

Terms and Conditions

Vintessential Laboratories Pty Ltd trading as Vintessential Laboratories

1. GENERAL

- 1.1 These conditions [which shall only be waived in writing signed on behalf of Vintessential Laboratories Pty Ltd] shall prevail over all conditions of the customer's order to the extent of any inconsistency.

2. TERMS OF SALE

- 2.1 Goods sold and services provided by Vintessential Laboratories Pty Ltd (Vintessential) are sold and provided on these terms and conditions.

3. QUOTATIONS

- 3.1 Unless previously withdrawn, Vintessential quotations are open for acceptance within the period stated in them or, when no period is so stated, within thirty (30) days only after its date.

4. PACKING

- 4.1 The cost of any special packing and packing materials used in relation to goods are at the customer's expense notwithstanding that such cost may have been omitted from any quotation.

5. SHORTAGE

- 5.1 The customer waives any claim for shortage of any goods delivered if a claim in respect for short delivery has not been lodged with Vintessential within seven (7) days from the date of receipt of goods by the customer.

6. DESCRIPTION OF GOODS, ETC

- 6.1 The descriptions, illustrations and performances contained in catalogues, price lists and other advertising matter do not form part of the contract of sale of the goods or of the description applied to the goods.

7. PERFORMANCE

7.1 Any performance figures given by Vintessential are estimates only. Vintessential is under no liability for damages for failure of goods to attain such figures unless specifically guaranteed in writing. Any such written guarantees are subject to the recognised tolerances applicable to such figures.

8. RISK

Risk in the goods passes to the customer upon delivery to the customer.

9. DELIVERY

- 9.1 (a) The delivery times made known to the customer are estimates only and Vintessential is not liable for late delivery or non-delivery.
- (b) Vintessential is not liable for any loss, damage or delay occasioned to the customer or any third party arising from late or non-delivery or late installation of goods.
- (c) A delivery charge will be incurred unless otherwise specified in writing.
- (d) Vintessential ship perishable goods from Monday to Wednesday or unless otherwise instructed in writing by the customer.

10. LOSS OR DAMAGE IN TRANSIT

- 10.1 (a) Vintessential is not responsible to the customer or any person claiming through the customer for any loss or damage to goods in transit caused by any event of any kind by any person (whether or not Vintessential is legally responsible for the person who caused or contributed to that loss or damage).
- (b) Vintessential shall provide the customer with such assistance as may be necessary to press claims on carriers so long as the customer:

(i) has notified Vintessential and the carriers in writing immediately after loss or damage is discovered on receipt of goods; and

(ii) lodges a claim for compensation on the carrier within three (3) days of the date of receipt of the goods.

11. GUARANTEE

11.1 Vintessential's liability for goods manufactured by it is limited to making good any defects by repairing the defects or at Vintessential's option by replacement, within a period not exceeding twelve (12) calendar months after the goods have been dispatched so long as:

- (a) defects have arisen solely from faulty materials or workmanship;
- (b) the goods have not received maltreatment, inattention or interference;
- (c) accessories of any kind used by the customer are manufactured by or approved by Vintessential;
- (d) the seals of any kind on the goods remain unbroken; and
- (e) the defective parts are promptly returned free of cost to Vintessential.

11.2 If the goods are not manufactured by Vintessential, the guarantee of the manufacturer of those goods is accepted by the customer and is the only guarantee given to the customer in respect of the goods. Vintessential agrees to assign to the customer on request made by the customer, the benefit of any warranty or entitlement to the goods that the manufacturer has granted to Vintessential under any contract or by implication or operation of law to the extent that the benefit of any warranty or entitlement is assignable.

11.3 Vintessential is not liable for and the customer releases Vintessential from any claims in respect of faulty or defective design of any goods supplied unless such design has been wholly prepared by Vintessential and the responsibility for any claim has been specifically accepted by Vintessential in writing. In any event, Vintessential's liability under this paragraph is strictly limited to the replacement of defective parts in accordance with paragraph 10.1 of these conditions.

11.4 Except as provided in these conditions, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded. Vintessential is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation or operation of the goods or arising out of Vintessential's negligence or in any way whatsoever.

