

FOUNDERS' CLUB TERMS & CONDITIONS



1. BASIS OF CONTRACT

- 1.1. These terms and conditions as amended from time to time (“Conditions”) together with a related order form constitute a contract between Mercia Whisky Company Ltd (“Supplier”) and you (“you” or “Member”) in connection with your membership of the Supplier’s Founders’ Club (“Contract”) to the exclusion of any other terms.
- 1.2. The submission of an application form (“Order”) online or in hard copy by the Member constitutes an offer by the Member to become a member of the Founders’ Club in accordance with these Conditions. You are responsible for ensuring that the terms of the Order are complete and accurate.
- 1.3. The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 1.4. Subject to clause 10.4, the Contract constitutes the entire agreement between the parties. The Member acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 1.5. By placing an Order, you acknowledge and confirm that you are at least 18 years old. The Supplier will not accept Orders from, nor arrange delivery of Whisky to, any person under the age of 18 at the date of the Contract. If the Delivery Location (defined below) is specified to be outside of the United Kingdom, then by placing an Order you acknowledge and confirm that you are at least of the minimum legal age to purchase alcohol in accordance with the laws of that country.

2. GOODS

- 2.1. The goods to be supplied by the Supplier to Members under this Contract in connection with membership of the Founders’ Club will consist of liquid bottled by the Supplier taken from the casks of whisky (“Casks”) produced by the Supplier at Mercia Whisky Company (“Whisky”) in accordance with this Contract.
- 2.2. It is intended by the Supplier that the first bottles of Whisky will be filled from the Casks within a time period determined at the discretion of the Supplier following the first anniversary of the Production Date and that each subsequent year, for the following four years, the Supplier will bottle the Whisky as follows:
 - 2.2.1. within a time period determined at the discretion of the Supplier following each of the first to fifth anniversary dates (inclusive) of the Production Date the Supplier will bottle

from the Casks sufficient miniature bottles of 5cl of 3-year-old Whisky to meet the Founders' Club requirements; and

2.2.2. within a time period determined at the discretion of the Supplier following each of the first to fifth anniversary dates (inclusive) of the Production Date the Supplier will bottle from the Casks sufficient 70cl bottles of 3-year-old Whisky to meet the Founders Club requirements.

2.3. Membership of the Founders Club entitles the Member to receive:

2.3.1. following the bottling of the miniature bottles in accordance with clause 2.3.1 above, delivery of 1 miniature bottles (being 5cl each) of Whisky at a time determined at the discretion of the Supplier after each of the first to the fifth anniversary dates (inclusive) of the Production Date (being an aggregate of 10 bottles over the five-year period): and

2.3.2. following the bottling of the 70cl bottles in accordance with clause 2.3.2 above, delivery of one 70cl bottle of Whisky at a time determined at the discretion of the Supplier after each of the first to Fifth anniversary dates (inclusive) of the Production Date (being a total of 5 bottles of Whisky).

2.4. The Supplier will use all reasonable endeavours to deliver the miniatures and 70cl bottles of Whisky as set out in clause 2.4.1 and 2.4.2 to the Member as soon as possible following the Production Date and subsequent anniversaries thereof, and any in any event no later than 12 months following the Production Date and subsequent anniversaries thereof.

2.5. The Whisky delivered each year to the Member will be of that year's release.

2.6. A Membership number and card will be delivered in 2025, these will entitle the member and 1 guest to distillery tours, booking is required and will be available by calling the distillery. The tours are limited to 4 per year.

2.6.1. Membership card and benefits are non-transferable. Proof of identity may be requested.

2.6.2. Entitles Member and guest to free Distillery Tours for lifetime of the Member. Other tours are not applicable.

2.6.3. Benefits associated with the tour are only applicable when taking part in the tour.

2.6.4. Membership card isn't a debit or credit card, cheque guarantee card or savings account card.

2.6.5. Lost or stolen cards will be replaced but a Administration fee may apply, we cannot offer the same membership number.

