

STANDARD CREDIT ACCOUNT TERMS AND CONDITIONS

"PRINCIPAL"

New York, New York
"ORIGINATION DATE"

This Standard Credit Account Terms and Conditions (the "**Standard Credit Account Terms and Conditions**"), dated as of "**ORIGINATION DATE**" (the "**Origination Date**"), is by and among [DOMAINE] ("**Domaine**"), [WINECREDIT] ("**WineCredit**"), and "**CLIENT**" ("**Client**", together with Domaine and WineCredit, the "**Parties**", and each, a "**Party**").

WHEREAS, Domaine is in the business of, among other things, storing wine on behalf of clients in its professional storage facilities; and

WHEREAS, Client already contracts with Domaine for the storage of the Wines (as defined below) within Domaine's storage Facilities (as defined below);

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions. As used in this Standard Credit Account Terms and Conditions, the following terms have the following meanings:

"Bailee" means bailee as defined by article 7-102(a)(1) of the UCC (as defined below).

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks are authorized or required to close under the laws of either the United States or the State of New York.

"Collateral" means, collectively, all of the following property now owned or hereafter acquired by Client:

(a) All Wines (as defined below);

(b) All cash and non-cash proceeds (including insurance proceeds) from the sale, destruction, loss, or other disposition of any of the foregoing Wines and sums due from a third party which has damaged or destroyed the foregoing Wines or from that party's insurer, whether due to judgment, settlement or other process ("**Proceeds**"); and

(c) All books, data and records pertaining to any Wines, whether in the form of a writing, photograph, microfilm or electronic media, including, but not limited to any computer-readable memory and any computer hardware or software necessary to process such memory ("**Books and Records**").

“Counted Collateral” means all Wines (as defined below) except any wines which Lender chooses to exclude. Lender may exclude any wines from the Counted Collateral at its absolute and sole discretion for any reason whatsoever.

“Default Rate” is defined as the rate of interest of 24% per annum which accrues and is payable by Client upon an Event of Default (as defined below) until full payment of all Obligations (as defined below) is made.

“Event of Default” is defined in Section 8.

“Facilities” means any storage facility at which Domaine stores any wines on behalf of its clients.

“Loan Ratio” means, at any given time, the principal balance due under this Standard Credit Account Terms and Conditions divided by the value of the Counted Collateral, as determined by Lender in its reasonable judgment.

“Maturity Date” means **“MATURITY DATE”**.

“Maximum Loan Ratio” means 60.00%.

“Obligations” means all of Client’s indebtedness and obligations owing to Lender (as defined below) under this Standard Credit Account Terms and Conditions, whether as principal, interest, fees, reimbursements or otherwise.

“UCC” means the Uniform Commercial Code as adopted and effective in the State of New York.

“Wines” means all wines now or hereinafter stored, on behalf of Client, in Client’s account with Domaine. As of the Origination Date, the list of wines comprising the Wines is as set forth in Exhibit A attached hereto. The list of wines comprising the Wines may be updated from time to time in writing for the avoidance of doubt, but is understood by the Parties to be, at all times, all wines stored in Client’s account at Domaine. Client hereby expressly agrees that the delivery of any wines into Client’s account at Domaine constitutes Client’s intentional addition of those wines to the Wines.

2. Revolving Line of Credit. For value received, Client promises to pay to the order of WineCredit, or to any subsequent holder hereof (in any case, “**Lender**”), the principal amount of **“PRINCIPAL”**, or such lesser amount as may be advanced hereunder, together with interest, as follows:

2.1. Interest. Interest shall accrue on the outstanding principal at a fixed rate per month of 1.00%. All interest and other fees, if any, shall be computed on the basis of a month deemed to consist of 30 days and paid for the actual number of days elapsed.

