



Mad Men Liquor, 13/36 Sale Street, Auckland Central, Auckland, sales@madmenliquor.co.nz

TRADE AND CREDIT ACCOUNT APPLICATION

Details of the applicant

Trading name

Organisation type (*circle*) Company / Partnership / Trust / Sole Trader / Other (specify):

Postal address

Physical address

Business phone

Mobile phone (of contact person)

Facsimile

Email Address

Website

If a company or incorporated entity

Incorporation number

Address of registered office

Nominated authorised person

Authorised person's DDI

Authorised person's mobile phone

Authorised person's email

If a sole trader

First Name

Middle Name(s)

Surname

Date of Birth



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Referees (if requested provide at least two)

Full Name

Address

Full Name

Address

Full Name

Address

Declaration: The information supplied above is true and accurate, I/we have read and understood the terms and conditions detailed below and (in the case of a company or incorporated entity) am authorised to sign on that entity's behalf.

Name:

Signed:

Date:

(Please sign and date this form, initial each page of the terms and conditions and then return a copy of the form – either by email or post – to Mad Men Liquor at sales@madmenliquor.co.nz and aaron@madmenliquor.co.nz or the address in the header above)



TRADE TERMS & CONDITIONS

In these terms and conditions ("**Terms**") "**We**", "**Us**" and "**Our**" is used to refer to Southern Vertus Limited (trading as Mad Men liquor) and "**You**" to refer to the entity or person detailed above.

"**Goods**" means champagne, beer, wine and associated products of a similar nature.

By agreeing to acquire the Goods from Us You agree to these Terms to the exclusion of your terms (if any) and to the exclusion of any other statements made by Us, unless agreed otherwise in writing by Us.

1.0 DELIVERY

1.1 Delivery shall be deemed to be made by Us when:

- a. delivery is effected at the place where the Goods are to be delivered to You and in the manner provided by any quotation or order accepted by Us; and
- b. in any other case delivery shall be deemed to be made when You or any freight forwarder or carrier appointed by You uplifts the Goods, from Our premises.

1.2 We will deliver to You freight free orders of six (6) mixed cases or more, otherwise You will pay us for all reasonable costs of delivery. For the avoidance of any doubt these six (6) cases refer to full price cases and does not include any promotional stock or giveaways.

2.0 TITLE AND RISK

- 2.1 We shall retain title to all Goods We supply until they have been paid for in full and You have performed all your obligations under these Terms.
- 2.2 Risk in all Goods passes to You when the Goods are delivered in accordance with clause 1.1 above.

3.0 PRICE

- 3.1 All prices are plus GST, which shall be paid by You.
- 3.2 Our prices are subject to change without notice, however We will make reasonable endeavours to provide You with notice of any price changes.
- 3.3 Unless We agree otherwise in writing, the amount You will be charged will be the price applicable as at the date of order.

4.0 PAYMENT

- 4.1 You must pay for the Goods and any other amounts owing to Us by the 20th of the month following the month of Our invoice, unless otherwise agreed by Us in writing.
- 4.2 All payments shall be made without set-off or deduction, including the right of set off at common law.
- 4.3 We may apportion payments to outstanding accounts as We see it.
- 4.4 You must pay all amounts in full and will be liable to pay any bank fees, international payment transfer costs (if any) and currency fluctuations incurred by Us in respect of your payment. If We incur any such costs then we reserve the right to request payment immediately as a debt due and payable by You or add these costs to any future invoices.

5.0 DEFAULT

- 5.1 You will be in default if You fail to pay an amount due under these Terms by the due date for payment (in clause 4.1 above) and We may, at Our election, do any one or more of the following:



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- a. charge You default interest at 18% per annum on any late payments calculated on a daily basis from the due date for payment until payment is received in full by Us;
- b. require You to pay to us immediately all amounts You owe us;
- c. suspend or terminate your account with Us;
- d. enforce any and all security interests created by these Terms; and
- e. exercise any rights that We have under these Terms or that are available to Us at law.

5.2 We may suspend or terminate your account with Us at any time in Our sole and absolute discretion. If your account is terminated, You must immediately pay Us any amount You owe us. Termination will not affect any of Our rights that have arisen before termination.

6.0 PERSONAL PROPERTY SECURITIES ACT 1999 ("PPSA")

- 6.1 Clause 2.1 creates a security interest to Us in the Goods We supply to You.
- 6.2 You shall not grant any other security or any lien over Goods that We have a security interest in.
- 6.3 At Our request You shall promptly sign any documents and do anything else required by us to ensure Our security interest constitutes a first ranking perfected security interest in Our Goods.
- 6.4 We may at any time enter your premises and properties to uplift Goods that We have security in.
- 6.5 If any of the Goods that We have a security interest in are processed, included or dealt with in any way causing them to become accessions, processed or commingled Goods, Our security interest will continue in the whole in which they are included. You shall not grant any other security interest or any lien in either the Goods or in the whole.
- 6.6 You waive any rights You may have under sections 114(1)(a), 116, 120, 121, 125, 126, 127, 129, 131, 133, and 134 of the PPSA.
- 6.7 You waive your right to receive a copy of any verification statement (as that term is defined in the PPSA).
- 6.8 You shall give Us prior written notice of any proposed change of your name or address.