12. Vintessential's liability for a breach of a condition or warranty implied by Div 2 of Pt V of the Trade Practices Act 1974 (other than s 69) is limited to:

12.1 In the case of goods, any one or more of the following:

- (a) the replacement of the goods or the supply of equivalent goods;
- (b) the repair of the goods;
- (c) the payment of the cost of replacing the goods or of acquiring equivalent goods;
- (d) the payment of the cost of having the goods repaired; or

12.2 In the case of services:

- (a) the supplying of the services again; or
- (b) the payment of the cost of having the services supplied again.

13. Vintessential's liability under section 74H of the Trade Practices Act 1974 is expressly limited to a liability to pay to the purchaser an amount equal to:

- (a) the cost of replacing the goods;

- (b) the cost of obtaining equivalent goods; or
- (c) the cost of having the goods repaired, whichever is the lowest amount.

14. Nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Trade Practices Act 1974) and which by law cannot be excluded, restricted or modified.

15. PRICES

- (a) Unless otherwise stated all prices quoted by Vintessential are exclusive of Goods and Services Tax (GST).
- (b) Prices quoted are those ruling at the date of issue of quotation and are based on rates of freight, insurance, customs duties, exchange, shipping expenses, sorting and stacking charges, cartage, cost of materials and other charges affecting the cost of production ruling on the date made.
- (c) If Vintessential makes any alterations to the price of the goods or to any of their inputs either before acceptance of or during the currency of the contract, these alterations are for the customer's account.

16. PAYMENT

- 16.1 The purchase price in relation to goods or services is payable net and payment of the price of the goods or services must be made within thirty (30) days from the date of invoice, unless otherwise agreed.
- 16.2 If payment is not made by the due date, interest shall be payable by the customer from the due date until the date of payment at the rate equal to 1% over the interest rate payable by Vintessential to its principal bankers from time to time in respect of its overdraft facility.

17. RIGHTS IN RELATION TO GOODS / SERVICES

- 17.1 Vintessential reserves the following rights in relation to the goods or services until all accounts owed by the customer to Vintessential are fully paid:
 - (a) ownership of the goods or retention of services;
 - (b) to enter the customer's premises (or the premises of any associated company or agent where the goods are located) or services provided, without liability for trespass or any resulting damage and retake possession of the goods; and
 - (c) to keep or resell any goods repossessed pursuant to (b) above or resell services. If the goods or services are resold, or products manufactured using the goods are sold, by the customer, the customer shall hold such part of the proceeds of any such sale as represents the invoice price of the goods or services sold or used in the manufacture of the goods sold in a separate identifiable account as the beneficial property of Vintessential and shall pay such amount to Vintessential upon request. Notwithstanding the provisions above Vintessential shall be entitled to maintain an action against the customer for the purchase price and the risk of the goods shall pass to the customer upon delivery.

18. CUSTOMER'S PROPERTY

- 18.1 Any property of the customer under Vintessential's possession, custody or control is completely at the customer's risk as regards loss or damage caused to the property or by it.

19. STORAGE

- 19.1 Vintessential reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the customer within fourteen days of a request by Vintessential for such instructions. The parties agree that Vintessential may charge for storage from the first day after Vintessential requests the customer to provide delivery instructions.

20. RETURNED GOODS

- 20.1 (a) Vintessential is not under any duty to accept goods returned by the customer and will do so only on terms to be agreed in writing in each individual case.

- (b) Return of goods notification due to faulty or damaged goods must be made within 7 days of receipt of goods and agreed to by Vintessential and the customer.
- (c) If Vintessential agrees to accept returned goods from the customer under paragraph (a) of this clause, the customer must return the goods to Vintessential at the site of purchase.
- (d) All returns must quote the original invoice number the goods were supplied under.

21. GOODS /SERVICES SOLD

21.1 All goods or services to be supplied by Vintessential to the customer are as described on the purchase order agreed by Vintessential and the customer and the description on such purchase order modified as so agreed prevails over all other descriptions including any specification or enquiry of the customer.

22. CANCELLATION

22.1 No order may be cancelled except with consent in writing and on terms which will indemnify Vintessential against all losses.

23. PLACE OF CONTRACT

23.1 (a) The contract for sale of the goods is made in the State of Victoria, Australia. (b) The parties submit all disputes arising between them to the courts of such state or territory and any court competent to hear appeals from those courts of first instance.

24. INTENDED USE

Vintessential products are sold solely for analytical, laboratory and winery applications. We do not recommend or guarantee our products for applications outside this scope.