

TUBES USA Inc.
GENERAL TERMS & CONDITIONS
16-2-2023

ARTICLE 1. | DEFINITIONS In these terms and conditions, the following terms, which also appear in the plural and/or singular, have the meanings given unless another meaning arises out of the nature or intention of the provisions.

1. Tubes USA: Tubes USA Inc., the user of these general terms and conditions, address 228 East 45th Street, Suite 9E, New York NY 10017, United States of America. A Delaware corporation providing technology and designs, and developing and manufacturing certain packaging materials, single serve tubular bottling technology and bottling procedures.
2. Packer: ONE87 Wine and Cocktails, LLC, a Kansas limited liability company, operating an alcoholic beverage packaging operation and arrange packing services for Tubes's alcoholic beverage clients to package certain alcoholic beverages using Tubes packaging materials and technologies.
3. Client: each person or legal entity with whom Tubes USA has entered, or aims to enter, into an agreement or Purchase Order.
4. Consumer: Client as referred to in the previous paragraph who is a person not acting in the exercise of a profession or business.
5. Contract: each agreement or Purchase Order entered into between Tubes USA and the Client where Tubes USA is bound to supply Services and/or Products in return for payment.
6. Products: an article, substance or service to be supplied to the Client by Tubes USA under the agreement or Purchase Order, including, but not limited to, items for consumption packed by Tubes USA, which may or may not has been made available to Tubes USA by the Client.
7. Website: www.wineintubes.com – www.revined.com
8. In writing: communication in writing, communication by e-mail, or any other means of communication that can be considered as such in accordance with the current state of the art and views in society.

ARTICLE 2. | GENERAL PROVISIONS

1. These general terms and conditions are applicable to every offer or proposal made by Tubes USA and every agreement or Purchase Order entered into.
2. Any general terms and conditions of the Client, however, described, are not applicable to the agreement or Purchase Order, unless and insofar as they are expressly agreed to in writing prior to entering into the agreement. Should there be a conflict between the provisions of these general terms and conditions and the general terms and conditions of the Client, insofar as it has been expressly agreed that the general terms and conditions of the Client will also be applicable to the agreement, only the provisions of these general terms and conditions will apply.
3. The provisions in these general terms and conditions may only be deviated from if expressly agreed to in writing. If and insofar as that which has been expressly agreed in writing deviates from the provisions of these general terms and conditions, that which has been expressly agreed in writing by the parties will apply.
4. If one or more provisions of these general terms and conditions are found to be null and void, it shall not affect the validity of the other provisions.

ARTICLE 3. | PROPOSAL AND MAKING AGREEMENTS

1. Every offer and proposal made by Tubes USA is made without obligation, even if a period in which to accept the offer or proposal is stated. Tubes USA has to reconfirm an accepted order or purchase order from Client in order to constitute a legally binding Contract with the Client.
2. The Client may not derive any rights from a Contract or Purchase Order that is based on incorrect or incomplete information supplied by the Client.
4. These GENERAL TERMS & CONDITIONS can be downloaded from the Website and are applicable to any Contract and Purchase Order.
5. A combined quotation shall never oblige Tubes USA to fulfil a part of the offer or proposal for a corresponding proportion of the quoted price.
6. If the acceptance by the Client deviates from Tubes USA's offer, the Contract or Purchase Order will not be in accordance with this deviation unless Tubes USA expressly confirms said deviation.
7. Tubes USA may investigate Client's financial position.. Tubes USA reserves the right to cancel and terminate a Contract or Purchase Order if it has a reason to believe that the Client will not fulfill its contractual obligations in due course.
8. Client acknowledges that Tubes does not hold any alcohol beverage license and is providing Dry Goods and consulting services only. All Product shall be bottled and Certificates of Label Approval submitted by the Packer. Client shall deliver or cause to be delivered all Product, in bond, to the

Bottling Facility.

