2. The advised price for the Goods and Services shall be inclusive of excise duty but exclusive of VAT and all costs and charges (if any) in relation to the packaging, carriage and insurance of the Goods in transit all of which amounts will be advised by Grape Passions to the Customer at the time of acknowledgment of the order and which the Customer shall pay in addition when due to pay the price for the Goods and Services.
 - 7.3. Promotional prices and offers are as stated and are subject to availability.
 - 7.4. Any discount of the price for the Goods and Services agreed by Grape Passions after acknowledgment of the order and where a credit agreement exists between the parties, may only be applied by the Customer if at the time payment is due for the Goods or Services no payments under the credit agreement are overdue and the credit account is otherwise being operated in accordance with the provisions of the credit agreement.
- ## 8. Payment for Goods
- 8.1. Grape Passions shall (on or before the date that the price for the Goods becomes due) render to the Customer an invoice in proper form.
 - 8.2. Subject to clause 8.3 and any separate agreement for the provision of credit, payment of the price of the Goods is due in pounds sterling on notice by Grape Passions to the Customer that the Goods are ready for delivery. Where a separate credit agreement exists (subject to clause 8.4) payment of the price for the Goods is due in accordance with the provisions of that agreement.
 - 8.3. Time for payment shall be of the essence.
 - 8.4. All payments payable to Grape Passions under the contract shall become due immediately on its termination despite any other provision in the contract or in any credit agreement.

Grape Passions Ltd - Terms and Conditions

- 8.5. The Customer shall make all payments due under the Contract in full without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise.
- 8.6. If the Customer fails to pay Grape Passions any sum due pursuant to the Contract, the Customer shall be liable to pay interest to Grape Passions on such sum from the due date for payment at the annual rate of 5% above the base lending rate from time to time of Barclays Bank Plc (but at 5% a year for any period when that base rate is below 0%) accruing on a daily basis until payment is made, and before as well as after any judgment until payment is made.
- 8.7. If a Customer's direct debit payment to Grape Passions is late or fails, the Customer shall pay Grape Passions' costs, charges and expenses incurred as a result of the delay or failure..
- 9. Cancellation of Orders for Goods**
Orders cannot be cancelled for the supply of Goods made to the Customer's specification, which are clearly personalised, or which are bought by Grape Passions as agent for the Customer. In all other cases, orders may be cancelled prior to Grape Passions giving its Customer notice that the goods are ready for delivery and upon cancellation the Customer shall be liable to pay Grape Passions 25% of the then current list price of the Goods plus VAT on such sum.
- 10. Assignment**
The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of Grape Passions.
- 11. Damaged Goods**
11.1. Upon receipt of the Goods the same shall be carefully inspected by the Customer and any breakages or shortages must be notified to Grape Passions at the time of delivery.
11.2. If the Customer a) gives notice to Grape Passions in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out at clause 3.2; and b) the Customer provides sufficient evidence, including (but not limited to) photographs of the damage, then Grape Passions shall, at its option, replace the damaged Goods or refund the price of the damaged Goods in full.
11.3. Grape Passions shall not be liable for the Good's failure to comply with the warranties set out at clause 3.2 if a) the Customer makes any further use of such Goods after giving notice in accordance with clause 11.2, or b) the damage to the Goods to the extent that the damage was caused by the actions (or failure to act) of the Customer following delivery.
11.4. Grape Passions will not accept any claims for breakages or shortages unless they are notified at the time of delivery.
11.5. Except as provided in this clause 11, Grape Passions shall have no liability to the Customer in respect of the Good's failure to comply with the warranty set out at clause 3.2.
11.6. These Conditions will apply to any replaced Goods supplied by Grape Passions.
- 12. Services**
12.1. Grape Passions warrants that it shall provide the Services with reasonable care and skill and will comply materially with any specification set out in the acknowledgement of order.
12.2. If in the reasonable opinion of the Customer Grape Passions has not provided the Services in accordance with the warranty set out at clause 12.1, then Grape Passions may at its discretion provide a refund for the whole or part of the cost of the Services, or reperform the Services.
12.3. The Customer shall pay a non-returnable deposit of 25% of the price (inc. taxes) due upon receipt of Grape Passions' acknowledgement of order. A further non-returnable deposit of 50% of the price (inc taxes payable) will be due and paid by the Customer not less than four weeks before the event, and the remaining balance of the price (inc. taxes) is due and payable on the date of the event.
