

EMERSON'S ONLINE GENERAL TERMS & CONDITIONS OF USE

Thank you for visiting www.emersons.co.nz (the "**Website**"), which is operated by The Emerson's Brewing Company Limited ("**Emerson's**"). Emerson's provides an online version of Emerson's cellar door whereby customers can purchase Emerson's products online via the Website.

The following terms and conditions ("**General Terms and Conditions of Use**") apply to your use of the Website. By accessing and using the Website, you agree to be bound by all of the following General Terms and Conditions of Use, the Privacy Policy and the Terms of Sale without qualification (collectively, the "**Terms**"). If you do not agree to be bound by the Terms you must stop using and accessing the Website.

1. DEFINITIONS

The following definitions apply to the Terms:

"**Content**" means any software, data, information, pictures, graphics and other materials published or made available on the Website, including any third party content and any user generated content.

"**Customer**" means a person who applies for permission to order goods via this Website.

"**Service**" means the delivery of goods from Emerson's' cellar door in response to orders placed by Customers via this Website and in accordance with these Terms.

"**user**" means any user of the Website.

"**you**" and "**your**" are a reference to you.

2. USE OF WEBSITE AND PROHIBITED ACTIVITY

2.1. Use of this Website is restricted to persons over the age of 18.

2.2. If you make a purchase through the Website, you warrant and understand that it is your responsibility to show (or to procure the person or persons receiving the goods (the "**Recipient**") to show) current identification to the person or persons delivering the goods. The identification must include you or the Recipient's:

- a) full name;
- b) date of birth;
- c) photo; and
- d) signature.

2.3. You are prohibited from doing any act that Emerson's, in its absolute discretion, may deem to be inappropriate and/or would be deemed to be an unlawful act or is prohibited by any laws applicable to this Website including but not limited to:

- a) Any act that would constitute a breach of either the privacy (including uploading private information without the concerned individual's consent) or any other of the legal rights of individuals;
- b) Using this Website to defame or libel Emerson's or its affiliates, their employees or other individuals or acting in such a way that brings into disrepute the reputation of Emerson's or its affiliates; and
- c) Uploading files that contain viruses that may cause damage to the property of Emerson's or the property of other individuals.

2.4. You agree not to engage in any other conduct that Emerson's advises (in its absolute discretion) is in breach of the Terms or is otherwise inappropriate for the Website.

2.5. If you wish to take advantage of offers, or to access parts of the Website, that are only available to members, you will need to register as a member. If you register as a member, the Membership Terms will also apply to you.

3. ACCURACY, COMPLETENESS AND TIMELINESS OF INFORMATION

3.1. Emerson's is not responsible if the information that it makes available on this Website is not accurate or complete. Any reliance upon the material on this Website shall be at your own risk and we are not responsible for any adverse consequences arising out of such use. You agree that it is your responsibility to monitor any changes to the material and the information contained on this Website.

3.2. Prices displayed on this Website may vary from the Emerson's cellar door prices.

4. CHANGES

4.1. Emerson's reserves the right, in its absolute discretion, at any time and for any reason whatsoever, to make improvements and/or changes to the Service; to terminate all or part of any service supplied by Emerson's and/or its agents and/or its delivery persons to any Customer; to remove, amend and/or vary any of the Content which appears on the Website; to cease operating the Website in whole or in part, with or without notice, effective immediately.

4.2. Emerson's reserves the right to change, alter or modify these Terms at any time and will update you of this by updating the "last updated" notice at the end of these Terms. By continuing to access the Website you agree to be bound by the amended Terms. You should check from time to time to see if these Terms have changed or not.

5. TRANSMISSION

5.1. Any non-personal communication or material you transmit to this Website by electronic mail or otherwise, including any data, questions, comments, suggestions or the like is, and will be treated as, non-confidential and non-proprietary.

