

# MAI SAKE LTD

## WHOLESALE PLATFORM TERMS AND CONDITIONS

### 1 INTRODUCTION

- (a) These terms and conditions (**Terms**) govern your use of the MAI SAKE LTD platform located at <https://maisake.orderspace.com/> (**Platform**) and our supply of goods through the Platform.
- (b) By using this Platform, ordering any goods or services (**Goods**) through this Platform, or otherwise engaging with the content on this Platform, you:
  - (i) agree to be bound by these Terms; and
  - (ii) represent and warrant that you are over 18 years of age,as a binding legal agreement between you and us, MAI SAKE LTD with company number 14344904 (**Mai, our, we or us**).
- (c) If you use the Platform on behalf of a company or organisation you acknowledge and agree that you have the necessary authority from that company or organisation to do so. If you are using the Platform not as an individual but on behalf of your company, your employer or other legal entity (**Represented Entity**), then “you” means the Represented Entity and you are binding the Represented Entity to these terms. If you are accepting these terms on behalf of a Represented Entity, you represent and warrant that you are authorised to do so.
- (d) Please have a careful read through these Terms before using the Platform or placing an order for Goods. If you don't agree to these Terms, please don't use the Platform or place an order for Goods.
- (e) We may modify our Terms from time to time. If we do, we will post a note on this page or email you. If you continue to use the Platform after we modify our Terms, you'll be taken to have agreed to the Terms as modified; and you'll be taken to have affirmed each of your previous agreements to the Terms (in the forms the Terms took at the time of those previous agreements).

### 2 ACCOUNTS

- (a) In order to use most of the functionality of the Platform (including placing an order for Goods), all Users are required to sign-up, register and receive an account through the Platform (an **Account**).
- (b) As part of the Account registration process and as part of your continued use of the Platform, you are required to provide personal information and details, such as your company name, shipping address, billing address, contact name, email address, phone number, VAT number (if applicable) and other information as determined by Mai from time to time.
- (c) You warrant that any information you give to Mai in the course of completing the Account registration process will always be accurate, honest, correct and up to date.
- (d) Once you complete the Account registration process, Mai may, in its absolute discretion, choose to accept you as a registered user within the Platform and provide you with an Account.
- (e) Mai may, in its absolute discretion, suspend or cancel your Account for any reason, including for any failure to comply with this agreement.

### 3 SUPPLY TERMS

#### 3.1 OFFER TO PURCHASE

- (a) By submitting an order for purchase of a Good using the Platform's functionality (**Order**) you represent and confirm that you have the legal capacity and are of sufficient age to enter into a binding contract with us.
- (b) Submitting an Order constitutes your intention and offer to enter into a contract, where we will provide you with the Goods you have ordered in exchange for your payment of the fees as set out in the invoice. A contract is not formed until you receive an email from us confirming that your order is being processed.

#### 3.2 MINIMUM ORDER VALUE

Each Order placed through the Platform must have a minimum order value of £200.00 (**Minimum Order Value**). Any Order that less than the Minimum Order Value will be rejected by Mai.

#### 3.3 PAYMENT

- (a) (**Invoices**) Once an Order has been received by Mai, Mai will provide you with an invoice for amounts payable for the Order and you must pay any amount due under an invoice;
  - (i) within the time specified in the invoice;
  - (ii) if the invoice does not specify a time for payment, within 14 days of receipt of the invoice.
- (b) (**Deposits**) In some circumstances, we may, in our sole discretion, require you to pay a deposit before we start fulfilling your Order.
- (c) (**VAT**) Unless otherwise indicated, amounts stated on the Platform do not include VAT. Any applicable VAT is added to the amounts owed at the checkout.
- (d) (**Online payment partner**) We may use third-party payment providers (**Payment Providers**) to collect payments for Goods. The processing of payments by the Payment Provider will be, in addition to these Terms, subject to the terms, conditions and privacy policies of the Payment Provider and we are not liable for the security or performance of the Payment Provider. We reserve the right to correct, or to instruct our Payment Provider to correct, any errors or mistakes in collecting your payment.

#### 3.4 CANCELLATION

We reserve the right to cancel your order for any reason, and will notify you of this as soon as possible. Where payment has already been debited, the full amount will be credited back to your original method of payment.