- 2.2. Payment Schedule; Maturity.** Prior to maturity, accrued and unpaid interest shall be due and payable in arrears on December 31st of each year, beginning with December 31st, 2015. The entire principal balance due under this Standard Credit Account Terms and Conditions then unpaid, together with all accrued and unpaid interest and all other amounts then payable hereunder, shall be due and payable in full on the Maturity Date.
- 2.3. Payment Process.** The Parties hereby agree that payment of all Obligations shall be made to Domaine and Domaine hereby agrees to collect payment of all Obligations on behalf of Lender. All payment of Obligations to Domaine shall be made either by cash, check, wire transfer, or credit card payment.
- 2.4. Business Days.** If any Obligation is payable on a day other than a Business Day, then such payment shall be made on the next Business Day. All payments received on a day which is not a Business Day will be applied on the next Business Day.
- 2.5. Prepayment.** Client may prepay any principal balance due under this Standard Credit Account Terms and Conditions in full or in part at any time an Event of Default is not continuing. For advances under this Standard Credit Account Terms and Conditions that are repaid prior to the 90th day after the date of the advance (each a "**Short Term Borrowing**"), Client shall pay a prepayment fee to Lender calculated as follows:
- Ninety (90) days of interest on the Short Term Borrowing
- minus
- interest that has accrued on the Short Term Borrowing between the date of advance and the date of repayment.
- 2.6. Structure; Advances.** This is a revolving line of credit. The aggregate outstanding principal balance due under this Standard Credit Account Terms and Conditions shall not at any time exceed "**PRINCIPAL**". In the event the aggregate outstanding principal balance due under this Standard Credit Account Terms and Conditions exceeds "**PRINCIPAL**", Client shall, without notice or demand of any kind, immediately make such repayments of principal hereunder or take such other actions as are satisfactory to Lender as shall be necessary to eliminate such excess. Subject to the foregoing, and provided that no Event of Default or any default or any event which with the passage of time or giving of notice, or both, would constitute an Event of Default hereunder, has occurred and is continuing, Client may request and Lender shall make additional advances under this Standard Credit Account Terms and Conditions to Client, subject to the terms and conditions of this Standard Credit Account Terms and Conditions.

2.7. **Security Interest.** To secure payment of all Obligations, client hereby unconditionally and irrevocably grants Lender a first-priority security interest in the Collateral.

3. **Domaine as Bailee; Notification and Acknowledgement of Security Interest; Collateral Access; Indemnification.** The Parties hereby agree that Domaine shall act as Bailee of the Collateral at all times. Further, Client and Lender hereby notify Domaine of, and Domaine hereby acknowledges, the security interest created by this Standard Credit Account Terms and Conditions.

3.1. As Bailee, Domaine hereby agrees:

3.1.1. That it holds the Collateral for the benefit of Lender;

3.1.2. That if Domaine issues storage receipts or other documents of title which evidence any Collateral now or hereafter delivered to Domaine, Domaine will make those documents non-negotiable in order to protect Lender's security interest and liens in the Collateral;

3.1.3. That Lender, its agents, and its representatives may enter upon any of the Facilities at any time for the purpose of inspecting the Collateral or exercising any right that Lender may have pursuant to this Standard Credit Account Terms and Conditions or otherwise; and

3.1.4. That upon Lender's notice to Domaine that Client has defaulted on any Obligations to Lender, Domaine shall permit Lender to remove the Collateral from any of the Facilities, including without first receiving Client's consent or permission.

3.2. **Indemnification.** Client hereby agrees that Domaine shall have no liability to Client for complying with Lender's directions.

4. **Storage and Transportation of Wines; Removal of Wines from Account with Domaine.**

4.1. **Storage and Transportation of Wines.** The Parties agree that Domaine shall store the wines which comprise the Collateral as it does in its normal course of business, except as described below, at all times this Standard Credit Account Terms and Conditions is in effect. The Parties further agree that Domaine shall be responsible for any transportation of the Wines necessary under this Standard Credit Account Terms and Conditions.

