

TERMS & CONDITIONS - PRIVATE WINE VAULTS

1. DEFINITIONS AND INTERPRETATION

In these Terms & Conditions ("conditions")

"**The Operator**" means the Operator described in the Storage Agreement as the party entitled to possession of the premises at which the Goods are stored and its successors and assigns;

"**You**" and "**Your**" refers to the person (including a corporation) named as the Client in the Wine Storage Agreement and their successors and permitted assigns; and if there is more than one, it refers to each severally and any two or more jointly;

"**Goods**" means any item or thing which You bring onto the Premises or which is kept in Your Vault;

"**Vault**" means the dedicated wine storage area assigned to You within the Operator's Premises;

"**Premises**" means the premises of the Operator at which Your Goods are located;

2. STORAGE

1 (Your Vault) Subject to clause 2.2, The Operator gives You a licence to store Your Goods in Your on a month to month basis until terminated by either party in accordance with this Agreement ("Storage Period").

2 (Change of Your Vault) The Operator may at any time change Your Vault by giving notice to You, but:

(a) The Operator may not change Your Vault to a Vault with less area (without Your agreement); and

(b) The Operator must at its own cost relocate (or, if The Operator agrees, pay the costs to relocate) Your Goods to the new Vault.

3. RESPONSIBILITY FOR YOUR GOODS

1 (Responsibility for Goods) At all times (including while Your Goods are in Your Vault) Your Goods are:

(a) in Your (and not The Operator's) possession and control;

(b) taken to be within Your (and not The Operator's) knowledge;

(c) at Your risk in all respects.

2 (Operator's Knowledge) The Operator does not and shall not be deemed to have knowledge of the goods stored and You acknowledge and agree that the Operator is not a bailee of Your Goods nor does the Operator have possession of Your Goods at any time.

4. PAYMENT

1 (Commencement of Payments) On commencement of the Storage Agreement You must pay The Operator:

(a) the Deposit, Administration Fee and/or Cleaning Fee (if any) set out in the Storage Agreement; and

(b) the first payment of the Storage Fees for the Initial Storage Period (set out in the Storage Agreement).

2 (Storage Fee Payments) On or before each Monthly Payment Date (or as otherwise set out in the Storage Agreement) You must pay The Operator in advance the Storage Fee for storage between that Monthly Payment Date and the next following Monthly Payment Date, together with such other fee as may be notified by the Operator in writing from time to time including for example the Cleaning Fee.

3 (Apportionment of Storage Fees and Refunds) Storage Fees shall be apportioned on a pro-rata daily basis for broken periods. No Refunds are offered for any prepaid storage periods.

4 (Methods of Payments) Subject to clause 4.5, You may pay amounts payable to The Operator by cash, cheque or credit card (approved by The Operator).

5 (Credit Card Payment) The Operator may refuse to accept any telephone request to effect payment by debit of Your credit card until a written authorisation from You is received by The Operator.

6 (Late Payment Fee) If You fail to pay The Operator any amount when due or if any payment is dishonoured or cancelled, You must pay The Operator (when You pay the overdue amount) the Late Payment Fee (set out in the Rate Schedule) applying to the period between the due date for payment and the date You actually pay, together with any associated telephone, postage and other costs related to collection of these amounts.

7 (Change in Fees) The Operator may, at any time after the Initial Storage Period, increase the Storage Fee by giving You 14 days prior notice.

8 (Part Payment) Acceptance by The Operator of any part of the total amount owing by You will not be taken to affect Your obligation to pay the balance of the amount.

5. ACCESS

1 (Access Hours) Subject to clauses 5.2 and 5.3, You may access Your Vault during the opening hours of the Premises or as otherwise notified by the Operator ("Access Hours").

2 (Emergency Access) You may only access Your Vault outside the Access Hours with the Operator's consent which may be given or withheld at the Operator's sole and unfettered discretion.

3 (Refusal of Access) The Operator may (without being obliged to do so) refuse You or any other person access to the Premises or Your Vault (including after this Agreement has been terminated for any reason) if:

(a) You have not complied with any of Your obligations under this Agreement whether or not any formal demand or notice has been given; or

(b) You or the other person do not produce identification and/or evidence satisfactory to The Operator to show You or the other person are entitled to access.

4 (Obligations During Refusal of Access) Your obligations under this Agreement (including payment of the Storage Fee to The Operator) continue until termination of this Agreement, even though You may not have access to the Premises or Your Vault, for all or part of the Storage Period.

