

WINERY AGREEMENT

This Winery Agreement (“Agreement”) is entered into as of _____ (date), by and between The Wine Spies, LLC, a California LLC with principal offices located at 146 South Clark Drive, Suite 102, Los Angeles, CA 90048 & 1377 Corporate Center Parkway, Suite C, Santa Rosa, CA 94507 (hereafter, the “Company”) and _____ with principal offices at _____ (hereafter, “Winery”).

BY OFFERING A WINE FOR SALE ON THE WINE SPIES WEBSITE, WINERY AGREES TO ALL TERMS AND CONDITIONS STATED IN THIS AGREEMENT AND ANY OPERATING REGULATIONS ISSUED BY COMPANY AND INCORPORATED HEREIN BY REFERENCE.

1. SERVICES OFFERED

The Company is an Internet-based distribution center for products and services offered for sale by Winery via the Internet.

The Company offers real-time purchasing capability by purchasing the goods and/or services of Winery and then enabling potential buyers of goods and services (“Buyers”) to purchase these goods and/or services through the use of electronic checks and credit cards, such as VISA, MasterCard, Discover, American Express, Diner’s Club, JCB, and all VISA and MasterCard-sponsored debit cards.

The Company processes all transactions through the use of its secure SSL encryption network and any other processes made available through its contracted processing platform. Payment shall be initiated via the secure payment processes.

2. CONDITIONS OF SERVICE

The Company assumes no liability for disruptions in service or improper operation of its equipment or software for any reason, including, but not limited to, vandalism, theft, phone service outages, Internet disruptions, human error, extreme or severe weather conditions or any other causes referred to as “Acts of God” or force majeure.

3. PROVISION OF CONSUMER NOTICES

The Company agrees to clearly, accurately, and concisely notify any potential Buyer of the terms required by this Agreement and the Operating Regulations, as may be amended from time to time. Such notification shall include, but is not limited to, the inclusion of required documentation on the Company’s website.

The Company will inform Buyers that the cost of goods or services they purchase and which are supplied per this Agreement by a contracted Winery will not be billed to their credit card until the order has been shipped or otherwise provided.

The Company shall clearly disclose to any Buyer making a credit card purchase the location of the Company immediately prior to the Buyer’s accessing payment instructions. Compliance with this regulation will be initiated via the secure payment processes.

4. DISCLAIMER OF WINERY WARRANTIES

Company and Winery agree that it will disclaim any implied warranties to Buyers, including, but not limited to, merchantability, fitness for a particular purpose, and non-infringement.

Company and Winery further agree it will not provide, offer, or advertise a “lifetime warranty,” “lifetime guarantee,” or any other guarantee for a period of more than ninety (90) days. (This limitation is specified in conformity with VISA and MasterCard regulations.)

5. LIMITATIONS IN SERVICE

Winery understands and agrees that the Company may prohibit or limit the sale of specific products or services. Winery further understands and agrees that the Company may amend or change such products or services, from time to time, in its sole discretion.

6. LIMITATIONS ON TRANSACTIONS

Winery understands and agrees that the Company reserves the right to impose limits on sales of products or services and to refuse to process transactions to specific Buyers for any reason, in its sole discretion.

Winery understands and agrees that the Company may: (1) limit or restrict sales to a minimum or maximum product/service price; (2) impose limits on the amount or number of purchases which may be charged to an individual credit card account during any time period; (3) request additional validation information from Buyers, such as signed contracts and/or receipts; or (4) refuse to accept orders from Buyers with a prior history of questionable charges. Winery agrees that the Company may impose transaction limits or reserve amounts on Winery accounts that are more restrictive than those placed upon other Winery accounts, either temporarily or permanently, if the Company deems necessary.

Winery understands and agrees that it will not hold the Company liable for any losses, expenses, or damages it sustains, including claims for lost profits, on account of the Company's imposition of transaction limits or reserve amounts for any reason.

7. WINERY'S DECLARATIONS

7.1 Legal Capacity:

By completing the registration form and agreeing to the terms of this Agreement the Winery affirms that Winery has full legal capacity and can lawfully enter into and form contracts under applicable law.

7.2 Truthful Information:

Winery affirms that all information and data it provides, or has any party provide, to Company on the registration form and via any other means is truthful, accurate, valid, the lawful property of the Winery, and that Company has the legal right to communicate such information.