4.2. **Removal of Wines from Client's Account with Domaine.** Client shall not remove any wines included in the Collateral from its account with Domaine while this Standard Credit Account Terms and Conditions is in effect unless

Lender agrees, in its reasonable judgment, that such removal would not cause the Loan Ratio to exceed the Maximum Loan Ratio. However, Client may remove any Wines which are not included in the Counted Collateral at any time without Lender's agreement.

5. Insurance.

- 5.1.** If Client already has an insurance policy covering the Wines which is deemed satisfactory by Lender, Client must grant to Lender a lender's loss payee endorsement on such insurance policy in a timely manner.
- 5.2.** If Client does not have an insurance policy covering the Wines which is deemed satisfactory by Lender, Lender shall obtain such a policy on Client's behalf in which Client must grant to Lender a lender's loss payee endorsement in a timely manner.

6. Representations and Warranties.

- 6.1.** Client hereby makes the following representations and warranties to Lender and Domaine:
 - 6.1.1.** This Standard Credit Account Terms and Conditions constitutes the legal, valid and binding obligations of Client, enforceable against Client in accordance with its terms, except to the extent that the enforceability thereof against Client may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or by equitable principles of general application.
 - 6.1.2.** Client owns valid and marketable title to the Collateral, free and clear of any liens or security interests other than liens and security interests in favor of Lender or Domaine.
- 6.2.** Domaine hereby makes the following representations and warranties to Lender and Client:
 - 6.2.1.** It is a corporation duly organized, validly existing and in good standing in Missouri.
 - 6.2.2.** It has the full right, corporate power and authority to enter into this Standard Credit Account Terms and Conditions and to perform its obligations under this Standard Credit Account Terms and Conditions; and
 - 6.2.3.** When executed and delivered by the Parties, this Standard Credit Account Terms and Conditions will constitute the legal, valid and binding obligation of Domaine, enforceable against Domaine in

accordance with its terms, except as may be limited by any applicable laws and equitable principles related to or affecting creditors' rights generally or the effect of general principles of equity.

7. Covenants.

- 7.1.** Client covenants and agrees, until all of the Obligations are fully and indefeasibly paid:
 - 7.1.1.** To cause Domaine, as Bailee, to hold the Collateral in any of its Facilities at all times.
 - 7.1.2.** To not grant or permit to exist any lien or security interest on or in any of the Collateral owned by Client other than liens and security interests in favor of Lender or Domaine.
- 7.2.** Domaine covenants and agrees, as long as this Standard Credit Account Terms and Conditions is in effect:
 - 7.2.1.** To notify Lender in writing of the occurrence of any Event of Default immediately upon its becoming aware of such occurrence.
 - 7.2.2.** To store the Wines in a commercially reasonable manner, so as to protect the wines from damage and/or loss of value, as is consistent with its existing business practices and those of the wine storage industry.

8. Events of Default; Remedies; Indemnification.

- 8.1. Events of Default.** Each of the following shall constitute an event of default ("**Event of Default**") under this Standard Credit Account Terms and Conditions:
 - 8.1.1.** If any written representation or warranty of Client in this Standard Credit Account Terms and Conditions shall be false when made or is discovered to be false or misleading in any material respect.
 - 8.1.2.** If all Obligations have not been paid in full on or before the Maturity Date.
 - 8.1.3.** Any failure by Client to perform or default in the performance of any covenant, condition or agreement contained in this Standard Credit Account Terms and Conditions.
 - 8.1.4.** If Client or any guarantor of all or any portion of the Obligations:
 - (i) makes an assignment for the benefit of creditors; (ii) files a

voluntary proceeding seeking protection from creditors under any bankruptcy or other law; (iii) becomes the subject of an involuntary proceeding under any bankruptcy or other similar law; or (iv) fails to pay, or makes any admission of its inability to pay, its debts generally as they become due, or otherwise becomes insolvent.