#### 3.5 PRICING ERRORS

In the event that we discover an error or inaccuracy in the price at which your order was purchased (including shipping prices), we will attempt to contact you and inform you of this as soon as possible. You will then have the option of purchasing your order at the correct price, or cancelling your order. If you choose to cancel your order and payment has already been debited, the full amount will be credited back to your original method of payment.

#### 3.6 DELIVERY AND SHIPPING

- (a) (**Delivery**) For Goods to be delivered, we may charge you for delivery at any time (notwithstanding that it may not have previously done so). Where prices are stated as inclusive of delivery, delivery is to the delivery point specifically accepted by us.
- (b) (**Shipping**) Third party courier terms may apply to the delivery of Goods. Any problems with delivery should be directed to us to troubleshoot the issue. All delivery times provided to you are estimates only and are subject reasons beyond our control. We do not warrant or make any representation that your order will be delivered within the times indicated. We will not be liable for any loss or damage suffered as a result of or in connection with late deliveries.

- (c) **(Quantity of Goods)** While we take every effort to ensure that the correct number of Goods will be delivered to you in connection with a Purchase, there may be circumstances where we do not have sufficient stock to do so. In such circumstances, we will reimburse you on a pro rata basis and will not be liable for any loss or damage caused as a result of this.
- (d) **(Confirmation at delivery)** At the time of delivery of the Goods, you must ensure that the delivery contains the correct Goods, the correct quantity of the Goods and that the Goods are not damaged. Any problems with the Goods must be directed to us within seven days of delivery, otherwise you cannot claim otherwise.

### 3.7 TITLE AND RISK

- (a) **(Title)** Until the price of Goods is paid in full, title in those Goods is retained by Mai.
- (b) **(Risk)** Risk in the Goods will pass to you on delivery of the goods to you or such third-party or agent as nominated by you. Delivery must not be refused by you.
- (c) **(Failure to pay)** If you do not pay for any Goods on or before the due date for payment:
  - (i) you must pay Mai interest at the rate of 12% per annum on each amount outstanding, from the due date for payment to the date on which the payment is received by Mai;
  - (ii) you authorise Mai, its employees and agents to enter any premises occupied by you or any other place where the Goods are located and use reasonable force to retake possession of the Goods without liability for trespass or any reasonable damage;
  - (iii) Mai may at its option keep or resell Goods retaken from you; and
  - (iv) if you sell Goods or items into which the Goods are incorporated before payment in full to Mai, you acknowledge that such sale is made by you as bailee for and on behalf of Mai, to hold the proceeds of sale on trust for Mai, in an account in the name of Mai, and you must pay that amount to Mai on demand.

### 3.8 RETURNS & EXCHANGES

- (a) Returns of Goods will only be accepted if you comply with the provisions of this clause 3.8, or we agree in writing to accept return of the Goods.
- (b) **(Proof of Purchase)** As a condition precedent to us considering any refund, replacement, repair or exchange, you must be able to provide valid proof of purchase of the relevant Goods.
- (c) **(Inspection of Goods)** To the maximum extent permitted by applicable law, we require that you notify us of any problems relating to an Order, including the quantity of Goods, damages to Goods, or failure of Goods to comply with the description, within seven days of delivery. You must follow the process set out in clause 3.8(e) in respect of faulty goods and for all other concerns, should contact us promptly.
- (d) **(Change of mind returns)** We do not accept change of mind returns.
- (e) **(Faulty Goods)** The following process applies to any Goods you believe to be faulty.
  - (i) If you believe your Goods are faulty, please contact us using the details provided on our Platform with a full description of the fault.
  - (ii) If we determine that your Goods may be faulty, we may attend at your site to conduct further inspection, or take other steps deemed appropriate by us on a case by case basis. We reserve the right to further inspection before deeming Goods faulty.
  - (iii) If we determine in our reasonable opinion that the Goods are not faulty, or is faulty due to fair wear and tear, misuse, failure to use in accordance with the manufacturer's instructions, or failure to take reasonable care, we will refuse your return.
  - (iv) If we determine that the Goods are faulty, you will be credited the full amount paid (including shipping costs) and you may request a refund, exchange or

store credit. All refunds will be credited back to your original method of payment unless you request otherwise and we approve this request.