ARTICLE 4. | BEVERAGES

1. Beverage Composition. Client shall be exclusively responsible for the production of the Beverages to be packaged by Packer, including the formula, ingredients and composition used for each Beverage. Client shall also be responsible for consumer acceptance of the Beverages and compliance with federal, state, and local law (statutory or common law) governing the ingredients, composition and production of alcohol beverage products. Client shall be solely responsible for obtaining any formula approvals or other approvals required from the Alcohol and Tobacco Tax and Trade Bureau (“TTB”), the Food and Drug Administration or any other applicable agency and for providing same to Packer for its use in relation to the Services provided hereunder. Client will provide Tubes and/or Packer with any required material safety data sheets or flavor ingredient data sheets for Beverages.

2. Customer Specifications. Client shall ensure that each Beverage shall meet Customer Specifications. Client shall supply Tubes / Packer with any and all additional information, technical or otherwise, necessary for Packer to package the Beverages.

3. Modifications. By accepting an the agreement or Purchase Order, Client agrees and approves Tubes and Packer to fulfill their tailored quality and bottling procedures without compromising the standards of the Product.

4. TTB Warranty. Client acknowledges and warrants that Packer shall rely upon the Customer Specifications when preparing and filing all documents required by the TTB.

5. Exclusivity. Solely with respect to containers in the Tubes format that Tubes provides for Client and Client’s Products, Tubes shall be the sole and exclusive provider of packaging services of such containers for Client and Client’s Products.

6. Authorization of Tubes. Client hereby acknowledges and warrants that any Production Orders (including any Customer Specifications), requested changes to Production Orders, Change Orders, or any other instructions or requests under the Tubes Packaging Agreement that Tubes delivers to Packer will be deemed to have been approved by Client, regardless of whether Client has signed them, and that Packer has no right or obligation to verify that such approval has been obtained from Client by Tubes. Client acknowledges and agrees that Packer shall have no liability to Client with respect to any Production Orders, requested changes to Production Orders, Change Orders, or any other instructions or requests delivered by Tubes to Packer and that Client’s sole remedy or cause of action in the event any such items were not approved by Client shall be against Tubes.

ARTICLE 5. | DELIVERY OF BULK BEVERAGES; COLLECTION OF PACKAGED BEVERAGES

1. Client shall deliver, at its sole cost and expense, and Tubes shall ensure that Client shall deliver, the ready to pump Bulk Beverages to Packer at its Premises, at such dates and times designated by Packer to Tubes. Tubes shall be solely responsible for providing such delivery date to Client after such delivery date has been scheduled. Packer shall have the right to reject any item that fails to meet the Customer Specifications set forth in a Purchase Order and shall give notice to Tubes of rejection.

2. Client acknowledges that Packer shall notify Tubes when a Purchase Order is completed by delivery of Completion Notice to Tubes, which shall include a Delivery Date for pick-up of the completed Purchase Order. Client shall take delivery of its completed Purchase Orders FOB Packer’s Premises.

3. The procedure of filling tubes with wines or spirits has been explained to Client and Client is aware that the quality of the wine or spirit in the tubes might deviate from the supplied quality and accepts said risk.

4. The Client has no right to return the Products. If there is a shortcoming and the Client has submitted a complaint to Tubes on time in accordance with article 8, Tubes will either repair the defect, replace the failing tubes/ Products, or refund the price of the failing tubes/Products in question as soon as Tubes deems possible. The Client shall not be able to claim any damages and or loss of profit, whatsoever, from Tubes on the grounds of a shortcoming besides the replacement of the failing tubes/Products and of the reimbursement of the paid price thereof as stated above.

5. As Tubes and Packer rely on the delivered Bulk Product neither Tubes nor Packer is responsible for the quality of the Product at any time. Tubes nor Packer will be responsible for the color, odor, taste, or other subjective characteristics of the Product. Notwithstanding, Packer may test the Product on receipt at the Bottling Facility and notify Client of any quality concerns before the bottling process.