5.2. Anything you transmit or post becomes the property of Emerson's and may be used for any purpose, including but not limited to, reproduction, disclosure, transmission, publication, broadcast and posting. Furthermore, Emerson's is free to use for any purposes whatsoever (including but not limited to the developing, manufacturing, advertising and marketing of products) any ideas, artwork, inventions, developments, suggestions or concepts contained in any communication you send to this Website. Any such use is without compensation to the party submitting information.

5.3. By submitting information, you are also warranting that you own the material/content submitted, that it is not defamatory and that Emerson's use will not violate any third party's rights. Emerson's is under no obligation to use the information submitted.

6. INTELLECTUAL PROPERTY

6.1. All copyright and other intellectual property rights in all text, images and other materials on this Website are the property of Emerson's or are included with the permission of the relevant owner.

6.2. You are permitted to browse this Website and reproduce extracts by way of printing or downloading to a storage device for your own personal or internal business use. This is only to be done on the proviso that you keep intact all copyright and other proprietary notices. No reproduction of any part of this Website may be sold or distributed for commercial gain nor shall it be modified or incorporated in any other work, publication or website.

6.3. The trademarks, logos, characters and service marks displayed on this Website belong to Emerson's or its affiliates. Nothing contained on this Website should be construed as granting any licence or right to use any trademark displayed on this Website. Your use/misuse of the trademarks displayed on this Website, or on any other content on this Website, except as may be provided for in these Terms, is strictly prohibited. Emerson's and its affiliates reserve all their rights to enforce their intellectual property rights to the fullest extent of the law.

7. PRIVACY AND PERSONAL INFORMATION

Please refer to Emerson's Online Privacy Policy below for further conditions relating to your personal information.

8. LINKS TO OTHER WEBSITES

Links on the Website may take you outside the Emerson's network and Emerson's accepts no responsibility for the content, accuracy or function of these other websites. The links are provided in good faith and Emerson's cannot be held responsible for any subsequent change in other websites to which Emerson's provides a link. The inclusion of any link to other websites is provided to you only as a convenience and does not imply Emerson's endorsement of websites or any association with their operators. Emerson's highly recommends that you make yourself aware of and carefully read the legal and privacy notices of all other websites that you visit.

9. WARRANTIES

9.1. To the maximum extent permitted by law, this Website is provided to you on an "as is" and "as available" basis and, consequently, Emerson's gives no warranties of any kind, whether express, implied, statutory or otherwise (including the implied warranties of merchantability and fitness for a particular purpose) including but not limited to delivery; or any warranties or representations that material on this Website will be complete, accurate, reliable, timely, non-infringing to third parties; that access to this Website will be un-interrupted or error-free; that this Website will be secure; that any advice or opinion obtained from Emerson's through this Website is accurate or to be relied upon, and any representations or warranties thereto are expressly disclaimed.

9.2. Emerson's reserves the right to restrict or terminate your access to this Website or any feature of this Website or any feature or part thereof at any time.

10. LIABILITY

10.1. Except to the extent otherwise expressly set out in the Terms and to the maximum extent permitted by law, Emerson's does not accept liability or any responsibility whatsoever for any direct, incidental, consequential, indirect or punitive damages, costs, losses or liabilities whatsoever arising out of: (a) the Services; (b) your access to, use, inability to use, change in content of this Website or any other website you access through a link from this Website; (c) any actions Emerson's takes or fails to take as a result of any electronic mail messages you send to Emerson's.

10.2. To the maximum extent permitted by law, Emerson's does not accept any responsibility to maintain the material and services made available on this Website or to supply any corrections, updates, or releases in connection therewith. Any material on this Website is subject to change without notice.

10.3. Further, Emerson's shall have no liability or any responsibility whatsoever for any loss suffered caused by viruses, malware, spyware or other similar software or code that may infect your computer equipment or other property by reason of your use of, access to or downloading of any material from this Website. If you choose to download material from this Website you do so at your own risk.

