

TERMS AND CONDITIONS

1. These are our Terms

- 1.1 Te Motu Wines is a website created by Waiheke Vineyards Limited (**we, us, our**), provided at www.TeMotu.co.nz, TeMotu.com and TeMotuVineyard.com (**Website**). We are a New Zealand company.
- 1.2 By accessing, using and/or ordering goods through the Website, you accept and agree to be bound by these terms of use (**Terms**). These Terms are important and legally binding so please read them carefully. If you don't agree to them, you should not use the Website.
- 1.3 If you do not abide by these Terms, we may terminate or suspend your account or your use of the Website at our sole discretion.
- 1.4 Additional terms may apply to specific goods, services, online tools or functions provided through or on the Website. Where we indicate on the Website that additional terms apply, you must read these Terms in conjunction with those additional terms. If there is any inconsistency between these Terms and those additional terms, the additional terms will prevail (unless we expressly tell you otherwise).

2. These are your responsibilities

- 2.1 You are responsible for all activity that results from your use of the Website.
- 2.2 You indemnify, and will keep indemnified, us against all forms of liability, actions, proceedings, demands, costs, charges and expenses which we may incur or be subject to or suffer as a result of your use of the Website.
- 2.3 You must not use, or assist anyone to use, the Website (a) for any illegal or unauthorised purpose; (b) for any malicious means, or to abuse, harass, threaten, intimidate or impersonate any other person; or (c) to upload or transmit any virus or malicious code.
- 2.4 In order to be able to make purchases through the Website and to join our Te Motu Wine Whanau and/or join our mailing list, you will need to provide certain information about yourself or your company. You agree to provide complete, accurate and current information. You agree to maintain and update your information held by us to ensure that it is kept current at all times. We may phone or mail you to verify these details.
- 2.5 We will take reasonable measures to keep your information secure against unauthorised users. However, you are responsible for maintaining the confidentiality of your account information by keeping your username and password confidential and secure. You are solely responsible for all activity that occurs with your account, regardless of whether you have authorized such activities. You agree that we are entitled to rely on the authenticity and authority of your username and password to process actions or requests you submit to the Website and that we may do so without further enquiry. If the security of your account has been compromised, contact us immediately at info@temotu.co.nz.
- 2.6 Our website may contain links to other websites that are not operated by us. We take no responsibility for, and do not endorse, these links. They are provided for your convenience and interest only. You link to them at your own risk.

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3. **Becoming part of our Te Motu Whanau**

- 3.1 The Te Motu Whanau is a membership that gives wine lovers the opportunity to participate in the offer of selected limited release wines. If you become part of our Te Motu Whanau, you will be guaranteed an allocation of our new release vintages, which will often be sold to you at a material discount to our standard retail price.
- 3.2 It's free to become a member of our Te Motu Whanau.
- 3.3 You may only register to become part of our Te Motu Whanau if you are resident in New Zealand. By registering, you warrant that you are over the age of 18 and that you can form a legally binding contract.
- 3.4 You must not register as a member under multiple identities or personas (whether false or not). However, at our discretion, you may create a business membership in addition to your personal membership.
- 3.5 You are responsible for any actions taken through your membership. Memberships are not transferable and therefore cannot be sold, leased, lent, or traded.
- 3.6 You can cancel your membership at any time by contacting us at info@temotu.co.nz.
- 3.7 We may decline to register, suspend, or terminate your membership of our Te Motu Whanau (including your username and/or the connection of your hardware device) without notice and without entering into discussions with you. We may suspend or terminate your membership if, for example, you breach these Terms, you impersonate another member, or we deem your behaviour to be unacceptable. Members who have registered under multiple aliases will have all of their aliases disabled. If we suspend or terminate your membership, you must not create another membership without our prior approval.