6. As wine is a natural product, shelf-life are indications. Tubes holds the right to adapt the indicated shelf life depending on the delivered quality. By signing an agreement or Purchase Order, Client agrees and approves

Tubes and Packer to fulfill their tailored quality and bottling procedures without compromising the standards of the Product.

7. As average shelf-life Tubes commits to 18 months after bottling in glass tubes and 6 months after bottling in plastic tubes, if all of the following conditions be met:

- A full and recent ID-analysis of the Product is provided to Tubes before Product is sent to the Bottling Facility and ID-analysis contains at least the following information:
 - Free sulphite content in milligrams per litre*
 - Maximum permitted amount of sulphites
 - Total sugar in grams per litre
 - Total acidity in grams per litre
 - Alcohol content by volume %
 - Wines are ready to bottle and microbes stable
- The amount of free sulfites of the delivered wine is never lower than 15 mg/ liter before bottling by Tubes starts;
- The wine is properly transported and stored prior to delivery to the Bottling Facility and after pickup.

8. In case there is material degradation of Products before 18 months after bottling in glass tubes or 6 months after bottling in plastic tubes and Client can demonstrate compliance with the above, Tubes will do a route cause analyses and may replace said wines and packaging materials subject to the terms and conditions of the Agreement or Purchase Order. Tubes cannot guarantee a preservability of any Product in glass tubes after 18 months from bottling and in plastic tubes after 6 months from bottling.

9. The characteristics stated and/or depicted by Tubes in the offer, proposal, webstore, or otherwise of Products to be supplied may deviate to an insignificant degree from that which is actually supplied. All deviations in the characteristics of the Products that the Client should reasonably be expected to tolerate, such as small differences in color and dimensions, and taste, are considered insignificant. The presence of insignificant deviations does not represent grounds for the Client to make any complaint, to suspend any of its obligations arising out of the Contract, to terminate the Contract, or to claim damages or any other form of compensation.

ARTICLE 6. | PRICES, COSTS, AND PAYMENTS

1. All prices stated by Tubes are offered in US Dollars and exclusive taxes and duties.
2. All prices are subject to change without prior notice due to circumstances such as currency fluctuation, transport prices, fluctuations in raw material prices, and/or other unforeseen economic circumstances like a lockdown upon instruction of the government.
3. Unless agreed upon otherwise, on all orders a prepayment is applicable of 100%. This prepayment will be invoiced and paid within 14 days net by the Client immediately after the concluded Contract unless otherwise stated within the Contract.
4. All orders are invoiced, with the deduction of the prepayment, when the order is ready for pick-up by Client. All payments have to be made within 14 days from the date of the invoice unless otherwise stated on the invoice.
5. If the Co-Contracting party is in default on any of its payment obligations towards Tubes, Tubes will not be obliged to continue to fulfill the Contract.
6. Payment must be made in the way or ways indicated by Tubes.
7. Tubes has the right to invoice the Client exclusively by e-mail.
8. In the event of failure to pay, the Client will be in default by operation of the law. From the day that the Client is in default, it will be liable to 2% interest on the outstanding amount per month, of which a part of the month will be deemed a full month.
9. All reasonable costs, such as court, extrajudicial, and enforcement costs, incurred in connection with the collection of the amounts due to Tubes from the Client, will be for the account of the Client.
10. Tubes can uphold the delivery of the Products until full payment has been received for all outstanding invoices.

ARTICLE 6. | LIMITED INTELLECTUAL PROPERTY LICENSE

1. Client retains all rights to its own Intellectual Property. All goodwill accruing as a result of any use of Client's Intellectual Property shall accrue to Client. Tubes and Packer shall be entitled to use the Intellectual Property solely for the purposes of performing the Services.