10.4. You indemnify Emerson's and its affiliates, and their agents, officers and employees ("**Indemnified Parties**") against any claims, actions, costs (including legal costs) or losses incurred by the Indemnified Parties arising out of or in connection with your breach of the

Terms.

11. SEVERABILITY

If any portion of these Terms is deemed to be invalid, illegal or unenforceable the remaining provisions shall remain in full force and effect.

12. LAW

You and Emerson's agree that any dispute or claim arising from or pertaining to the use of this Website shall be governed by the laws of New Zealand. You submit to the exclusive jurisdiction of the courts of New Zealand.

13. CONTACT

If you have any questions, concerns or complaints in relation to the Website or the Terms, please contact us by sending an email to info@emersons.co.nz.

EMERSON'S ONLINE PRIVACY POLICY

The following terms and conditions ("**Privacy Policy**") apply to your use of this website ("**Website**"), which is operated by The Emerson's Brewing Company Limited ("**Emerson's**") and are to be read in conjunction with the General Terms and Conditions of Use, and the Terms of Sale (collectively, these terms and the Privacy Policy are referred to as the "Terms"). By using and viewing the Website you will be deemed to agree to the Terms. If you do not agree to be bound by the Terms you must stop using and accessing the Website.

1. PRIVACY POLICY

1.1. This privacy statement discloses the privacy practices for the Website. www.emersons.co.nz

1.2. Your privacy on the Internet is important to Emerson's. As the Internet offers the ability to collect certain types of information about customers, Emerson's wants you to understand the terms and conditions surrounding the capture and use of any information Emerson's gathers via the Website. To that end, this Privacy Policy discloses what information Emerson's gathers, how Emerson's uses it, and how to correct or change it.

1.3. If you feel that Emerson's is not abiding by this Privacy Policy or have any queries regarding the policy, you should first contact the Emerson's Customer Service department by email at info@emersons.co.nz or by mail to The Emerson's Brewing Co. Ltd, PO Box 6514, Dunedin 9059.

2. COLLECTION OF INFORMATION

2.1. Emerson's is the sole owner of the information collected on this Website. Emerson's will not sell, share, or rent this information to others in ways different from what is disclosed in this statement. Emerson's collects information from its users at several different points on the Website.

2.2. Emerson's gathers various information about users of the Website. This information includes:

- a) personal information, provided through voluntary registration or use of the Website (such as your first and last names and email);
- b) personal information, provided by you for any purchase through the Website (such as credit card number, expiration date and authentication codes or related information);
- c) personal information, provided by you through any other method (including without limitation correspondence and discussions);
- d) information collected by Emerson's through click tracking in relation to your use of the Website, including the content you upload and the content you access;
- e) aggregated data, which tracks traffic to the Website; and cookies, which are pieces of information transferred to your computer hard drive for record keeping (such as your preferences on the Website); and
- f) information about your present banks and/or financial institutions (for the sole purpose of ascertaining creditworthiness; credit referral agencies (for the sole purpose of ascertaining creditworthiness); other suppliers of products and services (in relation to business customers only); people or companies who are or have been associated with the user, with the user's consent.

2.3. Failure to provide necessary personal information when requested may result in certain functions of the Website not being available to you.

3. USE OF INFORMATION

3.1. If you participate in an online activity on the Website, your personal information will only be used for the purposes of that online activity, unless you otherwise provide Emerson's with your consent.

3.2. Any personal information you provide may be used by Emerson's or its parent company (Lion - Beers, Spirits & Wine (NZ) Limited) for the following purposes:

- a) send you periodic emails that you have subscribed to through your nominated email address;
- b) to obtain feedback on your use of the Website or service offered through the Website;
- c) to contact you as part of the transaction process when purchasing goods through the Website;
- d) verification of your identity as a Member of the Website if you have registered as a Member in accordance with the Membership Terms;
- e) to monitor, develop and improve the Website and ensure that content of the Website is presented in the most effective manner for the user;
- f) to keep the Website relevant and of interest to users;
- g) to investigate any complaints relating to the misuse of the Website;
- h) responding to any queries and/or comments you have sent to Emerson's; and
- i) such other use that you authorise.

