



FUNKIN LIMITED

TERMS AND CONDITIONS OF SALE – ONLINE/WEBSITE PURCHASES

OUR TERMS

1. THESE TERMS

1.1 **What these terms cover.** These are the terms and conditions on which we supply goods to you via our website www.funkincocktails.co.uk.

1.2 **Why you should read them.** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide goods to you, how you and we may change or end the contract, what to do if there is a problem and other important information.

1.3 **Are you a business customer or a consumer?** In some areas you will have different rights under these terms depending on whether you are a business or consumer. **You are a consumer if:**

- You are an individual.
- You are buying goods from us wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession).

You are a business customer if:

- You are an individual purchasing goods from us on behalf of your employer / organisation (whether in your name or the name of your organisation); and
- You are buying the goods from us wholly or mainly for use in connection with the business, trade, craft or profession of your employer / organisation (not for personal use).

Some additional provisions specific to consumers only are in purple and those specific to businesses only are in orange .

(“you”, “your”)

1.4 **If you are a business customer this is our entire agreement with you.** If you are a business customer these terms constitute the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

2. INFORMATION ABOUT US AND HOW TO CONTACT US

2.1 **Who we are.** We are Funkin Limited a company registered in England and Wales. Our company registration number is 03765967 and our registered office is at Crossley Drive, Magna Park, Milton Keynes, England, MK17 8FL. Our principal place of business is 122 Arlington Road, Camden, London, NW1 7HP (“**we**”, “**us**”, “**our**”).

2.2 **How to contact us.** You can contact us by telephoning our customer service team at +44 (0) 207 328 4440 or by writing to us at info@funkin.co.uk.

2.3 **How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us when placing your order.

2.4 **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

3. OUR CONTRACT WITH YOU

3.1 We will accept your order at our discretion. We may send you an email acknowledging receipt of your order, but this does not constitute our acceptance of the order. Our acceptance of your order will take place once the order has been processed and shipped to you.

3.2 If we are unable to accept your order, we will inform you of this and will not charge you for the goods. This might be because the goods are out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the goods or because we are unable to meet a delivery deadline you have specified.

3.3 You must be aged 18 or over to purchase alcohol. It is an offence to sell alcohol to anyone under the age of 18 in the UK or for anyone under the age of 18 to purchase it. When ordering and making a payment you will be required to confirm that you are aged 18 or over.

3.4 Alcohol is best enjoyed in moderation. Please drink responsibly.

4. OUR GOODS

4.1 The images, descriptions and specifications of the goods on our website are for illustrative purposes only. Your goods may vary slightly from those, descriptions or specifications. The packaging and colouring of the goods may also vary from that shown in images on our website.

5. YOUR RIGHTS TO MAKE CHANGES

If you wish to make a change to the goods you have ordered please contact us as soon as possible. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the goods, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change.

6. OUR RIGHTS TO MAKE CHANGES

- 6.1 We may change the goods at any time and without notice:
- (a) to reflect changes in relevant laws and regulatory requirements; and
 - (b) to implement minor specification adjustments and improvements, for example to improve taste.
- 6.2 We reserve the right to change these terms and conditions of sale from time to time without notice. The most up-to-date version of these terms and conditions will be on our website, so please check our website regularly.

7. PROVIDING THE GOODS

- 7.1 The costs of delivery will be as displayed to you on our website.
- 7.2 We will make every effort to deliver the goods to you as soon as reasonably possible and in any event within 30 days after the day on which we accept your order.
- 7.3 If our supply of the goods is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any goods you have paid for but not received.
- 7.4 We require signature upon delivery, so please ensure that someone is present to accept delivery, or leave instructions during the order process for us to deliver your order to someone else (e.g. a trusted neighbour).
- 7.5 After a failed delivery to you, we will attempt to redeliver your order two more times. If we are unable to complete our delivery to you (e.g. due to difficulties gaining access to the delivery address), we will notify you as soon as possible. If, despite our reasonable efforts, we are unable to contact you or successfully complete delivery we may end the contract and clause 10.2 will apply.
- 7.6 The goods will be your responsibility from the time we deliver the goods to the address you gave us. Ownership of the goods will also pass to you from the time we deliver the goods to the address you gave us.