7.0 WARRANTIES

- 7.1 We warrant that the Goods will be of merchantable quality.
- 7.2 You will inspect the Goods on delivery and notify Us of any defects or shortages within 2 Business Days of delivery. Sales order numbers must be quoted with the notification.
- 7.3 Returned Goods will not be accepted without out prior approval and We must be given the reasonable opportunity to inspect the Goods.
- 7.4 Subject to clause 7.2 and 7.3 We will either replace or give You a credit for any Goods supplied that are not in Our reasonable opinion of merchantable quality, any shortages and credit You for any reasonable return delivery costs.

8.0 LIMITATION OF LIABILITY

- 8.1 Our liability under these Terms and at common law, tort or otherwise shall be limited to the remedies set out in clause 7.4. This includes any right to claim general damages at common law.
- 8.2 We shall not be liable for any other loss or damage or liability any kind whatsoever (including consequential loss or indirect loss, lost profit, loss of business or loss of



Mad Men Liquor, 13/36 Sale Street, Auckland Central, Auckland, sales@madmenliquor.co.nz opportunity) whether suffered or incurred by You or another person and whether in contract, tort, or otherwise and whether such loss or damage arises directly or indirectly from Goods provided by Us to You.

9.0 PRIVACY OF INFORMATION

9.1 You authorise Us:

- a. to collect, retain and use information about You from any person for the purpose of assessing your creditworthiness;
- b. to disclose information about You;
 - i. any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to your obligations to Us;
 - ii. to such persons as may be necessary or desirable to enable Us to exercise any power or enforce or attempt to enforce any of Our rights, remedies and powers under these Terms.

10.0 NOTICES

10.1 Any notice may be given by phone, in person, posted or sent by facsimile or email to You or if You are a company, to any of your directors.

11.0 CONFIDENTIALITY

11.1 You shall at all times treat as confidential all non-public information and material received from Us and shall not publish, release, or disclose the same without Our prior written consent. For clarity, confidential information includes any new intellectual property and prices.

12.0 COSTS

12.1 You must pay Our costs (including legal costs, as between solicitor and client) of and incidental to the enforcement or attempted enforcement of Our rights, remedies and powers under these Terms.

13.0 CREDIT INFORMATION

13.1 You consent to Us, or any financier or credit-rating agency, making enquires of and obtaining any information about your financial standing and credit worthiness.

14.0 DISPUTES

14.1 Any claim or dispute arising under these Terms shall be determined by the parties, in good faith and acting reasonably, by negotiation. Failing agreeing the matter shall be determined arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within two (2) weeks of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand courts.

15.0 TIME

15.1 If We have given You a time for delivery or collection of the Goods (or any part of them), such time is approximate only and is not deemed to be of the essence.

15.2 We shall not be liable for delay or failure to perform Our obligations under these Terms if the cause of delay or failure is beyond Our reasonable control.



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16.0 GENERAL

- 16.1 These Terms replace any earlier representations, warranties, understandings and agreements (whether oral or written), and together with your Credit Application constitute the entire agreement between Us and You relating to their subject matter.
- 16.2 You shall not transfer or assign your rights or obligations under these Terms without Our prior written consent.
- 16.3 If You have entered into these Terms as the trustee of a trust and You have no right to or interest in any of the assets of the trust except in your capability as trustee of the trust, your liability shall be limited to the value of the assets of the trust which now or in the future are (or, but for your wilful neglect or default, would be) in the hands of the trustees of the time being of the trust. This clause does not limit any liability You have as to us as a personal guarantor.
- 16.4 No failure or delay by Us in insisting upon the strict performance of these Terms or exercising any right under these Terms will operate as a waiver of those matters. No waiver will be effective unless in writing and signed by US and any waiver will not be deemed to be a continuing waiver.
- 16.5 We may change these Terms at any time. Any change applies from when We notify You of that change.
- 16.6 The rule of construction known as the contra proferentem rule does not apply to these Terms.
- 16.7 Words importing the singular include the plural and vice versa.
- 16.8 Headings are for convenience only and do not form part of, or affect the interpretation of, these Terms.
- 16.9 References to a party include that party's successors, personal representatives, executors, administrators and permitted assigns.
- 16.10 References to a statute include references to:
 - a. regulations, orders, rules or notices made pursuant to that statute;
 - b. all amendments to that statute and those regulations, orders, rules or notices whether by subsequent statute or otherwise; and
 - c. any statute passed in substitution of that statute.