3.3. You will have the option to choose to not receive certain types of email communications from Emerson's, except for those that are absolutely necessary to provide you with details of any purchases you have made. Emails will always contain a link at the bottom to be removed from the mailing list or you can unsubscribe via your account page if you have registered as a Member.

3.4. When making an order, Emerson's also requests credit card or other payment account information which are maintained in encrypted form on secure servers. Emerson's does not share this information with any third party except for those companies responsible for processing credit card transactions for Emerson's.

4. DISCLOSURE OF INFORMATION

4.1. Emerson's may share personal information with its parent company (Lion - Beers, Spirits & Wine (NZ) Limited). Emerson's may also share personal information with other companies or individuals in the following limited circumstances:

- a) where Emerson's has your consent, such as by opting-in to receive communications from third parties in the process of purchasing goods;
- b) where Emerson's considers in its absolute discretion it is required to in order to satisfy any applicable law, regulation, legal process or government request;
- c) where information is required to be forwarded on to a credit referral agency;
- d) information may be disclosed to Emerson's employees, agents, suppliers or delivery people for the purpose of performing any services provided through the Website;
- e) information may be disclosed to the relevant authorities, any internet search provider that you use to access the Website, and/or the applicable intellectual property rights holders (or their representatives) if Emerson's considers you are infringing the intellectual property rights of any person.

5. COOKIES

5.1. A cookie is a piece of data stored on the end-user's hard drive containing information that relates directly to the end-user's visit to the Website. Any information placed in the cookie is accessible ONLY to Emerson's, and will NOT be sold or shared with anyone else under any circumstances.

5.2. Emerson's uses a cookie to store a unique session identifier, and this allows Emerson's to maintain your shopping cart and state selection from one page request to the next. Emerson's is also able to maintain your session information from one visit to the next. By setting a cookie on the Website, the user would not have to log in more than once, thereby saving time while on the Website. If a user rejects the cookie, they may still browse the Website, but the user will be unable to log in or make a purchase. Cookies also enable Emerson's to track and target the interests of users to enhance the experience on the Website and show you the products that your order history indicates you prefer.

6. LOG FILES

Emerson's use IP addresses to analyse trends, administer the Website, track user's movement, and gather broad demographic information for aggregate use. IP addresses are not linked to personally identifiable information.

7. SHARING

Emerson's will share aggregated demographic information with its affiliates, partners and advertisers. This is not linked to any personal information that can identify any individual person.

8. LINKS

This Website contains links to other websites. Please be aware that Emerson's is not responsible for the privacy practices of such other websites. Emerson's encourage its users to be aware when they leave the Website and to read the privacy statements of each and every website that collects personally identifiable information. This privacy statement applies solely to information collected by this Website.

9. NEWSLETTER

If a user wishes to subscribe to Emerson's newsletter, Emerson's asks for contact information such as name and email address. If at any time you should wish to unsubscribe, simply send an email to Emerson's friendly Customer Care representatives with your request and the account name you used to create your account. Every e-mail that Emerson's sends provides you with the opportunity to unsubscribe from the newsletter service.

10. SURVEYS & CONTESTS

From time-to-time the Website requests information from users via surveys or contests. Participation in these surveys or contests is completely voluntary and the user therefore has a choice whether or not to disclose information. Information requested may include contact information (such as name and shipping address), and demographic information (such as geographic region, age level). Contact information will be used to notify the winners and award prizes. Emerson's may use this information for marketing opportunities if authorised by the registrant, and will also be used for purposes of monitoring or improving the use and satisfaction of this Website.

11. HOLDING, CORRECTING AND UPDATING

11.1. Any personal information that you provide to Emerson's will be collected and held by Emerson's website servers. Under the Privacy Act 1993 you have rights of access to and correction of personal information that Emerson's hold.