5 (Access by The Operator) The Operator may (without being obliged to do so):

(a) by 7 days prior notice to You, require You to allow it to access, inspect or service (including for maintenance and pest control purposes) Your Vault and inspect Your Goods at any reasonable time;

(b) if at any time:

(i) The Operator believes Your Goods or any act or omission by You in connection with Your Vault may cause harm to any person, property or the environment; or

(ii) you fail to comply with a notice given under paragraph (a), immediately (and without notice to You) take any action considered by The Operator to be necessary to access, inspect or service Your Vault or inspect Your Goods and, if necessary, to avoid the potential harm the Operator may remove and dispose of Your Goods and the cost of The Operator so doing will be reimbursed by You to The Operator on demand by The Operator.

6 (Access by Unauthorised Persons) The Operator is not responsible for any unauthorised entry by any person to the Premises or Your Vault.

6. YOUR OBLIGATIONS

1 (Use of Your Vault) You must only use Your Vault for storage and no other business or activity.

2 (Securing Your Vault) You are solely responsible for securing Your Vault and must do so in a manner reasonably satisfactory to The Operator, and where applicable You must ensure that all external gates or doors of the premises are kept secure at all times.

3 (Prohibited Goods) Your Goods must not include any item listed in the Prohibited Goods List displayed by The Operator from time to time at the Premises or any animal or any thing which is hazardous, illegal, stolen, inflammable, explosive, environmentally harmful, perishable or which in the reasonable opinion of The Operator may cause harm to any person, property or the environment.

4 (Cleaning and Maintenance) You must clean and maintain Your Vault in good condition, order and repair (fair wear and tear excepted). If you fail to do this the Operator may do so at Your cost.

5 (Alterations) You must not carry out any alterations to or mark, paint, nail, drill, alter or damage or attach any structure to any part of Your Vault without the written consent of The Operator.

6 (Repair) You must immediately notify The Operator of any damage You or any person authorised by You causes to the Premises or Your Vault and reimburse The Operator on demand for the cost to The Operator of making good the damage.

7 (Insurance) Unless The Operator otherwise agrees, You must keep Your Goods in Your Vault insured on terms reasonably satisfactory to The Operator and provide evidence of the insurance to The Operator whenever requested by The Operator. You agree to waive any right of subrogation You may otherwise have in relation to insurance of the Goods.

8 (Nuisance) You must not cause any inconvenience or nuisance to any other person using the Premises.

9 (Compliance with Laws) You must comply with all laws applying to Your Goods or the storage of Your Goods in, or use of, Your Vault.

10 (Change in details) You must immediately notify the Operator of any change in Your contact details or those of the Alternate Contact Person set out in the Storage Agreement.

11 (Contact) You grant the Operator the right to discuss any default under this Agreement with the Alternate Contact Person.

7. RELEASE AND INDEMNIFY

1 (You Release and Indemnify The Operator) You (for all time and despite any earlier termination of this Agreement):

(a) release The Operator (and its employees and agents) from; and

(b) indemnify The Operator (and its employees and agents) against, any costs, expenses, damages, claims, action or liability whatever, arising (whether in contract, tort, under statute or otherwise) from or in connection with,

(i) loss of or damage to Your Goods, however caused;

(ii) damage to any device used by You to secure Your Vault resulting from The Operator accessing Your Vault in accordance with this Agreement;

(iii) The Operator refusing You access to the Premises and Your Vault in accordance with this Agreement; or

(iv) loss of or damage to any property (including The Operator's property) or death of or injury to any person caused or contributed to by: (i) Your Goods; (ii) You or any person accessing the Premises with Your authority or consent.

8. TERMINATION

1 (Termination by Notice) Either You or The Operator may terminate this Agreement at any time after the Initial Storage Period by giving not less than 7 days notice to the other. If you Fail to give 7 days notice of termination to the Operator the Operator shall be entitled to retain on a pro-rata basis part or all of any deposit paid, or any Storage Fees paid in advance in lieu of such notice.

2 (Termination on Default) If you fail to comply with any of Your obligations under this Agreement after The Operator gives You 7 days notice requiring You to comply, The Operator may immediately terminate this Agreement by notice to You, and may, without further notice, enter Your Vault, retain the Deposit and take possession of and deal with Your Goods as Abandoned Goods under clause 9.2.