ARTICLE 7. | CLIENT WARRANTIES

1. Client warrants that (i) all Beverages supplied by Client to Packer shall meet all Customer Specifications and comply with the list of ingredients and formulas listed therein, (ii) all Beverages furnished by Client to Packer shall meet all applicable legal requirements for the alcoholic beverages of their class and type and be fit for use as a food or beverage product, as applicable, and shall be free from adulteration as defined by the United States Food, Drug, and Cosmetics Act, (iii) all Beverages furnished by Client shall have been produced in accordance with all applicable regulations (including without limitation federal and state alcohol beverage regulations) and in accordance with any approved formula issued for the Beverage by the TTB, (iv) Client owns or is licensed to use the formula used in production of each Beverage and that the Beverage derived from proper application of the formula will not violate the laws and regulations of any government having jurisdiction over the Beverage or injure or illegally infringe upon the rights of any other person, (v) Client owns or is licensed to use the Intellectual Property on the Labels applied to the Packages and use of such Intellectual Property will not violate the laws and regulations of any government having jurisdiction over the Packages or injure or illegally infringe upon the rights of any other person, and (vi) Client hold all federal, state and local permits necessary for the performance of the obligations under the agreement or Purchase Order.

ARTICLE 8. | RELEASE AND WAIVER; LIMITATION OF LIABILITY

1. Except to the extent caused by gross negligence or willful misconduct, Client expressly and knowingly releases and discharges Tubes, Packer, its directors, agents and employees, from any and all liability of any kind, for any other legal or equitable remedies, and from any claim, cause of action, demand or liability of any kind for any damages, costs, fees, expenses, loss of profits, loss of goodwill, consequential, incidental or punitive damages, reimbursement, or other payment of any kind based on actual or asserted loss, destruction, damage, diminution in value or quality or other claimed harm or loss of any kind caused to the Beverages and Client agrees to hold Tubes, Packer, its directors, agents and employees, free and harmless therefrom, save and except to the extent and only to the extent expressly authorized and limited above.

2. In connection with the foregoing releases, Client knowingly and specifically waives the provision of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

3. CLIENT ACKNOWLEDGES AND AGREES THAT TUBES'S AND PACKER'S LEGAL LIABILITY, BASED UPON ANY CLAIM BY CLIENT, WHETHER FOR NEGLIGENCE, BREACH OF THE AGREEMENT OR PURCHASE ORDER, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR UPON ANY OTHER BASIS IN LAW OR EQUITY, WILL BE STRICTLY AND SOLELY LIMITED TO, AT TUBES'S SOLE DISCRETION, EITHER REPLACEMENT SERVICES OR MONEY DAMAGES IN AN AMOUNT WHICH WILL NOT EXCEED, UNDER ANY CIRCUMSTANCES, A REFUND OF THE PRODUCTION FEE PAID BY CLIENT WITH RESPECT TO THE PACKAGED BEVERAGES AT ISSUE IN THE CLAIM AND THE ACTUAL COST OF THE BULK BEVERAGES INVOLVED IN THE CLAIM. THIS LIMITATION WILL BE THE FULL AND ONLY EXTENT OF TUBES'S LIABILITY REGARDLESS OF THE FORM IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT AGAINST TUBES, AND THE FOREGOING WILL CONSTITUTE CLIENTS'S AND TUBES' SOLE AND EXCLUSIVE REMEDY. IN NO EVENT SHALL ANY CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES BE CLAIMED AGAINST AND/OR OWED BY TUBES. ANY CLAIM BY ANY PARTY ARISING OUT OF OR RELATING TO THE AGREEMENT OR PURCHASE ORDER MUST BE BROUGHT NO LATER THAN THREE (3) MONTHS AFTER THE DELIVERY DATE. CLAIMS NOT BROUGHT WITHIN THE TIME PROVIDED HEREIN SHALL BE BARRED AND FOREVER DISCHARGED.