7.3 Validation:

Company requires that all email, domain, URL or telephone information provided by Winery must be able to be validated. If any of the information provided by Winery is incorrect or cannot be validated Winery agrees that the Company may suspend or terminate the Winery's account, at the Company's discretion.

7.4 Intellectual Property Rights/Ownership:

The Company is fully responsible and solely liable for the content of its website and for the advertising and promotion of all products. The Winery certifies and represents to the Company that it is the owner or that it has full right and authority to use and disseminate all information, data, graphics, text, video, music, or other intellectual property which either forms a part of its website, which it provides to the Company, or which is provided by the Winery to potential Buyers, or which is used by the Company in its advertising and promotion and to sell and deliver products to Buyers, which were obtained from Winery.

7.5 Legal Authorization:

Winery represents and warrants to the Company that Winery is legally authorized to sell any product/service it offers and that Winery has obtained all necessary regulatory approvals and certificates (hereafter, "Certificates"). Winery agrees it will provide the Company any copies of Certificates immediately upon Winery's receipt of a request by the Company for such Certificates.

Winery further represents that it will conform to any and all laws, rules, regulations, requirements and/or other standards established by California Alcohol Beverage Control, U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau, Federal Trade Commission, State and local consumer protection agencies, and credit card governing agencies regarding the sale of products over the Internet or in situations where the credit card is not present, whether now in effect or placed into effect after the effective date of this Agreement.

8. PAYMENT(S) FOR SERVICE

8.1 Account Establishment Fee:

Winery and Company agree that no account establishment fees will be charged for services provided under this agreement.

8.2 Sales of Products and Services

Company agrees that it will pay Winery for all products and services purchased through the Company's website within 10 days of delivery of said products and services to the Company.

9. TERM

This Agreement shall remain in effect until Company or Winery issues a "Notice of Cancellation" (see "Operating Regulations Agreement"); or the Agreement is terminated as otherwise provided in the "TERMINATION" section herein.

10. DISCLAIMER OF WARRANTIES

Winery understands and accepts that the Company will provide services to the Winery on an "AS IS" basis. COMPANY DISCLAIMS ANY AND ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE. Winery assumes all liability for its utilization of the Company's services.

11. LIMITATION OF LIABILITY

THE COMPANY WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE WEBSITE, THE SERVICES, THE INABILITY TO USE THE SERVICES, OR THOSE RESULTING FROM ANY GOODS OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICES.

In no case shall a Winery be entitled to recover damages from the Company that exceed the sum of sales, commissions and service fees retained by the Company under this Agreement during the six months prior to the event giving rise to the claim for damages.

The Company assumes no liability of the Winery for failure to follow this Agreement or any results caused by acts, omissions or negligence of the Winery, subcontractor or an agent of the Winery or an employee of any one to them, including, but not limited to, claims of third parties arising out of or resulting from or in connection with the Winery's products, messages, programs, caller contracts, promotions, advertising, infringement or any claim for libel or slander or for violation of copyright, trademark or other intellectual property rights.

12. TERMINATION

Winery may close their account with the Company at any time. The Company reserves the right to terminate this agreement and close a Winery account at any time for any reason, or for no reason. Company reserves the right to terminate Winery's access to the Company's website and/or services, or any other transactions immediately without notice for any reason or for no reason. After Termination any payments or obligations due to or from Winery to Company, or from Company to Winery, will become due and payable as stated in this Agreement.

13. SURVIVAL

Upon Termination of this Agreement, the provisions of Sections 8, 9, and 19 shall survive such Termination.

14. TAXES

Winery understands and agrees that Company is responsible for the payment of all taxes applicable to its operations, and authorizes Company to deduct amounts for taxes from payments received from Buyers for the purpose of remitting such amounts to the appropriate taxing authority. Winery agrees that if Company pays any taxes owed by Winery, Winery will immediately pay Company the amount of such taxes and all related interest, fines, and/or penalties. Further, the parties agree that if additional taxes in the nature of an excise, sales, or use tax are imposed in connection with the Company's services on behalf of the Winery, Winery shall pay such tax amount to the Company. The Company shall have the right to collect and pay over taxes in the nature of an excise, sales, or use tax on behalf of the Winery or on account of its own sales of products if reasonably required to do so by any jurisdiction's taxing authority and shall further have the right to recover from the Winery the amount of any such taxes and related penalties and interest which are paid by the Company with its own funds. Winery shall also pay the Company for

any expenses incurred by the Company, including reasonable attorney's fees, in its collection of any amounts due from Winery.