3 (Your Obligation on Termination) On termination of this Agreement, You must immediately:

(a) (Pay all Fees) pay to The Operator any amounts which You owe to The Operator and if The Operator

terminates this Agreement because of Your default, also the amount of 2 weeks Storage Fee payable under this Agreement;

(b) (**Removal of Goods**) remove Your Goods from Your Vault; and

(c) (**Restoring Your Vault**) clean and remove all rubbish from and make good any damage caused by You or Your Goods to Your Vault. If you fail to do this the Operator may do so at Your cost.

4 (Refund of Deposit) Upon your request, following termination the Operator shall refund to You within a reasonable period of time, the amount of any Deposit, less any amounts The Operator is entitled to claim from You.

5 (Damage or Destruction) If Your Vault is destroyed or damaged from any cause other than by Your act or default so as to render Your Vault unfit for storage of Your Goods, the Operator or You may at any time give notice in writing terminating this Agreement and thereupon this Agreement shall be deemed to have terminated at the date of the destruction or damage.

9. ABANDONED GOODS

1 (Abandonment of Goods) If at any time You fail to:

(a) pay The Operator any amount due and owing to it by You; or

(b) remove Your Goods when required under this Agreement, within 7 days after The Operator gives You notice requiring you to remedy that failure, Your Goods will be taken to be Abandoned Goods for the purposes of this clause.

2 (Dealing with Abandoned Goods) You agree:

(a) The Operator may as Your authorised agent (in its absolute discretion and without being obliged to do so) arrange:

(i) the disposal of;

(ii) alternative storage of; or

(iii) the sale of,

any of Your Abandoned Goods, on such terms as The Operator (in its absolute discretion) decides;

(b) You must indemnify The Operator for all costs, expenses, damages, claims, action or liability whatever arising from or in connection with The Operator exercising its rights under paragraph (a);

(c) The Operator shall pay You the amount received by it from the sale of Your Abandoned Goods less any amounts You owe The Operator (including without limitation any Late Payment or other Fees) within 30 days after The Operator receives the amount.

10. NOTICES

1 (Service of Notices) All notices served by You or The Operator under this Agreement must be in writing and in the case of notices to You may be delivered, posted or facsimiled to the respective address or facsimile number of You (or Your Alternate Contact Person) set out in the Storage Agreement or such other address or facsimile number notified by You to The Operator specifically for the purposes of this clause.

2 (Deemed Notice) Any notice given under this Agreement is deemed to have been given the day after the notice has been delivered, posted or facsimiled.

11. GENERAL PROVISIONS

1 (Assignment) You must not assign, sub-licence or otherwise deal with Your rights or obligations under this Agreement without the written consent of The Operator.

2 (Applicable Law) The law of the State or Territory of Australia within which the Premises at which Your Goods are stored is located, applies to this Agreement.

3 (Variations) Any variation of this Agreement is only effective if it is in writing and signed by all parties. No oral statement made by the Operator or its employees shall form part of this Agreement.

4 (Waivers) A party shall not be taken to have waived a right under or in connection with this Agreement unless the party expressly does so in writing. A waiver of any right or obligation at any time shall not be taken as a waiver of the right when it arises at any other time.

5 (Stamp Duty & GST) You must on demand pay and indemnify The Operator for any stamp duty, Goods and Services Tax or similar tax or liability imposed in connection with this Agreement or any supply under it.

6 (Severance) If any provision of this Agreement is legally unenforceable or made inapplicable, it shall be severed or read down, but so as to maintain (as far as possible) all other terms of this Agreement.

7 (Insurance) You agree that if You accept any insurance arranged through The Operator or its employees or agents:

(a) You are entering a contract of insurance with the disclosed insurer and not The Operator;

(b) in effecting the insurance contract, The Operator is acting:

(i) under an authority given to it by the disclosed insurer; and

(ii) as agent of the insurer and not an agent of You;

(c) You must satisfy yourself on the terms and adequacy of the insurance (without relying on any information provided by The Operator or its employees or agents); and

(d) You will have no claim whatever against The Operator or its employees or agents arising from or in connection with the insurance.

8 (Continuing Liability) Your liability for outstanding money, property damage, personal injury, environmental damage and legal responsibility under this Agreement continues to run beyond the termination of this Agreement.

9 (Entire Agreement) This Agreement constitutes the entire agreement between You and the Operator for matters referred to in it. Any prior arrangements, agreements, representations or undertakings are superseded.