3. DELIVERY

- 3.1. The Supplier shall ensure that each delivery of the Whisky is accompanied by a delivery note which shows the date of the dispatch from the Supplier's distillery, all relevant Member and Supplier reference numbers and the type and quantity of the Goods.
- 3.2. The Supplier shall deliver the Whisky to the location set out in the Order or such other location as the Member may notify the Supplier in writing from time to time ("Delivery Location") at any time, at the discretion of the Supplier, within twelve months of each anniversary date of the Production Date, accompanied by an appropriate delivery note.
- 3.3. Delivery of the Whisky shall be completed on the arrival of the Whisky at the Delivery Location, whereby title to and risk in the Whisky shall pass to the Member. In the event that a bottle is broken in transit prior to delivery, the member must promptly notify the Supplier in writing, and in any event no later than seven days after the date of delivery and provided prompt notification is received within the time period stated, the Supplier shall arrange for delivery of a replacement and may request that the Member return the broken bottle of Whisky at the cost of the Supplier.
- 3.4. The Supplier shall not be liable for any delay or failure in delivery of the Whisky that is caused by any event beyond its reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks or default of subcontractors ("Force Majeure Event") or which is caused by the Member's failure to provide the Supplier with adequate delivery instructions, a correct delivery address or any other instructions that are relevant to the supply of the Whisky.
- 3.5. In the event of the Supplier's total and ongoing failure to perform, and to be able to perform in future, the Contract in the event of an irremediable Force Majeure Event (including but not limited to total destruction of the Whisky and/or the Casks) no Member shall have the right to terminate this Contract and/or obtain a refund of the Membership Price (defined below) whether pro-rata or otherwise, but the Supplier retains the right to either (i) refund such proportion of the Membership Price that relates to Whisky yet to be supplied or (ii) deliver alternative bottles of whisky to Members.
- 3.6. If the Member fails to accept delivery of the Goods within two attempts at delivery by the Supplier, then the Supplier shall return the Whisky to its premises and attempt to contact the Member by email or telephone to arrange delivery ("Last Attempt"). In the event of contact with the Member, any further delivery costs for such re-delivery of the Whisky shall be borne by the Member. If contact is not made within 90 days following the Last Attempt the Supplier shall be entitled to dispose of the undelivered Whisky as it sees fit without liability to the Member and the Supplier shall be released from any future liability to deliver Whisky to that Member for the outstanding portion of the Member's ten-year membership.

4. YOUR RIGHTS TO CANCEL AND APPLICABLE REFUND

- 4.1. Cancellation of Order for Membership:

4.1.1. you may cancel an Order for membership, within 14 days from the day on which your Membership is confirmed by the receipt of cleared funds for the Order by the Supplier by notifying the Supplier in writing, within the stated term, using the attached model cancellation form. The Supplier will confirm your cancellation in writing;

4.1.2. If you cancel an Order under clause 4.1.1 and you have paid the Membership Price, the Supplier will refund the Membership Price to you.

5. QUALITY

5.1. As a consumer, you have legal rights in relation to the Whisky including in relation to any which is faulty or not as described. This includes your statutory right to return faulty, damaged, or incorrect goods within 30 calendar days of their receipt by you.

5.2. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Conditions will affect these legal rights.

6. PRICE AND PAYMENT

6.1. The membership price for entry into the Founders Club Members resident in the United Kingdom ("Membership Price") is (i) £750 (inclusive of VAT), payable immediately in one single instalment to the Supplier on the date that the Member's Order is accepted by the Supplier or (ii) £750 (inclusive of VAT) payable in either 6 equal monthly instalments of £125.00 to the Supplier commencing on the date that the Member's Order is accepted by the Supplier, or (iii) £750.00 (inclusive of VAT) payable in 12 equal monthly instalments of £62.50 to the Supplier commencing on the date that the Member's Order is accepted by the Supplier or (iv) £750.00 (inclusive of VAT) payable in 24 equal monthly instalments of £31.25 to the Supplier commencing on the date that the Member's Order is accepted by the Supplier or (v) £900 (inclusive of VAT) payable in 36 equal monthly instalments of £25.00 to the Supplier commencing on the date that the Member's Order is accepted by the Supplier or (vi) £900.00 (inclusive of VAT) payable in 60 equal monthly instalments of £15.00 or such other price as the Supplier may advertise from time to time. Monthly instalments will be collected by direct Debit.

6.1.1. If a member Chooses to pay over a 24, 36 or 60 month payment schedule then the supplier requires a minimum of 6 payments equal of the amount subscribed to 6.1 before any good or services will be delivered,

6.2. On expiry or termination or cancellation by the Member of this Contract for any reason, or by the Supplier in accordance with clauses 3.5 or 3.6, the Supplier will not be obliged to refund all or any part of the Membership Price to any Member, except in the case of cancellation under clause 4.1. of where a refund is made in accordance with clause 3.5. The Membership Price is inclusive of the cost of bottling the Whisky and, provided that the Member's Delivery Location is within the United Kingdom, the costs and charges of packaging, insurance, any applicable taxes and duty and delivery of the Goods.