- (v) If you fail to comply with the provisions of this clause 3.8 in respect of faulty Goods, we may, in our absolute discretion, issue only a partial refund or no refund in respect of faulty Goods.
- (vi) Nothing in this clause 3.8 is intended to limit or otherwise affect the operation of any manufacturers' warranties which you may be entitled to or any of your rights which cannot be excluded under applicable law.

### 3.9 YOUR OBLIGATIONS

- (a) Once you have made your first Order through the Platform, you acknowledge and agree that:
  - (i) you must complete the training provided by Mai to you / your employees regarding how to handle the Goods, how to explain the Goods to customers (**Training**). The Training will be provided by Mai at a mutually suitable time; and
  - (ii) you must handle the Goods in accordance with the handling procedure provided by Mai (which will be provided in the Training).
- (b) You acknowledge and agree that it is your responsibility to comply with all relevant liquor licensing laws. Mai has no responsibility to check that you are compliant with the relevant liquor licensing laws, and will not be liable for your failure to comply with such licensing laws.
- (c) Further, it is your responsibility to comply with all applicable laws, regulations and industry standards that apply to the buying and selling of the Goods. Mai will not be responsible or liable for any failure to comply with any applicable laws, regulations or industry standards by you.

## 4 USE OF THE PLATFORM

### 4.1 ACCESS AND USE OF THE PLATFORM

You must only use the Platform in accordance with these Terms and any applicable laws, and must ensure that your employees, sub-contractors and any other agents who use or access the Platform comply with the Terms and any applicable laws.

### 4.2 YOUR OBLIGATIONS

You must not:

- (a) copy, mirror, reproduce, translate, adapt, vary, modify, sell, decipher or decompile any part or aspect of the Platform without the express consent of Mai;
- (b) use the Platform for any purpose other than the purposes of browsing, selecting or purchasing Goods;
- (c) use, or attempt to use, the Platform in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity;
- (d) use, or attempt to use, the Platform in a manner that may interfere with, disrupt or create undue burden on the Platform or the servers or networks that host the Platform;
- (e) use the Platform with the assistance of any automated scripting tool or software;
- (f) act in a way that may diminish or adversely impact the reputation of Mai, including by linking to the Platform on any other Platform; and
- (g) attempt to breach the security of the Platform, or otherwise interfere with the normal functions of the Platform, including by:
  - (i) gaining unauthorised access to Platform accounts or data;
  - (ii) scanning, probing or testing the Platform for security vulnerabilities;
  - (iii) overloading, flooding, mailbombing, crashing or submitting a virus to the Platform;

- (iv) instigating or participating in a denial-of-service attack against the Platform.

#### 4.3 INFORMATION ON THE PLATFORM

While we make every effort to ensure that the information on the Platform is as up-to-date and accurate as possible, you acknowledge and agree that we do not (to the maximum extent permitted by law) guarantee that:

- (a) the Platform will be free from errors or defects;
- (b) the Platform will be accessible at all times;
- (c) messages sent through the Platform will be delivered promptly, or delivered at all;
- (d) information you receive or supply through the Platform will be secure or confidential; or
- (e) any information provided through the Platform is accurate or true.

We reserve the right to change any information or functionality on the Platform by updating the Platform at any time without notice, including product descriptions, prices and other Platform Content.

#### 4.4 INTELLECTUAL PROPERTY

- (a) Mai retains ownership of the Platform and all materials on the Platform (including text, graphics, logos, design, icons, images, sound and video recordings, pricing, downloads and software) (**Platform Content**) and reserves all rights in any intellectual property rights owned or licensed by it not expressly granted to you.
- (b) You may make a temporary electronic copy of all or part of the Platform for the sole purpose of viewing it. You must not otherwise reproduce, transmit, adapt, distribute, sell, modify or publish the Platform or any Platform Content without prior written consent from Mai or as permitted by law.

#### 4.5 LINKS TO OTHER PLATFORMS

- (a) The Platform may contain links to other Platforms that are not our responsibility.
- (b) We have no control over the content of the linked Platforms and we are not responsible for it.
- (c) Inclusion of any linked Platform on the Platform does not imply our approval or endorsement of the linked Platform.

#### 4.6 SECURITY

Mai does not accept responsibility for loss or damage to computer systems, mobile phones or other electronic devices arising in connection with use of the Platform. You should take your own precautions to ensure that the process that you employ for accessing the Platform does not expose you to risk of viruses, malicious computer code or other forms of interference.

