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**M.A. SILVA CORKS, USA, LLC
Terms and Conditions of Sale**

These Terms and Conditions of Sale (the "Terms") apply to the sale of the products (the "Products") described in the attached Sales Order by which M.A. Silva Corks, USA, LLC ("Seller") agrees to sell to the "Buyer". These Terms are hereby incorporated into the Sales Order, which, with the Artwork Acknowledgment, shall constitute the entire integrated agreement between Seller and Buyer relating to the Products, and replaces and supersedes all previous negotiations, understandings, representations or agreements between Seller and Buyer relating thereto, whether written or oral or express or implied. Buyer agrees that these terms and conditions apply to the exclusion of any additional or different terms on any purchase order or other document submitted by Buyer.

1. Payment

- (a) Timing. Unless otherwise specified in the Sales Order, payment of all invoiced amounts (including freight, taxes, fuel charges, tariffs, duties and other costs payable by Buyer) is due net thirty (30) days after shipment of the Products. If shipment is delayed in whole or in part at Buyer's request, Seller will issue an invoice for the Products as and when ready for shipment and payment will be due net thirty (30) days after the invoice date, even if Buyer delays the shipment. Payment is due in full and not by installments and all amounts are payable in U.S. dollars.
- (b) Discounts. Buyer is not entitled to any discount for early payment unless specifically agreed in writing by Seller.
- (c) Late Charges. If payment is not received when due, Buyer will be liable to a late payment charge equal to one and one-half percent (1.5%) of the overdue balance, per month. Buyer acknowledges that such late charges are reasonable and do not constitute a penalty. Additionally, returned checks will be subject to a onetime charge equal to twice the amount of any bank charges payable by Seller with respect thereto.
- (d) FOB point. All prices are FOB Seller's place of business (the "FOB Point").
- (e) Sales and Use Taxes. Unless Buyer pays applicable sales, use, excise, gross receipts, transaction privilege, retailer's occupation, or any similar tax on the purchase of Products (the "Applicable Taxes"), Buyer hereby represents and warrants that it is purchasing the Products for resale, and that Buyer possesses a currently valid resale permit or other tax exemption permit. Liability for any applicable Taxes levied in connection with sales arising pursuant to these Terms, or any penalty or interest charged due on such taxes, will be the sole responsibility and be payable by Buyer even if not collected originally by Seller. If Seller pays any Applicable Taxes Buyer will immediately reimburse Seller for such amounts. Any withholding tax, value added tax, or any other tax by any foreign government levied in connection with any sale arising out of this contract will be the Buyer's responsibility, and will be paid or reimbursed by the Buyer.
- (g) Seller's Right to Suspend or Cancel Further Deliveries. If Buyer fails to make payment on the due date, Seller may in its sole discretion, and without waiving any other rights or remedies that Seller may have, suspend delivery on any unfilled orders placed by Buyer and/or cancel any such orders. Suspension of delivery or cancellation of such orders in these circumstances shall not constitute a breach of contract by Seller. Buyer agrees that the timely payment of all invoices by Buyer is a necessary condition precedent to any obligations of Seller to Buyer in connection with the sale of any Products.