4. **The Website might not always be perfect**

- 4.1 The Website is provided on an "as is" and "as available" basis, and use of it is at your sole risk.
- 4.2 You agree that, to the maximum extent permitted by law:
- (a) any and all of our liability and responsibility to you or any other person:
 - (i) under or in connection with these Terms; or
 - (ii) in connection with the Website (including any errors in or omissions from the Website), any goods or services provided on or through the Website, another user's/member's acts or omissions (including any comments or content posted), or your use of or inability to use, the Website (including any loss or corruption of data),is excluded regardless of whether such liability arises in contract, tort (including negligence), equity, breach of statutory duty or otherwise;
 - (b) our liability and responsibility is excluded in respect of any and all loss or damage, whether direct or indirect, including, without limitation, loss of profits, loss of data, loss of business or anticipated savings, general and special damages, and consequential and incidental loss

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(whether resulting from the use of, or the inability to use, the Website or otherwise);

- (c) we disclaim and exclude all implied conditions or warranties, including, but not limited to, any warranties of merchantability, fitness for a particular purpose, and non-infringement; and
- (d) in any event, our liability under these Terms will not exceed the price of the products ordered by you in any single order.

5. We may collect some personal information

- 5.1 By accessing and submitting your details on the Website or by otherwise providing them to us, you consent to the collection, use, storage and processing of your information for internal analytical purposes, to deliver products and to communicate with you. You accept that you may, as a result, receive regular electronic or hardcopy communications, including promotional material, from us. If you wish to stop receiving these communications, contact us at info@temotu.co.nz.
- 5.2 We do not see or collect your credit card details when you make an online card transaction through our Website. We use the DPS Payment Express Payment Gateway ("DPS") which is a third party payment services provider that processes the transaction directly between your bank and our bank. DPS has state of the art, bank grade security and infrastructure. DPS's security is audited and certified by all NZ Banks, Visa, MasterCard and most other international card issuers providing benchmark protections for your card transactions. Your credit card information will be held securely and used in accordance with DPS' current privacy policy available here: http://www.paymentexpress.com/about/about_paymentexpress/privacy_policy.html.

If you are uncomfortable ordering online you can order by phone (+64 9 372 6884) and we will provide you with the information to direct credit our bank account.
- 5.3 We take your privacy very seriously. However, information transmitted over the Internet is inherently insecure. We will use reasonable endeavours to ensure that information that you submit through the Website is kept confidential, stored securely and not sold or otherwise disclosed to any third parties, except as required or permitted by law or these Terms. We may share your information if we receive your informed consent or if it is necessary for a third party to provide services on our behalf (including in relation to communications, payments and delivery). Any information sent through our Website is passed through a secure server using encryption technology. All stored customer data is protected through secure passwords, user log-ons and other security procedures.
- 5.4 We will only hold your personal information for as long as permitted by law. You have the right under the Privacy Act 1993 to access and/or correct your personal information held by us. If you want to access and/or correct this information, please email us at info@temotu.co.nz.
- 5.5 We may also collect information about the way our Website is used (for example, traffic volumes, time spent on pages, services used). We may use cookies to do this. Cookies are small pieces of information that are stored in a browser-related file on your computer's hard drive when you use the Website. The information is automatically retrieved in statistical and aggregate formats to assess and improve the Website, and to determine our visitors' preferences and interests.

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6. We own the Website

- 6.1 You agree that we own all of the intellectual property rights existing in the Website including all of the content of the Website (such as text, graphics, logos, icons and sound recordings), all software code underlying and forming part of the Website and any improvements, enhancements, modifications or adaptations to the same. You agree not to, and will not permit or encourage any third party to copy, reproduce, modify, adapt, reverse-engineer or decompile the Website in whole or in part without our prior written consent.
- 6.2 You may not without our prior written permission, in any form or by any means:
- (a) adapt, reproduce, copy, store, distribute, print, display, perform, publish or create adaptations from any part of the Website (including the content of the Website);
 - (b) publish or use our brand, branding or logos without our prior written consent; or
 - (c) commercialise, copy, or on-sell any information, or materials obtained from any part of the Website (including the content of the Website).
- 6.3 You agree not to create a link to the Website without our express prior permission.

7. Ordering using the Website

- 7.1 Any information contained on the Website does not constitute an offer in any jurisdiction other than New Zealand.
- 7.2 The Website is not intended for people under the age of 18. By placing an order through the Website you confirm that you are over the age of 18 and that you can provide sufficient evidence of your age on request (e.g. NZ Driver's Licence, 18+ Card or Passport) prior to or on delivery of the products.
- 7.3 You accept and agree that any order made on Good Friday, Easter Sunday, Christmas Day or before 1.00pm on Anzac day will not be accepted immediately at checkout, but will be deemed to have been accepted at 12.05 am the following day.
- 7.4 You agree that, where you acquire products or services from us for the purposes of a business, any provisions of the Consumer Guarantees Act 1993 which would otherwise apply to the supply by us of those products or services do not apply.
- 7.5 We reserve the right to refuse to accept your order at our sole discretion.