4. CLIENT RECOGNIZES IT WOULD BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE AND FIX ACTUAL DAMAGES IN THE EVENT OF ANY BREACH, ACT OR OMISSION OF TUBES, ITS OR THEIR PACKER, AGENTS OR EMPLOYEES, AS REFERENCED ABOVE AND AGREES THAT LIMITATION UPON DAMAGES SPECIFIED ABOVE REPRESENTS JOINT, GOOD FAITH, BEST EFFORT TO FAIRLY SET AND LIMIT ANY SUCH DAMAGES AND IT WILL APPLY AND CONTROL REGARDLESS OF ALLEGED OR ACTUAL OTHER OR FURTHER DAMAGES, CLAIMS, LOSSES, EXPENSES OR COSTS OF ANY KIND.

5. Tubes USA cannot be held liable for any damages and or loss of profit, whatsoever, suffered by the Client resulting from non-compliance with the Agreement or Purchase Order. In the event there is a shortfall of delivery and or the delivered Products are not in conformity with the Agreement or Purchase Order, Tubes will replace the failing Products with new Products or reimburse to Client the purchase price for said failing

Products.

6. The Client indemnifies Tubes and Packer for any claims from third parties who suffer damages and or loss of profit, whatsoever, in connection with or resulting from the delivered Products. In the event Client has a complaint, Tubes can demand that a sworn surveyor and/or certified laboratory will make a survey report about the delivered Products. Said report will be at the expense of the Client unless otherwise agreed between parties. The survey report will be sent to both parties and deemed to be stating the truth about the Products.

ARTICLE 9. | IDEMNIFICATION

1. Client, its successors, and assigns, shall at all times save, defend, keep harmless, indemnify Tubes, Packer, its respective successors, and assigns, of and from any and all loss, damage, cost, charge, liability or exposure, including court costs and attorney's fees, arising out of or related to (i) the Beverages and information provided by Client with respect to or related to the Customer Specifications, (ii) the labeling or contents of the packaging of the Packaged Beverages, (iii) the formula, ingredients or composition of the Beverages and/or Packaged Beverages, (iv) any use of the Packaged Beverages by consumers, (v) Tubes's, and Packer's use of Client's trademarks, trade names, trade dress or other Intellectual Property, as set forth in this Acknowledgment, (vi) any claims by third parties related to the Beverages or Packaged Beverages, (vii) any claims relating to the marketing or advertising of the Packaged Beverages, (viii) any act or omission of Client, including without limitation failure of Client to satisfy the obligations set in these representations and warranties, (ix) any claims made by or on behalf of Client, and (x) any misrepresentation, breach of warranty or failure to fulfill any covenant or agreement of Client contained herein.

2. Tubes and Packer, its successors, and assigns, shall at all times save, defend, keep harmless, and indemnify Client, its respective successors, and assigns, of and from any and all Damages, arising out of or related to (i) any act or omission of Tubes or Packer, including without limitation failure of Tubes or Packer to satisfy the obligations set in these representations and warranties, (ii) any claims made by or on behalf of Tubes or Packer, and (iii) any misrepresentation, breach of warranty or failure to fulfill any covenant or agreement of Tubes or Packer contained herein, in each case except to the extent that such Damages arise out of or in connection with a breach of the Agreement or Purchase Order, negligence, or willful misconduct by Client.

ARTICLE 9. | IDEMNIFICATION

1. It is expressly agreed that title to all the Bulk Beverages and risk of loss thereto, including any and all obligations to insure the Bulk Beverages, shall remain with Client at all times, subject to any security interest that Tubes and Packer may have in such Bulk Beverages for Services.