- 8.1.5. The appointment of a trustee, receiver or liquidator for Client, any guarantor of or for all or any portion of the Obligations, or for any part of the Collateral.
 - 8.1.6. The death of Client.
 - 8.1.7. Domaine ceasing to function in the ordinary course of business for more than 7 consecutive days.
 - 8.1.8. Lender ceasing to have first-priority security interest in any portion of the Collateral.
 - 8.1.9. Client failing to maintain its account in good standing with Domaine.
- 8.2. **Remedies.** Upon the occurrence of an Event of Default, and at any time thereafter, the following provisions shall apply:
- 8.2.1. **Acceleration.** Lender, at Lender's sole discretion, may declare all of the Obligations immediately due and payable, and such amounts shall become immediately due and payable. Upon an Event of Default, all outstanding principal and accrued interest under this Standard Credit Account Terms and Conditions will become immediately due and payable without notice or demand by Lender. Such acceleration in either case may be without presentment, demand or notice of any kind, which Client expressly waives.
 - 8.2.2. **Default Rate.** To the extent permitted by law, at Lender's election, interest shall accrue under this Standard Credit Account Terms and Conditions at the Default Rate from the date of such Event of Default. All interest and other fees, if any, shall be computed on the basis of a year deemed to consist of 360 days and paid for the actual number of days elapsed. At the option of Lender, Client shall pay interest on the principal amount outstanding under this Standard Credit Account Terms and Conditions and on any other Obligations arising in connection herewith after the occurrence of an Event of Default at the Default Rate.
 - 8.2.3. **Sale of Collateral.** Lender will have, and may exercise and pursue, any or all of its rights and remedies as provided in this Standard Credit Account Terms and Conditions, under the UCC, at law or in equity, and

at any time exercise any and all of its rights and pursue any and all of its remedies under the UCC, under any other applicable law, and pursuant to this Standard Credit Account Terms and Conditions with respect to the Collateral, including selling some or all of the Collateral, at any public sale or at private sale without advertisement, if in Lender's sole judgment such private sale would result in a greater sale price than a public sale. Whenever applicable provisions of the UCC require that notice be reasonable, 10 calendar days' notice will be deemed reasonable. Lender shall not be liable to Client as a result of any commercially reasonable possession, repossession, collection or sale by Lender of Collateral; and Client hereby waives all rights of redemption from any such sale and the benefit of all valuation, appraisal and exemption laws. Upon any sale of the Collateral pursuant to this Standard Credit Account Terms and Conditions, Lender may collect, receive, and hold and apply, as provided herein, the proceeds thereof to the payment of the Obligations, and transfer, assign and deliver some or all of the Collateral to the purchaser at any such sale. The proceeds from any such sale shall be applied first to the payment of all reasonable legal and other costs and expenses incurred in connection with the sale and next to the payment of the Obligations in such order as Lender determines in its sole discretion. The Balance, if any, of the proceeds of such sale remaining after payment of all Obligations shall be paid to Client.

- 8.3. Indemnification.** Client shall, immediately upon Lender's demand, reimburse Lender for any costs, including, but not limited to, reasonable attorneys' fees, court costs, discovery expenses, investigation costs, costs of preserving, or protecting the Collateral, and all other out-of-pocket expenses of any kind incurred in: (i) collecting any sums due under this Standard Credit Account Terms and Conditions; (ii) enforcing or defending any lien on or security interest related to the Collateral under this Standard Credit Account Terms and Conditions; (iii) pursuing or defending any litigation based on, arising from, or related to this Standard Credit Account Terms and Conditions; and/or (iv) in connection with the custody, preservation, use, operation or sale of the Collateral. Immediately upon Lender's demand, Client shall reimburse Lender for any costs, including, but not limited to, reasonable attorneys' fees, court costs, discovery expenses, investigation costs, losses, judgments, settlements or damage incurred by Lender in connection with any claims brought by any person against Lender due to the lending relationship between Lender and Client or Lender's security interest in the Collateral under this Standard Credit Account Terms and Conditions, other than such costs incurred as a result of Lender's gross negligence or wilful misconduct. All costs payable hereunder shall be paid whether or not actions or foreclosure proceedings are commenced or continued to judgment. Any costs payable hereunder constitute Obligations that, if not paid upon demand, bear interest at the Default Rate.