15. CREDIT REPORT

Winery agrees that the Company may obtain credit report(s) ("Reports") on Winery through a credit reporting agency chosen by the Company. Winery hereby authorizes the Company to obtain and use such Reports in the Company's evaluation of Winery.

16. CHOICE OF LAW/VENUE

Winery agrees that the laws of the State of California, without reference to its conflict of law principles, will govern this Agreement, and that any claim or suit arising out of or related to this Agreement must be brought exclusively in the federal and/or state courts located in the State of California, Los Angeles County, U.S.A. and Winery consents to the exclusive jurisdiction of such courts.

17. ILLEGAL ACTIVITY

The website and Services of the Company may be used only for lawful purposes and in a lawful manner. Winery agrees to comply with all applicable laws, statutes, and regulations. Winery may not register under a false name or use an invalid or unauthorized credit card. Winery may not impersonate any participant or use another participant's information. Such fraudulent conduct is a violation of federal and state laws. Fraudulent conduct may be reported to law enforcement, and the Company will cooperate to ensure that violators are prosecuted to the fullest extent of the law.

The Company has the right, but not the obligation, to monitor any activity and content associated with its website and Services. The Company may investigate any reported violation of its policies or complaints and take any action that it deems appropriate. Such action may include, but is not limited to, issuing warnings, suspension or termination of service, denying access, and/or removal of any materials on the Site. The Company reserves the right and has absolute discretion to remove, screen, or edit any content that violates these provisions or is otherwise objectionable.

The Company reserves the right to report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other third parties. In order to cooperate with governmental requests, to protect the Company's systems, Winery, and Customers, or to ensure the integrity and operation of the Company's business and systems, the Company may access and disclose any information it considers necessary or appropriate, including but not limited to user contact details, IP addressing and traffic information, usage history, and posted content.

18. PERSONAL INFORMATION

Unless otherwise authorized by Company in writing, Winery agrees not to use or disclose personal information about any Buyer except as expressly provided by the Company. Winery agree not to use any Buyer information for purposes of solicitation, advertising, unsolicited e-mail or spamming, harassment, invasion of privacy, or otherwise objectionable conduct.

19. COPYRIGHT NOTICE

If Winery believes that any content on the Web Site has been copied in a way that constitutes copyright infringement, or Winery's intellectual property rights have been otherwise violated, please notify our offices immediately.

20. DEFAULT

In the event that Winery fails to perform any duty, obligation, or provision contained in this Agreement or fails to otherwise perform pursuant to this Agreement ("Default"), Winery agrees to pay to the Company any damages, expenses, and costs, whether directly or indirectly caused, including reasonable attorney's fees incurred by the Company due to Winery's Default.

21. AMENDMENTS AND MODIFICATIONS

Winery understands and agrees that the Company may amend or modify this Agreement and that any such amendment or modification will be binding upon its placement on Company's website or when sent to you by e-

mail. Continued use of the Company's services will be considered acceptance of all terms in the amended/modified Agreement.

22. INDEMNIFICATION

The Winery agrees to indemnify and hold the Company, its employees, officers, agents, and directors from any and all fines, penalties, losses, damages, claims, costs, expenses (including attorney's fees) or other liabilities resulting from or in connection with this Agreement or incurred as a result of Winery's violation of any law, regardless of whether such damages are actual, direct, indirect, special, incidental, consequential, or punitive ("Damages").

Further, Winery agrees to indemnify Company for any Damages arising out of, or related to Winery's breach of any warranty or representation; Winery's violation of any law, rule, or regulation; intellectual property infringement claims related to the Winery's site or service; or Winery's reckless or willful conduct.

23. NOTICES

To Company, via certified mail to the following address:

The Wine Spies, LLC
146 South Clark Drive, Suite 102
Los Angeles, CA 90048

To Winery via certified mail to the address provided to the Company by Winery in Winery's registration form.

Either party may communicate a change in its mailing address by sending certified mail to the other party in which it states its old mailing address and asks the party to direct all future correspondence to the new mailing address provided.

24. HEADINGS

The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

25. SEVERABILITY OF PROVISIONS

Each provision of this Agreement shall be considered severable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

IN WITNESS WHEREOF, the Company and the Contractor have executed this agreement on the day and year first above written.

THE WINE SPIES, LLC

By: _____
Name: _____
Title: _____

WINERY

By: _____
Name: _____
Title: _____