11.2. If your personally identifiable information changes (e.g. your mobile number), you can update it during order payment. Of course, if you prefer the personal touch, Emerson's offers live one-on-one help toll-free by phone at 0800 455 347, where a cheery voice will be happy to help

12. SECURITY

12.1. As no data transmission over the Internet can be guaranteed to be completely secure, Emerson's cannot ensure or warrant the security of any information you transmit or receive through the Website. These activities are conducted at your own risk.

12.2. When any order form on the Website asks users to enter sensitive information (such as credit card number and/or social security number), that information is encrypted and is protected with the best encryption software in the industry - SSL (Secure Socket Layers), provided by Thawte, the premier encryption software company available today. While on a secure page such as the order form page, the lock icon on the Web browsers such as Internet Explorer or Safari becomes locked, as opposed to unlocked, or open, when you are just 'surfing'.

12.3. Emerson's Brewery will not store any Credit Card details and all payments are handled by eWay, a secure, PCI compliant, third party.

12.4. While Emerson's uses SSL encryption to protect sensitive information online, Emerson's also does everything it reasonably can to protect user-information offline. All user information, like the sensitive information mentioned above, is restricted in Emerson's offices. Only employees who need the information to perform a specific job (for example, a customer service representative) are granted access to personally identifiable information. If one of these people leaves their workstation, they are required to lock their station until they return. Furthermore, ALL employees are kept up to date on security and privacy practices.

12.5. Every quarter, as well as any time new policies are added, Emerson's employees are notified and/or reminded about the importance of keeping Emerson's customers' information secure and safe at all times. Finally, the servers that Emerson's stores personally identifiable information on are kept in a locked and secure environment.

12.6. If you have any questions about the security of the Website, you can send an email to info@emersons.co.nz (or just go to the contact us page).

13. CHANGES TO POLICY

Emerson's reserves the right to change this Privacy Policy at any time by notifying users of the existence of a revised policy by updating the "last updated" notice beside the link to this Privacy Policy. By continuing to use the Website, you agree to be bound by the amended Privacy Policy. You should check from time to time to see if the Privacy Policy has changed or not.

EMERSON'S ONLINE TERMS OF SALE

The following terms and conditions ("**Terms of Sale**") apply to orders you place on this website ("**Website**"), which is operated by The Emerson's Brewing Company Limited ("**Emerson's**") and are to be read in conjunction with the General Terms and Conditions of Use and the Privacy Policy (collectively, these terms and the Terms of Sale are referred to as the "**Terms**"). By placing orders using the Website you will be deemed to agree to the Terms. If you do not agree to be bound by the Terms you must stop using and accessing the Website.

1. ORDERING

1.1. The minimum order size is 1 x 330mL six pack, 1 x 500mL bottle or 4 x 1.25L Riggers.

1.2. If you make a purchase through the Website, Emerson's requests information from you on a Emerson's order form, including contact information (like name and shipping address) and financial information (credit card number, expiration date, billing address, and billing phone number). If Emerson's has trouble processing your order, this contact information is used to get in touch with you. This information is taken in a secure area, is encrypted for Emerson's customers' protection, and is not sold or shared with anyone else under any circumstances.

1.3. The order total includes the price of the product(s) ordered, delivery costs and GST. Prices displayed on this Website may vary from the Emerson's cellar door price.

1.4. Acceptance of any order placed through this Website is conditional on validation of the credit card number you provide to us and approval of the purchase amount by the card issuer. All transactions are billed in New Zealand dollars.

2. DELIVERY TIMES

2.1. Delivery days are available Monday to Saturday, except where delivery is to rural areas in which case delivery days are available on weekdays only. Emerson's does not deliver on public holidays where it is illegal to trade.