- 13. Customer Obligations**
13.1. The Customer shall at all times:
13.1.1. cooperate with Grape Passions in all matters relating to the Services;
13.1.2. provide Grape Passions with access to the Customer's premises and other facilities as reasonably required by Grape Passions to provide the Services;
13.1.3. ensure that the venue where Services are to be provided is safe and suitable for the event being organised; and
13.1.4. provide Grape Passions with such information and materials as Grape Passions may reasonably required in order to supply the Services (and ensure that such information is complete and accurate in all respects).
13.2. If the Customer fails to comply with clause 13.1, Grape Passions shall be entitled at its discretion to make a reasonable additional charge to account for any increase in costs incurred by Grape Passions, or cancel the Contract.
13.3. The Customer shall give details of the final number of people attending the event to Grape Passions not less than 10 days before the event. The acceptance of any increase over previously advised numbers will be at Grape Passions' sole discretion and may be subject to an additional charge.
13.4. Grape Passions reserves the right to charge, in full, on the basis of the final number of attendees notified to it not less than 10 days before the event notwithstanding that the number of persons actually attending may be fewer.
- 14. Cancellation by the Customer of orders for Services**
14.1. Should the Customer cancel an event, the 25% deposit paid to Grape Passions on booking is non-refundable. If the event is cancelled within four weeks of the event date, the additional 50% deposit similarly remains due and is non-refundable.
- 15. Amendments to and cancellations of Services by Grape Passions**
15.1. Grape Passions shall be entitled when providing Services to the Customer to cancel the Contract if it is of the opinion that any of the premises, facilities, or access ways are unsafe or are otherwise unsuitable for whatever reason and Grape Passions shall be entitled to receive and retain 50% of the price of the Services including VAT by way of liquidated damages, the Customer acknowledging that the same represents a fair and reasonable estimate of the loss suffered by Grape Passions. Grape Passions shall not be liable for any loss whatsoever and whether direct or indirect suffered by the Customer as a result of cancellation under this clause.
15.2. Should the Customer make significant changes to the programme of the event or the expected number of attendees Grape Passions reserves the right to make amendments to the applicable rates and/or facilities offered by it.
15.3. In the event that Grape Passions for reasons beyond its control needs to make any amendment to the booking, it reserves the right to do so and to offer an alternative choice of facilities.
15.4. Grape Passions shall be entitled to cancel the Contract if either the initial deposit is not paid on acknowledgment of the order or the further 50% deposit (see clause 12.3) is not paid within four weeks of the date of the event. Grape Passions shall not be liable for any loss (whether direct or indirect) suffered by the Customer as a result of such cancellation.
15.5. Grape Passions may cancel the provision of Services at any time:
15.5.1. if the booking might, in the opinion of Grape Passions prejudice its reputation;
15.5.2. if the Customer is more than 30 days in arrears of previous payments for either Goods or Services;
15.5.3. if Grape Passions becomes aware of any deterioration in the Customer's financial situation.
- 16. Consumer's Statutory Rights**
These Terms and Conditions do not affect the statutory rights of a private individual purchasing for their own personal consumption.
- 17. Force Majeure**
17.1. Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a Force Majeure Event). The time for performance of such obligations shall be extended accordingly.
17.2. In the event of a Force Majeure Event, Grape Passions may cancel any Contract for:
17.2.1. Goods if the Force Majeure Event continues (or Grape Passions reasonably believes that it will continue) for more than 30 days, and Grape Passions shall refund the Customer for any Goods paid for but not delivered.
17.2.2. Services if the Force Majeure Event is still in place (or Grape Passions reasonably believes that it will be in place) on the event date.
- 18. General**
18.1. The Contract constitutes the entire agreement between the parties.
18.2. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
18.3. All notices shall be in writing and sent by first class post or email to the address of the recipient stated in any quotation, order or acknowledgment of order and shall be deemed to have been received if sent by first class post on the second day following the day of posting, and if sent by email on the day the email is sent (or if sent by email after close of business, the following working day).
18.4. Each right or remedy of Grape Passions under the Contract is without prejudice to any other right or remedy of Grape Passions whether under the Contract or not.
18.5. If any provision of the Contract is found by any court or other body of competent jurisdiction to be wholly or partly illegal, invalid or voidable, unenforceable or unreasonable it shall be deemed severable and the remaining provisions of the Contract shall continue in full force and effect.
18.6. Failure or delay by Grape Passions to enforce or partly enforce any provision of the Contract shall not be construed as a waiver of its rights under the Contract.
18.7. The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
18.8. The Contract shall be governed by English Law and the parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connect with the Contract.