8. Pricing and payment

- 8.1 Prices quoted on the Website are inclusive of GST and are quoted and billed in New Zealand dollars.
- 8.2 Payment for the total price of your order, including any delivery charge, must be made by credit card (or direct credit with prior arrangement in accordance with clause 4.2 of these Terms) at the time of submitting your order.

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- 8.3 You agree to indemnify us against any default by your credit card company to make payment to us in full. You are liable for all costs associated with debt collection if you default on payment of an order.
- 8.4 We will use reasonable endeavours to ensure that the descriptions and prices for the products and services shown on the Website are accurate and up-to-date. However we reserve the right to adjust the actual price charged if the prices shown are incorrect, and to vary our prices and product and services descriptions at any time and without notice. Prices available on the Website may differ from our cellar door pricing.
- 8.5 We aim to fulfil all orders placed using the Website but we do not guarantee that the products advertised will always be in stock. Promotional items are subject to availability, while stocks last. We will not be responsible for our inability to supply products where they are not presently available or where our stock of the relevant product(s) has been exhausted. We reserve the right to refuse back orders for promotional items that are not available at the point of ordering.

9. Delivery and transit

- 9.1 Orders made using the Website will be delivered within New Zealand using trusted courier services. We use NZwinehome for international orders. Their terms and conditions can be found at www.nzwinehome.co.nz/tell_me_more_pvt.php. International commercial exports require export certification certificates to be issued before shipment.
- 9.2 Any orders submitted may incur a delivery charge which covers the costs associated with the handling and delivery of your order. The delivery charge will be identified and included in the total when you pay for your order. For domestic personal orders we charge a freight fee of \$12 per case. NZwinehome's international freight charges vary by country and can be viewed at http://www.nzwinehome.co.nz/deliver_to_countries_pvt.php. We are entitled to change this charge at any time for future orders.
- 9.3 We aim to despatch orders to the delivery address that you have specified within a reasonable time. Delivery within New Zealand will usually occur within 5 business days. However, sometimes a failure or delay in delivery may be caused by an event outside of our reasonable control. We will not be held responsible if this happens.
- 9.4 Title to all products supplied to you will be retained by us until payment is made in full. All risk of loss of, or damage to, the products passes to you on delivery of the products to the address that you specify at the time of order.

10. Returns and cancellation

- 10.1 In order to ensure prompt delivery, once your order has been submitted you may not vary or cancel it. If you contact us immediately we may, at our sole discretion, allow you to vary or cancel your order.
- 10.2 You must inform us of complaints regarding order shortages or damage in transit no later than three business days after receipt of the product(s) by contacting us at info@temotu.co.nz or +64 9 372 6884.
- 10.3 Subject to the Consumer Guarantees Act 1993, we will not provide cash refunds for returned products. However we may, at our sole discretion, allow you to return products and obtain a credit

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with us (with any such credit required to be used in full within three months of being issued to you). You will be responsible for the cost of any return and all risk of loss of, or damage to returned products remains with you until the products are safely returned to us.

11. We can amend these Terms and the Website

- 11.1 We may amend these Terms from time to time without notice. When posted on this Website, the amendments will be effective immediately.
- 11.2 We may issue an update to the Website which may add, modify, and/or remove features without notice.
- 11.3 If you continue to use the Website after any changes, you'll be taken to have agreed to the changes.

12. This is a legal agreement

- 12.1 These Terms are governed by New Zealand law, and all users submit to the exclusive jurisdiction of the New Zealand courts for any matter or dispute arising in relation to these Terms. If you wish to notify us of any dispute you have with us, you should contact info@temotu.co.nz.
- 12.2 These Terms represent the entire agreement between you and us in relation to the use of Website and the Service.
- 12.3 If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms will otherwise remain in full effect.
- 12.4 The rights and remedies provided in these Terms are cumulative and not exclusive of any rights or remedies provided by these Terms or law.
- 12.5 If we do not exercise or enforce any right available to us under these Terms, it does not constitute a waiver of those rights