8. YOUR RIGHTS TO END THE CONTRACT

- 8.1 Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing, when you decide to end the contract and whether you are a consumer or business customer:
- (a) **If what you have bought is faulty or misdescribed you may have a legal right to end the contract** (or to get the goods replaced or to get some or all of your money back), **see clause 12 if you are a consumer or clause 13 if you are a business customer**;
 - (b) **If you want to end the contract because of something we have done or have told you we are going to do, see clause 8.2;**

- (c) **If you are a consumer and have just changed your mind about the goods, see clause 8.3. You may be able to get a refund if you are within the cooling-off period, but this may be subject to deductions and you will have to pay the costs of return of any goods.**
- 8.2 If you are ending a contract for a reason set out at (a) to (d) below the contract will end immediately and we will refund you in full for any goods which have not been provided. The reasons are:
- (a) we have told you about an upcoming change to the goods or these terms which you do not agree to;
 - (b) we have told you about an error in the price or description of the goods you have ordered and you do not wish to proceed;
 - (c) there is a risk that supply of the goods may be significantly delayed because of events outside our control; or
 - (d) you have a legal right to end the contract because of something we have done wrong.
- 8.3 **If you are a consumer then for most goods bought online you have a legal right to change your mind within 14 days and receive a full refund, to the extent that the goods are returned to us unopened and in resalable condition.**
- 8.4 All customers have the right to cancel their order with us at any time up to 12pm on the day of purchase. Where orders are placed after 12pm, you may cancel your order up to 12pm on the next business day.
- 9. HOW TO END THE CONTRACT WITH US (INCLUDING IF YOU ARE A CONSUMER WHO HAS CHANGED THEIR MIND)**
- 9.1 To end the contract with us, please let us know by doing one of the following: call customer services on +44 (0) 207 328 4440 or email us at info@funkin.co.uk. Please provide your name, home address, details of the order (including order number) and your phone number and email address.
- 9.2 If you end the contract for any reason after goods have been dispatched to you or you have received them, you must return them to us. Please pack the goods back in the package and return to: Attn: Customer Service Funkin, 122 Arlington Road, Camden, London NW17HP. We encourage you to use a tracked postal service to return goods to us – please note, you are responsible for ensuring that the goods are safely returned to us.
- 9.3 **Where you are returning the goods to us because you are a consumer who has changed their mind further to clause 8.1(c), the goods must be returned to us in perfect, unused condition.**
- 9.4 We will only pay the costs of return:
- (a) if the goods are faulty or misdescribed; or
 - (b) if you are ending the contract because we have told you of an upcoming change to the goods or these terms, an error in pricing or description, a delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong;

In all other circumstances (including where you are a consumer exercising your right to change your mind) you must pay the costs of return.

9.5 If you are entitled to a refund under these terms we will refund you the price you paid for the goods including standard delivery costs, by the method you used for payment.

9.6 We aim to process any eligible refunds within 7 business days of receipt of returned goods, although repayment may take **up to 14 days if you are a consumer** and **30 days if you are a business customer** at the busiest times. Please also note that timescales for refunds may be affected by the payment service provider processing the refund.

10. OUR RIGHTS TO END THE CONTRACT

10.1 We may end the contract for the goods at any time by writing to you if:

- (a) you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the goods, for example, delivery address; or
- (b) you do not, within a reasonable time, allow us to deliver the goods to you.

10.2 If we end the contract in the situations set out in clause 10.1 we will refund any money you have paid in advance for goods we have not provided but we may deduct or charge you a reasonable administration fee or the net costs we will incur as a result of you breaking the contract.

11. IF THERE IS A PROBLEM WITH THE GOODS

If you have any questions or complaints about the goods, please contact us as soon as possible. You can telephone our customer service team at +44 (0) 207 328 4440 or write to us at info@funkin.co.uk.

12. YOUR RIGHTS IN RESPECT OF DEFECTIVE GOODS IF YOU ARE A CONSUMER

12.1 If you are a consumer we are under a legal duty to supply goods that are in conformity with this contract. Nothing in these terms will affect your legal rights.

12.2 If you wish to exercise your legal rights to reject goods, please contact us as set out at clause 11 above in the first instance. You will be required to post the goods back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection on receipt of satisfactory proof of the postage costs that you have incurred.

12.3 Once we have inspected the goods and confirmed that they are defective we will arrange for the goods to be replaced with the same or similar goods or we will issue you with a full refund in accordance with clauses 9.5 and 9.6 above. If we inspect the goods and determine that they are not faulty then we will return the goods to you at your cost.

12.4 The remedies available to you depend on when you exercise your legal right to reject the goods as set out below:

- (a) if you contact us to reject the goods within 30 days of receiving them, then, subject to clause 12.3 you will be entitled to a full refund;

- (b) if you contact us to reject the goods after the 30 day period has expired and within 6 months of receiving the goods then, subject to clause 12.3, we are entitled to an opportunity repair or replace your goods. If we are unable to do so, you will be entitled to a full refund; and
- (c) if you contact us to reject repaired or replaced goods which remain of unsatisfactory quality after the 6 month period has expired, you may be entitled to a full or partial refund.

