

## TERMS AND CONDITIONS

Term	Definition
"the Company"	Means Concha Y Toro UK Limited whose registered offices in the UK are at 6 Ashurst Court, London Road, Wheatley, Oxfordshire, OX33 1ER
"Sales Agreement"	Means these Terms and Conditions together with the written confirmation of pricing agreements arrived at whatsoever form these take including emails; price lists and any other form of correspondence
"Invoice" or "Invoices"	Means the written account of the particulars of merchandise shipped or sent to a Customer, consignee, factor, etc., with the value or prices and charges annexed.
"the Customer"	Means the person, firm or corporate body together with any subsidiary or associated company to whom Goods are Supplied
"Goods"	Means those goods ordered by the Customer pursuant to the Sales Agreement and delivered by the Company to the Customer.
"Working Day"	Means Monday to Friday unless that day is a statutory holiday in England and Wales in which case, claims should be notified immediately on return to work following the holiday
"FOB"	Means Free On Board

Unless the context otherwise requires, references to the singular include the plural.

The headings contained in these Terms are for convenience only and do not affect interpretation.

This contract for Goods is subject to the definitions above and the terms and conditions that follow and that are expressed in any associated communication between the Company and the Customer. The Company agrees to provide Goods in accordance with these terms and the Customer acknowledges that it has read and fully understood these.

No variation or alteration of these Terms shall be valid unless such variation is agreed by a director of authorised office of the Company in writing and stating the date after which such varied terms shall apply.

Any email response or ongoing dialogue following receipt of these Terms and Conditions will be deemed to constitute acceptance of these.

**1. Terms of Payment** Accounts are to be paid by the Customer by the last day of the month following the date of Invoice unless otherwise specified in writing by a director of the Company and confirmed on the Sales Agreement, Invoices and Statements. If payment is not received within such period the Company reserves the right to charge interest at the rate of 3% above Natwest Bank's base rate per month from the date on which payment falls due until the date on which payment is actually received; notwithstanding that such claims to interest and/or to surcharges for non-payment may have been waived by us in the past. Any customer account falling overdue will not qualify for discount relating to the overdue amount and the Company reserves the right to withdraw in accordance with the notice provided by these Terms and Conditions any discounts that have been allowed if payment is not made in full by the due date. All costs including any legal fees incurred by the Company in collection of amounts due hereunder or in enforcing repossession under Clause 3 will be payable by the Customer.

The payment method will be confirmed with the Customer. Any bank charges incurred by the Company, through cheques or Direct Debits not being honoured, for any reason, will be payable by the Customer. The Company reserves the right to suspend or terminate credit facilities at any time.

**3. Delivery** Delivery of the Goods shall be made on such date and at such address as is specified in the Sales Agreement. Any person purporting to accept delivery of the Goods at the address specified in the Sales Agreement shall be deemed authorised to do so by the Customer. No changes to the delivery instructions shall be valid unless agreed in writing by a director of the Company.

**4. Risk** Subject to clause 5 of these Terms and Conditions, all risk (but not title) in the Goods shall pass to the Customer on delivery.

**5. Claims** The Customer shall examine all Goods at the time of delivery and any loss or damage signed for accordingly. If examination is impractical at the time of delivery, the Customer shall sign the delivery note and mark it 'UNEXAMINED'. The Company must be notified of any discrepancies and/or breakages in deliveries received not later than the day following the Working Day of delivery.

**6. Title** Title to the Goods will pass to the Customer only once the Company has received payment in full for all debts owed by the Customer to the Company. Until title to the Goods has passed to the Customer, the Customer will: (a) hold the Goods as bailee for the Company;

(b) store the Goods separately from all other material in the Customer's possession;

(c) take all reasonable care of the Goods and keep them in reasonable condition;

(d) insure the Goods: (i) with a reputable insurer (ii) from the date of delivery (iii) against all risks (iv) for an amount at least equal to the amount payable by the Customer to the Company in respect of the Goods (v) noting the Company's interest on the policy;

(e) ensure that the Goods are clearly identifiable as belonging to the Company;

(f) not remove or alter any mark on or packaging of the Goods;

(g) inform the Company as soon as possible if it becomes subject to any of the events set out in clause 13;

(h) provide the Company such information concerning the Goods as the Company may request from time to time. Notwithstanding the foregoing the Customer may use or resell the Goods in the ordinary course of its business until such time as it becomes aware or ought reasonably to have become aware that an event specified in clause 13. If, at any time before title to the Goods has passed to the Customer, the Customer informs the Company, or the Company reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clause 13 the Company may require the Customer [at the Customer's expense] to redeliver the Goods to the Company and if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them. Furthermore the Company shall be entitled to seek a court injunction to prevent the Customer from selling, transferring or otherwise disposing of the Goods.