2. Delivery and Other Matters.

- (a) Carrier and Risk of Loss. Delivery of the Products is at the FOB Point. Buyer will pay all transportation, handling, insurance and other costs, expenses or charges connected with transportation of the Products to Buyer. In the absence of specific written instructions from Buyer, Seller will select a carrier from the FOB Point to the delivery address specified by Buyer. Risk of loss or damage from any cause will pass to Buyer at the FOB point and Seller shall thereafter have no liability with respect thereto.
- (b) Insurance. Buyer is solely responsible for taking out such insurance as it may deem necessary or desirable.
- (c) Returns. Buyer has no right to return Products to Seller without Seller's express prior written consent, and Seller's sole discretion. Buyer has no right to require Seller to recondition any Products supplied to Buyer.
- (d) Delivery Dates. All delivery or shipping dates specified in the Sales Order are agreed to be estimates only. Buyer will have no claim against Seller as the result of any failure by Seller to deliver the Products by any specific date.
- (e) Shortages. All claims for quantity shortages shall be waived unless presented in writing within thirty (30) days of the actual delivery date together with reasonable supporting evidence.
- (f) Tariffs, Duties, Taxes, and Duties. Prices quoted do not include taxes, tariffs, or duties, including any which are levied or otherwise imposed on the Products after the order date and before Delivery of the Products are Buyer's responsibility.
- (g) Surcharges. Seller reserves the right to pass along actual surcharges, not to exceed 5% in any 30-day period, to cover increased shipping or monetary exchange rates after the order date and before the delivery date. Buyer agrees to pay any assessed surcharges.
- (h) Substitute Goods. Because of the time which may elapse between the Sales Order and the Delivery, Seller reserves the right from time to time as may be reasonably necessary, to substitute and deliver corks from other cork lots of similar size and physical composition, and subject to the same testing as any samples provided to Buyer. Seller may also deliver commercially reasonable substitute goods for any other product sold hereunder.
- (i) Dies and Molds. Dies, molds, tools, printing plates, negatives, blocks, and engravings provided by the Seller for the manufacturer of the goods sold hereunder (the "Tools"), shall remain Seller's property, whether or not a charge is imposed on Buyer for them. Buyer shall pay for maintenance or replacement of any Tools used exclusively for Buyer's products.
- (j) Custom Bottles and Cartons. Seller shall provide storage in Seller's warehouse free of charge for forty-five (45) days following the later of (i) the arrival of such goods at Seller's warehouse or (ii) the buyers initial order date. After such forty-five (45) day period, Seller will invoice Buyer for the goods, in which case Buyer shall pay for all goods within thirty days of such invoice or products may be culletted at Seller's option, and without releasing Buyer from the obligation to pay for such products. Provided Buyer timely pays for such goods, Seller will provide an additional forty-five (45) days of storage free of charge, after which Buyer shall be responsible for storage charges calculated at the rate of \$0.15/cs per month or portion thereof.
- (k) Confidentiality. Seller and Buyer agree that they will use commercially reasonable efforts to maintain reasonable confidentiality about their business interactions, plans, transactions, including the details thereof including without limit pricing, terms and proprietary information such as diagrams & product specs confidential. The Parties shall not disclose pricing, terms, or each other's proprietary information without the other's permission and shall use reasonable efforts to limit access to the other parties information to those employees that have a need to know.

3. Acknowledgments by Buyer, Limitation of Liability and Indemnification

IN CONNECTION WITH THE SALE OF PRODUCTS, BUYER SPECIFICALLY AGREES TO THE FOLLOWING:

- (a) Use. Buyer acknowledges and assumes full responsibility for the proper use of the product including, without limitation, the tightness of the seal, the effect of the use of Products on the liquid being bottled and the ability of the Products to prevent leakage or seepage. Buyer assumes the risk that the bottling or other procedures used by Buyer may have an adverse effect on the performance of the Products.
- (b) Grade. Buyer acknowledges that cork is a natural product and is subject to imperfections in variations and color, shape, weight and other characteristics beyond the reasonable control of Seller. Buyer is solely responsible for selecting the grade and size of corks for Buyer's particular use and that Buyer is not in any way relying on advice or recommendations from Seller with respect thereto. Buyer further acknowledges that, in accordance with industry standards, and except for the "OnebyOne" corks, grading of corks is done by visual inspection only of the outside of the cork. Buyer further acknowledges that corks of a particular grade sold to Buyer will inevitably include some corks of other grades.
- (c) Taste and aromas. Buyer acknowledges that liquids that have been bottled using natural cork closures may from time-to-time exhibit what is commonly referred to as a "corked" aroma or taste, which is commonly attributed to TCA or TCB. Buyer acknowledges that it is not possible for Seller to produce corks suitable for Buyer's purposes that will not have any possibility of containing TCA or TCB, or produce such taste or aromas associated therewith from time to time. Buyer therefore voluntarily assumes this as a risk, and all sensory or other impacts to any wines bottled with the Products, and expressly waives any and all claims of damage arising therefrom. Buyer acknowledges that Seller makes no representations or warranties, express or implied, as to the effect on the taste or aroma of any liquids from the use of Products purchased from Seller. This section does not apply to "OnebyOne" tested corks, which are subject to a separate Quality Control Commitment.
- (e) Use and Alteration of Glass Containers. In addition to the other exclusions of express and implied warranties herein, and except for decorations done by or at the direction of the Seller and specifically described on the Quotation or Sales Order (the "Seller's Decorations"), the Seller makes no representation or warranty with respect to the performance or failure of glass containers that have been modified, altered, or decorated in any way by etching, sandblasting, or any other type of decorating wherein the original surface of the glass is changed or glass is removed from the container in any way at all. Accordingly, and except for Seller's Decorations, Seller gives no representation of warranty with respect to the condition, performance, or suitability for contents packaged in any such modified, altered, or decorated glass container, and any such representation or warranty is hereby expressly disclaimed. The Buyer acknowledges and agrees that, unless expressly set forth in writing on the Quotation or Sales Order, the Buyer will not use the glass containers for anything other than the purpose for which the glass container is expressly intended by the manufacturer thereof. Without limiting the generality of the foregoing, the Buyer agrees not to use any glass container for carbonated beverages or sparkling wines unless specifically permitted by the Quotation or Sales Order. In addition, the Buyer acknowledges and agrees that it will not alter or modify the glass container in connection with its use by the Buyer.
- (f) No Representations and Disclaimer. Seller makes no representations or warranties, expressed or implied, with regard to the Products, their merchantability or their fitness for Buyer's purpose, and expressly disclaims any such warranties, or any others. Buyer disclaims any and all implied warranties of merchantability or fitness for a particular purpose. Buyer assumes all risk that the Products will be suitable for Buyer's intended use.
- (g) Limitation of Damages. The maximum liability of Seller to Buyer (or any other person) arising out of or in connection with the sale of the Products to Buyer shall in no case exceed the total purchase price payable by Buyer to Seller for the Products. Any claims regarding the Products must be made in writing by Buyer to Seller within one year of the delivery of the Products to Buyer, or are otherwise waived. Under no circumstances shall Seller be liable for any economic damages, special damages, general damages, direct or indirect or consequential losses or damages incurred or allegedly incurred by Buyer (or any third party), including, without limitation, any loss of profits or revenues, loss or damage to property or equipment, loss of customers, shelf space or other opportunities, or any punitive damages arising or in any way related to the sale of Products to Buyer whether or not Seller may have been aware of the possibility of the same. Seller shall not be liable for any foreign materials in any bottled products resulting from or caused by the use of Seller's cost.
- (h) Indemnification. Buyer shall indemnify, defend, and hold Seller harmless from and against any claims, loss, damages, liability, costs or expenses (including reasonable attorney's fees) that arise from (i) the use, modification, alteration, or decoration in any way of any Products purchased under the Sales Order for, (ii) from the improper handling or storage of the Products by the Buyer, or (iii) the use of glass containers for anything other than as expressly set forth in writing on the Quotation or Sales Order or, if there is nothing set forth on the Quotation or Sales Order, for anything other than still wine if the Products involve wine bottles, sparkling wine if the Products involve sparkling wine bottles, and distilled liquor if the Products involve liquor bottles.