- 6.3. Payment must be made in advance for other countries at the advertised price for that country. The Supplier shall invoice those Members with a Delivery Location outside of the United Kingdom for the delivery costs of the Whisky prior to delivery. The Member shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice to the bank account nominated in writing by the Supplier. The Supplier shall not deliver the Whisky until such payment is made. It shall be the full responsibility of the Member to pay in full any taxes, duties and other relevant sums due in connection with the importation of Whisky to their Delivery Location outside of the United Kingdom.
- 6.4. The Supplier will dispatch to the Member a membership pack on receipt of cleared payment of the full Membership Price. Where a Member pays the Membership Price in instalments, the membership pack will be dispatched to the Member on receipt of the first cleared instalment payment except where the member has chosen a payment schedule of 24, 36 or 60 Months in this case 6.1.1 shall apply.
- 6.5. Where the membership Price includes VAT, the Supplier shall provide a VAT invoice with each annual delivery, in each case representing one- Fifth of the total Membership Price.

7. CUSTOMER CIRCUMSTANCES

- 7.1. Should a Member die or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation the Supplier shall continue to supply the Whisky to the Delivery Location, but shall recognise instructions in connection with the Contract (including but not limited to any amendment to a Delivery Location) only from the personal representatives, or those persons duly authorised to act on behalf of, the Member.

8. SPECIAL OFFERS

- 8.1. From time to time, and at its discretion, the Supplier may publish special offers by email available to Members in connection with various of its products on the Members section of the Supplier's website (the "Site"). The Site may require the Member to set up an account to access the Site in order that the Member may view the special offers.
- 8.2. As part of the Founders' Club, the Member is entitled to 10% off online purchases, with the exception of gift vouchers and membership clubs. This discount also cannot be used in conjunction with any other offer.

9. TERMINATION

- 9.1. The Supplier may terminate the Contract and your membership at any time with immediate effect by giving you written notice if:
- 9.1.1. you do not pay the Membership Price as set out in clause 6.1 or 6.3, as applicable;
 - 9.1.2. the Supplier discovers that you are not of the minimum legal age as confirmed at clause 1.5; or
 - 9.1.3. you breach clause 10.2 of the Contract.

- 9.2. In the event of termination by the Supplier in accordance with clause 9.1 above, the Member shall not be entitled to a refund of the Membership Price and the Supplier shall be entitled to dispose of the remainder of the Whisky as it sees fit without liability to the Member.

10. LIMITATION OF LIABILITY

- 10.1. If the Supplier fails to comply with these Conditions, it will be responsible for loss or damage suffered by the Member that is a foreseeable result of its breach of the Conditions or the Supplier's negligence, but the Supplier is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of the Supplier's breach or if they were contemplated by both the Member and the Supplier at the time of entry into this Contract.
- 10.2. The Supplier supplies the Whisky for domestic and private use. The Member agrees not to use the Whisky for any commercial, business or re-sale purpose.
- 10.3. Subject to clause 10.4, the Supplier has no liability to the Member for any consequential loss, any indirect loss or for loss of profit, loss of business, business interruption, or loss of business opportunity.
- 10.4. The Supplier does not exclude or limit in any way its liability for
- 10.4.1. death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors;
 - 10.4.2. fraud or fraudulent misrepresentation;
 - 10.4.3. breach of the terms implied by sections 12, 13, 14 or 15 of the Sale of Goods Act 1979;
 - 10.4.4. defective products under the Consumer Protection Act 1987; or
 - 10.4.5. anything which cannot be excluded or limited by applicable law.
- 10.5. Subject to clause 10.3 the Supplier's total liability to the Member in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Membership Price.

11. HOW WE MAY USE YOUR PERSONAL INFORMATION

- 11.1. The Supplier will use the personal information provided to it to provide the Whisky to the Member and perform its obligations under the Contract, process the payment of the Membership Price and inform the Member about similar products or services that the Supplier provides, but the Member may choose to stop receiving these at any time by

contacting the Supplier stating that he no longer wishes to receive such communications. The Supplier will not give the Member's personal data to any other third party without the Member's prior written consent.

12. GENERAL

12.1. Assignment and subcontracting. The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Member may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

12.2. Notices. The Supplier is a company registered in England and Wales with **company registration number 12920133** and with its registered office at **The Old Coach House, Horse Fair, Rugeley, Staffordshire, England, WS15 2EL**.

If a Member has any questions or complaints, he should contact the Supplier by telephoning on 01889529291 or by e-mail at "hello@merciadistillery.co.uk".

If a Member wishes to contact the Supplier in writing, or if any clause in these Conditions requires a Member to give the Supplier notice in writing, this should be sent to the Supplier by e-mail, by hand, or by pre-paid post using the Supplier's contact details above.

The Supplier will confirm receipt of this by contacting the Member in writing. If the Supplier has to contact a Member or give a Member notice in writing, it will do so by e-mail, by hand, or by pre-paid post to the address provided to the Supplier in the Order.

12.3. Severance. If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.4. Waiver. A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

12.5. Third party rights. A person who is not a party to the Contract shall not have any rights under or in connection with it.

12.6. Variation. Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Supplier.

12.7. Governing law and jurisdiction. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.