ARTICLE 10. | GRANTING OF LIEN

1. Client with respect to the Bulk Beverages grants Tubes and Packer a general lien against all Bulk Beverages, and on the proceeds from any sale thereof as part of the Packaged Beverages, and on all title documents thereof, for all fees and charges provided herein, including but not limited to, fees and charges for the Services under the agreement or Purchase Order and storage, claims for money advanced, interest, insurance, transportation, labor, and all other costs and expenses incurred by Tubes or Packer in connection with the agreement or Purchase Order, and all costs for noticing and advertising for sale, sale in the event of default, court costs and reasonable attorney's fees for (a) collecting charges due hereunder, (b) interpreting and/or enforcing the Agreement or Purchase Order and this and any other lien which Tubes or Packer may have by virtue of the Services and storage, or (c) defending itself in the event Tubes or Packer is made a party to any litigation brought by a third party against Client or in connection with Client's acts or omissions and/or the Bulk Beverages deposited with Tubes or Packer. Client authorizes Tubes, without notice or the signature of Client, to file any financing statements and any amendments thereto or continuations thereof, naming Client as debtor and Tubes and/or Packer as secured parties, with respect to the Bulk Beverages, which shall be treated as the "collateral" for payment. At Tubes' request, Client will join with Tubes and/or Packer in executing any such financing statements, amendments or continuations. Client agrees that in default of payment when due, Tubes may authorize Packer to sell any or all of the Bulk Beverages or Packaged Beverages packed therefrom to satisfy the amount due or payable by Client to Tubes and/or Packer. For the avoidance of doubt, the parties agree that Client is solely responsible for payments to Tubes and Tubes is solely responsible for payments to Packer.

ARTICLE 11. | INSURANCE

1. Client shall provide, at its sole cost and expense, property and liability insurance for the Bulk Beverages for any loss thereto. Client's insurance shall be primary except for instances where Tubes and/or Packer or its agents willfully causes injury or damage. The insurance shall be effective as of the date the Beverages are received by Packer for packaging, and shall insure Client against loss of the Bulk Beverages, Beverages or Packaged Beverages

to fire, theft, vandalism, act of God, or other cause, while the Bulk Beverages, Beverages or Packaged Beverages remain at Packer's Premises or a third-party storage site hereunder. Such insurance shall be sufficient to insure the replacement value of the Bulk Beverages, Beverages or Packaged Beverages as applicable. Client hereby releases Tubes and Packer from any and all liability for damages to the extent such damages are covered by either Packer, Client's or Tubes' insurance.

ARTICLE 12. | CONFIDENTIALITY

1. Client acknowledges that Client may obtain information from Tubes and / or Packer, which Tubes and / or Packer deems confidential. Tubes and Packer will identify in writing all information it deems confidential and the recipient thereof will not use or disclose such information to anyone except employees with a need to know in order to accomplish the purposes of the agreement and Purchase Order. Information shall not be deemed confidential, regardless of its written designation, if such information: (i) was in the public domain at the time of disclosure to the recipient; (ii) subsequently becomes available to the public without act or negligence of the recipient; (iii) can demonstrably be shown to have been in the recipient's possession prior to its receipt from the other party; or (iv) is subsequently obtained by recipient from an independent third party having a lawful right to disclose the information. Client shall not disclose the terms, conditions or other details of the Agreement or Purchase Order without the prior written consent of the other parties except as required by law and then, to the extent possible, only upon prior notice to the other party.

ARTICLE 13. | MISCELLANEOUS

1. Governing Law, Venue, Jurisdiction. This Terms & Conditions shall be governed by and construed in accordance with the laws of the State of California. Venue for all claims arising from or related to this Acknowledgment shall be Napa, California. Client hereby consents to the jurisdiction of the state and federal courts located in or designated for disputes arising in Napa County, California for all claims arising from this Acknowledgment.

2. Dispute Resolution. Client acknowledges that any claim arising from or related to the Agreement, Purchase Order or Terms & Conditions, including any claims by Client, shall be resolved by dispute resolution.

3. Notices. All notices given under this Terms & Conditions shall be sent to parties at their addresses and/or facsimile numbers listed below. Notices sent via facsimile or email shall be deemed given on the first business day following the day of transmission. Notices sent via registered mail, certified mail or overnight mail shall be deemed given when received.

4. Relationship. This Terms & Conditions shall not in any way constitute or give rise to a partnership or joint venture between Tubes / Packer and Client or any other relationship, including without limitation any relationship specifically disclaimed or waived. This Terms & Conditions shall not be interpreted to limit Tubes's and Packer's ability to operate its business with other companies, including other wineries, distilleries, or competing businesses.