#### 4.7 REPORTING MISUSE

- (a) If you become aware of misuse of the Platform by any person, any errors in the material on the Platform or any difficulty in accessing or using the Platform, please contact us immediately using the contact details or form provided on our Platform.

### 5 TERMINATION

- (a) Mai reserves the right to terminate your access to any or all of the Platform (including Accounts) at any time without notice, for any reason.
- (b) You may terminate your Account at any time by using the Platform's functionality, where such functionality is available. Where such functionality is not available, Mai will effect such termination within a reasonable time after receiving written notice from you.
- (c) Notwithstanding termination or expiry of your Account or this agreement, any provision in this agreement which by its nature would reasonably be expected to be complied with after termination or expiry, will continue to apply.

## **6 LIABILITY**

### **6.1 LIMITATION & WARRANTIES**

- (a) To the maximum extent permitted by applicable law, Mai limits all liability to any person for loss or damage of any kind, however arising whether in contract, tort (including negligence), statute, equity, indemnity or otherwise, arising from or relating in any way to this agreement or any goods or services provided by Mai to the total Fees paid by you to Mai under the most recent Order.
- (b) Goods sold by Mai will have only the benefit of any warranty given by the manufacturer. All other express or implied representations and warranties are, to the maximum extent permitted by applicable law, excluded.
- (c) Nothing in these Terms shall exclude or limit a party's liability for fraud or intentional unlawful conduct by a party, or death or personal injury resulting from a party's negligence.

### **6.2 INDEMNITY**

You agree to indemnify Mai and its employees and agents in respect of all liability for loss, damage or injury which may be suffered by any person arising from you or your representatives' breach of any of these terms, use of any goods or services provided by Mai.

### **6.3 CONSEQUENTIAL LOSS**

To the maximum extent permitted by law, under no circumstances will Mai be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this agreement or any goods or services provided by Mai (except to the extent this liability cannot be excluded under applicable law).

### **6.4 UNFAIR CONTRACT TERMS**

To the extent that the provisions of any applicable law shall impose restrictions on the extent to which liability can be excluded under these Terms including, for the avoidance of doubt, the provisions of sections 3, 6 and 11 of the *Unfair Contract Terms Act 1977* in the UK (and its equivalent in any other jurisdiction) relating to the requirement of reasonableness, the exclusions set out in this clause shall be limited in accordance with such restrictions. However, any exclusions of liability that are not affected by such restrictions shall remain in full force and effect.

## **7 DISPUTE RESOLUTION**

- (a) A party claiming that a dispute has arisen under or in connection with this agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory injunction, unless that party has complied with the requirements of this clause.
- (b) A party that requires resolution of a dispute which arises under or in connection with this agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith. If the dispute is not resolved within a period of 14 days (or such other period as agreed by the parties in writing) after the date of the notice, any party to the dispute may take legal proceedings to resolve the dispute.

## **8 DATA PROTECTION**

### **8.1 DATA PROTECTION**

- (a) Words and phrases in this section shall have the meaning given to them by applicable data protection and privacy laws, including the General Data Protection Regulation 2016/679 (GDPR) and applicable national legislation that implements or supplements the GDPR or otherwise applies to data protection and privacy, and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-

enacted or consolidated (**Data Protection Legislation**) and the terms “controller”, “processor”, “process” and “personal data” shall have the meanings given to those terms in such Data Protection Legislation.