- 9. Term of Standard Credit Account Terms and Conditions; Termination.** The term of this Standard Credit Account Terms and Conditions shall survive until all Obligations have been paid in full.
- 10. Entire Agreement.** Client acknowledges that except for this Standard Credit Account Terms and Conditions, there are no other agreements between Lender and Client, oral or written, concerning the subject matter of this Standard Credit Account Terms and Conditions, that all prior agreements concerning the same subject matter, including any proposal or commitment letter, are merged into this Standard Credit Account Terms and Conditions and thereby extinguished and this Standard Credit Account Terms and Conditions, together with any other agreement executed in connection herewith, is intended by the Parties as a final expression of their agreement and is intended as a complete and exclusive statement of the terms and conditions thereof.
- 11. Amendments; Consents; Waivers; Cumulative Rights.** No amendment, modification or waiver of any provision of this Standard Credit Account Terms and Conditions, or consent to any departure by Client herefrom, will be effective unless the same is in writing signed by an authorized officer of Lender, and then only in the specific instance and for the specific purpose for which given. No failure on the part of Lender to exercise, and no delay in exercising, any right under this Standard Credit Account Terms and Conditions operates as a waiver thereof, and no single or partial exercise by Lender of any right under this Standard Credit Account Terms and Conditions precludes any other or further exercise thereof, or the exercise of any other right. Each right granted to Lender under this Standard Credit Account Terms and Conditions or allowed to it at law or in equity is cumulative and such remedies may be exercised from time to time concurrently or consecutively at Lender's option.
- 12. Successors and Assigns.** This Standard Credit Account Terms and Conditions binds Client and its successors and assigns and inures to the benefit of Lender and Lender's successors and assigns. Client may not delegate or transfer any of its obligations under this Standard Credit Account Terms and Conditions without the prior written consent of Lender. With respect to Lender's successors and assigns, such successors and assigns include any receiver, trustee or debtor-in-possession of or for Lender.
- 13. Severability.** If any provision of this Standard Credit Account Terms and Conditions shall be deemed invalid or unenforceable as written, it shall be construed, to the extent possible, in a manner which shall render it valid and enforceable, and any limitations on the scope and duration of any such provision necessary to make it valid and enforceable shall be deemed to be part thereof; no invalidity or unenforceability shall affect any other portion of this Standard Credit Account Terms and Conditions unless the provision deemed to be so invalid or unenforceable is a material element of this Standard Credit Account Terms and Conditions, taken as a whole. Any provision of this Standard Credit Account Terms and Conditions that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining

provisions of this Standard Credit Account Terms and Conditions or affecting the validity or enforceability of such provision in any other jurisdiction.