- 7. Availability of stock and vintages** If the Customer's order includes a wine, which is either out of stock or discontinued the Company will inform the Customer. Similarly in the event of a vintage being out of stock the next available vintage will be sent unless The Company is instructed to the contrary.
- 8. Prices** All prices are quoted exclusive of V.A.T. The Company reserves the right to alter any prices or specifications at any time without notice and all Goods are sold subject to prices and conditions applying at the date of despatch.
- 9. Minimum orders:** the minimum order quantity is 56 x 9 litre equivalent cases (112 x 6 packs) for ex-UK sales and 40' full container loads for DAP/DDP orders from origin producers (any consolidations between the Company's origin producers (Chile & Argentina based) should total 40' full container loads).
- 10. Warranty** The Goods covered by these Terms and Conditions comply with the Food and Drugs Act and all other statutory requirements or regulations relating to the sale of goods.
- 11. Limitation of liability** Except in respect of injury or death of any person (for which no limit applies) the Company's liability to you under the Sales Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise whatsoever and howsoever arising shall be limited to damages and shall not exceed the amount paid by the Customer for the Goods. The Company shall not be liable to the Customer for any loss of goodwill, loss of savings, loss of profit, loss of reputation, or any indirect or consequential loss arising directly or indirectly from the supply of Goods hereunder.
- 12. Force majeure** The Company is not liable for delays in delivery and/or non-delivery in the event of any situation beyond the control of the Company.
- 13. Confidentiality** The Customer shall ensure that it keeps all information it receives regarding the business and affairs of the Company confidential, and shall only be permitted to disclose such information to its professional representatives or advisers or as may be required by law or any legal or regulatory authority or with the prior written consent of the Company.
- 13. Termination** The Company may immediately terminate the Sales Agreement without payment of compensation by giving notice in writing to the Customer if any one or more of the following events happens:
- (a) the Customer commits a material breach of any of its obligations under the Sales Agreement which is incapable of remedy;
  - (b) the Customer fails to remedy, where it is capable of remedy, or persists in any breach of any of its obligations under the Sales Agreement after having been required by the Company in writing to remedy or desist from such breach within a period of 30 days;
  - (c) the Customer convenes a meeting with creditors or if a proposal be made for voluntary arrangement (within the meaning of The Insolvency Act 1986) or a proposal for any other composition or arrangement with its creditors or if the Customer shall be unable to pay its debts within the meaning of Section 123 of The Insolvency Act 1986 or if a trustee receiver, administrative receiver, administrator or similar officer is appointed in respect of all or any part of the business or assets of the Customer or if a petition is presented or a meeting convened for the purpose of considering a resolution or other steps are taken for the winding-up of the Customer.
- The termination of this agreement shall be without prejudice to the rights and remedies of either party which may have accrued up to the date of termination.
- 14. Severance** If any clause in these Terms and Conditions is found to be unenforceable, wherever possible this will not affect any other clause and each will remain in full force and effect.
- 15. No Waiver** The Company's failure to exercise or enforce any of our rights hereunder will not be deemed to be a waiver of such rights nor bar their exercise or enforcement in future.
- 16. No Third Party Rights** A person who is not a party to the Sales Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of the Sales Agreement including these Terms and Conditions.
- 17. No partnership** Nothing in these Terms and Conditions shall be construed as creating a partnership or joint venture of any kind between the parties or as constituting either party as the agent of the other party for any purpose whatsoever and neither party shall have the authority or power to bind the other party or to contract in the name of or create a liability against the other party in any way or for any purpose.
- 18. Changes to Terms and Conditions** The Company reserves the right to change any of these Terms and Conditions at any time and in its sole discretion. Any changes will be effective immediately upon a copy of the amended Terms and Conditions being delivered to the Customer.
- 19. Governing Law** The Sales Agreement including these Terms and Conditions is governed by the law of England and Wales and is subject to the exclusive jurisdiction of the Courts of England and Wales.

[www.cyt-uk.com](http://www.cyt-uk.com)

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