4. Additional Provisions.

- (a) Modifications and Assignment. No change or modification of any of these terms and conditions shall be valid or binding unless in writing and signed by an authorized representative of the party to be bound by such change or modification. Buyer is not entitled to assign any of its rights or obligations hereunder without the prior written consent of Seller.
- (b) Ambiguities. If there is any inconsistency or ambiguity between these terms and conditions and any other terms or conditions, these terms and conditions shall prevail.
- (c) Marketing Materials. Buyer acknowledges that any and all information contained in any catalogue or other marketing materials published by Seller is expressly subject to these terms and conditions, and does not and will not give rise to any separate or additional liability on the part of Seller.
- (d) ALTERNATIVE DISPUTE RESOLUTION. Any disputes between Buyer and Seller relating to the Products, or arising from or related to the Order Acknowledgment, or these Terms, shall be resolved by binding arbitration before one (1) arbitrator in Sonoma County, CA. The arbitration shall be subject to CCP 1280 et. seq., for all purposes, including discovery. Notwithstanding the foregoing, the Superior Court for the County of Sonoma and/or the Federal District Court, 9th Circuit, Northern District, shall have jurisdiction for any ancillary matters, including but not limited to appointing an arbitrator, confirming an award or enforcing judgments, as well as emergency, provisional or injunctive relief. EACH PARTY, ON ITS OWN BEHALF, WAIVES ANY RIGHT TO TRIAL BY JUDGE OR JURY. Each party will bear its own costs and expenses (including attorney's fees) in connection with any such arbitration.
- (e) Force Majeure. Seller's performance hereunder shall be excused, and Seller shall have no liability to Buyer arising out of any delay or other nonperformance by Seller if such delay or non-performance is caused by circumstances beyond the reasonable control of Seller, including, without limitation, strikes or other work stoppages or lock outs, fires, pandemics, earthquakes, carrier delays, government interference, inclement weather, acts of God, war, riot, civil disobedience or terrorism, or events which may be reasonably described as Force Majeure events..
- (f) Applicable Law. The agreement between Buyer and Seller is hereby deemed to have been entered into in Sonoma County, California, and shall be governed by the laws of the State of California.
- (g) Severability. If any portion of these Terms and Conditions are deemed unenforceable by an arbitrator or court, the remainder shall begin full force and effect to the greatest extent possible