2.2. Orders will be delivered within two-three working days of the order being received.

3. DELIVERY

3.1. Emerson's will endeavour to deliver all normal orders within a reasonable time. However, you accept that delays may arise in some circumstances, for instance where credit card details or delivery details are incomplete or incorrect, where credit card authorisation is refused, or where the order includes unusual requests.

3.2. You warrant and understand that it is your responsibility to show (or to procure the person or persons receiving the goods (the "**Recipient**") to show) current identification to the person or persons delivering the goods. The identification must include you or the Recipient's:

- a) full name;
- b) date of Birth;
- c) photo; and
- d) signature.

3.3. Alcohol purchases must be signed for by someone over the age of 18 on delivery. Emerson's staff may insist on age verification.

3.4. In NZ it is against the law to leave restricted goods such as alcohol unattended at an address. Please make sure that someone will be available to take delivery at the requested time because Emerson's will not leave it on the door step.

3.5. If you have any questions and queries, please call Emerson's.

3.6. If the goods cannot be delivered for any reason, such as you or the Recipient failing or refusing to accept the goods, or you or the Recipient failing to produce adequate identification, the goods will be returned to Emerson's and held for you to collect. You must, at your expense, collect the goods within one week of the attempted delivery.

3.7. Emerson's is deemed to have fulfilled its obligations upon delivery of the goods.

4. RETURNS POLICY

4.1. If you are unhappy about any aspect of your delivery or would like to return any part of your order please contact Emerson's Brewery with all details of your order and what is required. Return claims must be made within 7 days of receipt of goods.

4.2. You may return product which equates to 20% of the value of the order placed (i.e. you are able to return \$20 worth of product for a \$100 order). This means that you can have peace of mind if you over order. Product returned must be unopened and be in re-saleable format – (i.e. Beer packaging unbroken from original format and not damaged in any way). Emerson's Brewery will then arrange either a replacement or refund. Claims must be made within 7 days of receipt of goods.

5. WARRANTIES AND LIABILITY

5.1. Subject always to the Consumer Guarantees Act 1993 and otherwise to the maximum extent permitted by law, Emerson's expressly excludes all express or implied warranties, descriptions, representations, statements and advice given as to the fitness or suitability for any purpose, tolerance to any conditions, similarity to sample, merchantability or otherwise. Subject always to the Consumer Guarantees Act 1993 and otherwise to the maximum extent permitted by law, Emerson's shall not be bound or responsible for any such unauthorised: warranties; and/or descriptions; and/or representations; and/or statements; and/or advice, made by any of its employees, agents, suppliers or delivery people, whether made in good faith or otherwise.

5.2. If you are not a "Consumer" as defined in the Consumers Guarantees Act 1993, or where you hold yourself out as acquiring the goods for the purposes of business then the provisions of the Consumer Guarantees Act 1993 shall not apply.

5.3. You accept and acknowledge that regardless of any advice given by an employee, agent, supplier or delivery person, that upon acceptance of the goods by you or the Recipient, all risk in the goods passes to you. Title in the goods passes to you once you have paid for the goods in full.

5.4. Subject always to the Consumer Guarantees Act 1993 and otherwise to the maximum extent permitted by law, Emerson's excludes all liability against any damage and/or injury and/or loss arising directly or indirectly from any defect in or non-compliance of the goods. You acknowledge and accept that any damages for any other breach of Emerson's obligations shall not in any event exceed an amount equivalent to the price of the goods you have paid for.

5.5. You accept and acknowledge that Emerson's is not liable or responsible for any damage and/or injury and/or loss arising from the servants, agents, buyers, Recipient or any other persons.

6. FORCE MAJEURE

Emerson's shall be under no liability to you in respect of anything that, if not for this provision, would or might constitute a breach of the Terms, where this arises out of circumstances beyond the control of Emerson's, including but not limited to acts of God; natural disasters; sabotage; accident; riot; shortage of supplies, equipment, materials; strikes and lockouts; civil commotion; computer hacking; or malicious damage.