- 14. Waivers.** Client and all other persons or entities who become parties obligated under this Standard Credit Account Terms and Conditions, whether as guarantors, sureties, endorsers or otherwise, waive any right to demand for payment, any requirement for protest or notice of dishonor, all other rights to notice or demands with respect to this Standard Credit Account Terms and Conditions, any defense based on lack of diligence in the enforcement of this Standard Credit Account Terms and Conditions, and any defense which such party may have based on suretyship or impairment of Collateral. Every such party assents to each and every extension or postponement of the time of payment, whether at or after demand, or other indulgence, and waives any right to notice thereof.
- 15. Notices.** All notices, requests, consents, claims, demands, waivers and other communications under this Standard Credit Account Terms and Conditions (each a “**Notice**”) must be in writing and addressed to the receiving party at its address set forth on the signature page hereto (or to such other address that the receiving party may designate from time to time in accordance with this Section), and will be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the receiving Party; or (d) on the third day after the date mailed, by certified or registered mail (in each case, return receipt requested, postage pre-paid). No notice given to or demand made on Client by Lender in any instance entitles Client to notice or demand in any other instance.
- 16. Governing Law.** This Standard Credit Account Terms and Conditions is governed by and shall be construed and interpreted in accordance with the internal laws of the State of New York applicable to contracts made and to be performed wholly within such state, without regard to conflicts of law principles.
- 17. Headings of No Consequence.** The headings preceding the text of the sections hereof are included solely for convenience of reference and shall not constitute any material part of this Standard Credit Account Terms and Conditions, nor shall they affect its meaning, construction, or effect.
- 18. Counterparts.** This Standard Credit Account Terms and Conditions may be executed by the Parties hereto on any number of separate counterparts, and all such counterparts taken together shall constitute one and the same instrument.
- 19. Submission to Jurisdiction.** SUBJECT ONLY TO THE EXCEPTION IN THE NEXT SENTENCE, THE PARTIES HEREBY AGREE TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL COURT OF THE SOUTHERN DISTRICT OF NEW YORK AND THE STATE

COURTS OF NEW YORK LOCATED IN NEW YORK CITY, AND WAIVE ANY OBJECTION BASED ON VENUE OR *FORUM NON CONVENIENS* WITH RESPECT TO ANY ACTION INSTITUTED ON THIS STANDARD CREDIT ACCOUNT TERMS AND CONDITIONS, AND AGREE THAT ANY DISPUTE CONCERNING THE RELATIONSHIP BETWEEN THE LENDER AND CLIENT OR THE CONDUCT OF EITHER OF THEM IN CONNECTION WITH THIS STANDARD CREDIT ACCOUNT TERMS AND CONDITIONS SHALL BE HEARD ONLY IN THE COURTS DESCRIBED ABOVE. NOTWITHSTANDING THE FOREGOING: (1) LENDER SHALL HAVE THE RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST CLIENT OR CLIENT'S PROPERTY IN ANY COURTS OF ANY OTHER JURISDICTION LENDER DEEMS NECESSARY OR APPROPRIATE IN ORDER TO REALIZE ON THE COLLATERAL OR OTHER SECURITY FOR THE OBLIGATIONS, IF ANY, AND (2) CLIENT AND LENDER ACKNOWLEDGE THAT ANY APPEALS FROM THE COURTS DESCRIBED IN THE IMMEDIATELY PRECEDING SENTENCE MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE THOSE JURISDICTIONS.

- 20. Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS STANDARD CREDIT ACCOUNT TERMS AND CONDITIONS, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF ANY OF THE PARTIES HERETO IN RESPECT OF THIS STANDARD CREDIT ACCOUNT TERMS AND CONDITIONS OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. THE PARTIES AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT LENDER OR CLIENT (AS APPLICABLE) MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS STANDARD CREDIT ACCOUNT TERMS AND CONDITIONS WITH ANY COURT IN THE JURISDICTIONS AGREED TO IN THIS STANDARD CREDIT ACCOUNT TERMS AND CONDITIONS AS WRITTEN EVIDENCE OF THE CONSENT OF THE APPLICABLE PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.
- 21. Limitation on Interest and Other Charges.** If, at any time, the rate of interest, together with all amounts which constitute interest and which are reserved, charged or taken by Lender as compensation for fees, services or expenses incidental to the making, negotiating or collection of the loan evidenced hereby, shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum rate of interest permitted to be charged by Lender to Client under applicable law, then, during such time as such rate of interest would be deemed excessive, that portion of each sum paid attributable to that portion of such interest rate that exceeds the maximum rate of interest so permitted shall be deemed a voluntary prepayment of principal. As used herein, the term "applicable law" shall mean the law in effect as of the date hereof; provided, however, that in the event there is a change in the law which results in a higher permissible rate of interest, then this Standard Credit Account Terms and Conditions shall be governed by such new law as of its effective date.