- (b) During and after the delivery of the Goods, you agree that Mai will be processing personal data for its own purposes and as such will be a controller under the Data Protection Legislation and this includes (but is not limited to) the following purposes:
  - (i) Mai providing Goods in fulfilment of a Order;
  - (ii) Mai and/or our independent contractors and third party suppliers may use your contact details to send marketing materials or other publications.;
  - (iii) Mai may process personal data concerning its other customers and contacts in other ways for its own business purposes; and
  - (iv) Mai may process and transfer personal data as necessary to effect a re-organisation of its business.
- (c) During and after the delivery of Goods, there may be limited occasions where Mai may process on your behalf as a processor any personal data you have provided to Mai. Mai will advise you in writing where Mai believes Mai may act as a processor and any such processing shall be in accordance with, and subject to your instructions.
- (d) Before performing the processing, Mai shall document within the instructions the subject matter and duration of the processing, the nature and purpose of the processing, the types of personal data and categories of data subjects and the other terms prescribed by the Data Protection Legislation. Mai will ensure that all appropriate technical and organisational measures are taken to protect any personal data supplied by you to Mai against unauthorised or unlawful processing, accidental loss, destruction or damage, including when Mai subcontract any processing (for example, in the case of external storage of data).
- (e) Your instructions are taken to include the use by Mai, where appropriate, of independent contractors and third party suppliers appointed by us for functions such as data and file storage, back-up, destruction, billing, debt collection, legal processing and the like, in accordance with the foregoing.
- (f) By accepting this agreement, you give positive consent for Mai to obtain, store and process information about you as described in the preceding paragraphs. You agree that where necessary you will have satisfied relevant statutory ground under the Data Protection Legislation in connection with the above-described categories of processing, before providing Mai with personal data. It is also a term of this agreement that any personal data supplied by Mai to you about employees/independent contractors of Mai and/or any third parties may only be used for the express purposes for which that information is provided to you.
- (g) Each party shall comply with the terms of the Data Protection Legislation.

## 8.2 THIRD PARTY DATA

- (a) You warrant, in relation to the personal information and all other data that it provides to Mai in connection with this agreement (**Third Party Data**), that:
  - (i) you have all necessary rights in relation to Third Party Data, such that the Platform can be performed in respect of that data;
  - (ii) you are not breaching any Law by providing Mai with Third Party Data;
  - (iii) Mai will not breach any Law by performing a Order/providing the Platform in relation to any Third Party Data;
  - (iv) there are no restrictions placed on the use of the Third Party Data (including by any Third Party Terms) and if there are any such restrictions, you have notified Mai of this, and Mai has agreed to perform a Order/provide the Platform in respect of that data (being under no obligation to do so); and
  - (v) Mai will not breach any Third Party Terms by performing a Order/providing the Platform in relation to any Third Party Data.

- (b) You agree at all times to indemnify and hold harmless Mai and its officers, employees and agents from and against any loss (including reasonable legal costs) or liability incurred or suffered by any of those parties, where such loss or liability was caused or contributed to a breach of a warranty in clause 8.2(a)

## 9 PRIVACY

You agree to be bound by the clauses outlined in Mai's Privacy Policy, which can be found [here](#).

## 10 NOTICES

- (a) A notice or other communication to a party under this agreement must be:
  - (i) in writing and in English; and
  - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
  - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or
  - (ii) when replied to by the other party,whichever is earlier.
- (c) For the purpose of this agreement, all notices to us should be directed to [erika@maisake.com](mailto:erika@maisake.com)

## 11 FORCE MAJEURE

- (a) We will not be liable for any delay or failure to perform our obligations under this agreement if such delay or failure arises out of a Force Majeure Event.
- (b) If a Force Majeure Event occurs, we will use reasonable endeavours to notify you of:
  - (i) reasonable details of the Force Majeure Event; and
  - (ii) so far as is known, the probable extent to which we will be unable to perform or be delayed in performing our obligations under this agreement.
- (c) Subject to compliance with clause 5(b), our relevant obligations will be suspended during the Force Majeure Event to the extent that it is affected by the Force Majeure Event.
- (d) For the purposes of this agreement, a 'Force Majeure Event' means any:
  - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
  - (ii) strikes or other industrial action outside of the control of the Supplier; or
  - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or

any decision of a government authority in relation to COVID-19, or any threat of COVID-19 beyond the reasonable control of the Supplier, to the extent it affects the Supplier's ability to perform its obligations.



## 12 GENERAL

### 12.1 GOVERNING LAW AND JURISDICTION

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

### 12.2 THIRD PARTY RIGHTS

This agreement does not give rise to any rights under the *Contracts (Rights of Third Parties) Act 1999* to enforce any term of this agreement.

### 12.3 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

### 12.4 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

### 12.5 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

### 12.6 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

### 12.7 COSTS

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

### 12.8 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

### 12.9 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) **(person)** a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or

annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;

- (g) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (i) **(includes)** the word “includes” and similar words in any form is not a word of limitation;
- (j) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision; and
- (k) **(currency)** a reference to £, or “pound”, is to British currency, unless otherwise agreed in writing.