13. YOUR RIGHTS IN RESPECT OF DEFECTIVE GOODS IF YOU ARE A BUSINESS CUSTOMER

13.1 If you are a business customer we warrant that on delivery any goods shall:

- (a) conform in all material respects with their description; and
- (b) be free from material defects in design, material and workmanship.

13.2 Subject to clause 13.3, if:

- (a) you give us notice in writing within a reasonable time of discovery that the goods do not comply with the warranty set out in clause 13.1;
- (b) we are given a reasonable opportunity of examining such goods; and
- (c) you return such goods to us at our cost,

we shall, at our option, replace the defective goods, or refund the price of the defective goods in full.

13.3 We will not be liable for the goods' failure to comply with the warranty in clause 13.1 if:

- (a) you make any further use of such goods after giving a notice in accordance with clause 13.2(a);
- (b) the defect arises because you failed to follow our oral or written instructions as to the storage or use of the goods or (if there are none) good trade practice;
- (c) you alter the goods without our written consent; or
- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.

13.4 Except as provided in this clause 13, we shall have no liability to you in respect of the goods' failure to comply with the warranty set out in clause 13.1.

13.5 These terms shall apply to any repaired or replacement goods supplied by us under clause 13.2.

14. PRICE AND PAYMENT

14.1 The price of the goods (which includes VAT if you are a consumer and excludes VAT if you are a business customer) will be the price indicated on the order pages or in the order confirmation you received when you placed your order, unless we have notified you otherwise in accordance with clause 8.2(b).

14.2 Payment in full for the goods will be due and payable at the time of placing an order through our website. If you fail to make payment for the goods or if your payment card is not approved as described below at clause 14.3, we will be unable to accept your order.

14.3 We accept payment via any of the options advertised on our website. If you are paying by credit or debit card, we will conduct a standard pre-authorise check on your card. We will not charge your credit or debit card until we have approved the order.

14.4 If you are a business customer you must pay all amounts due to us under these terms in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

15. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A CONSUMER

15.1 If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

15.2 We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the goods as summarised at clause 12, and for defective goods under the Consumer Protection Act 1987

15.3 If you are a consumer we only supply the goods to you for domestic and private use. If you use the goods for any commercial, business or re-sale purpose our liability to you will be limited as set out in clause 16.

16. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A BUSINESS CUSTOMER

16.1 Nothing in these terms shall limit or exclude our liability for:

- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful for us to exclude or restrict liability.

16.2 To the fullest extent permitted by law, all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.

16.3 Subject to clause 16.1:

- (a) we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or

consequential loss arising under or in connection with any contract between us;
and

- (b) our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the price paid by you for the goods under this contract.

17. HOW WE MAY USE YOUR PERSONAL INFORMATION

We will only use your personal information as set out in our privacy notice which can be found at: <https://www.funkincocktails.co.uk/privacy-policy/>.

18. BUSINESS LOYALTY SCHEME TERMS AND CONDITIONS

18.1 We promote and operate the Funkin Loyalty Scheme (“the Scheme”) for eligible business customers. This clause 18 sets out the terms and conditions which apply to your membership of the Scheme and the allocation and use of loyalty points we may provide to you as a reward for purchasing goods from us (“Scheme Terms and Conditions”).

18.2 Scheme membership

- (a) The Scheme is available to all persons who submit a trade loyalty account application which is accepted by us (“Trade Loyalty Account”).
- (b) The decision to accept, reject or otherwise respond to a Trade Loyalty Account application shall be made entirely at our discretion, and accordingly, we reserve the right to refuse any such applications. The Scheme is only available to:
 - (i) UK residents aged 18 or above;
 - (ii) Independent free trade (“IFT”) customers we deem eligible to participate in the Scheme. We do not allow trade customers (including individuals who work for, or who are employed by trade customers) that have a national account with us to participate in the Scheme - We provide any loyalty incentives to these trade customers through their national account agreement instead; and
 - (iii) One individual per IFT customer.
- (c) We may at any time require proof of your eligibility to join or continue to participate in the Scheme. If we do not receive satisfactory proof in accordance with this clause we may notify you that your customer status is that of a consumer and not of a business and that you are no longer eligible to join or continue to participate in the Scheme. The documentation we may require you to provide to support your application includes:
 - (i) Proof of age;
 - (ii) Proof that you own or work for an IFT retail outlet (i) that sells alcoholic drinks such as a bar, pub, nightclub or restaurant; and (ii) that has a valid VAT number.

18.3 Loyalty points

- (a) We will, from time to time and subject to availability, provide you with loyalty points for purchasing selected goods from us. When we decide to offer loyalty

points, we will include a voucher within our goods' packaging that confirms how many loyalty points we have allocated to the purchase. The voucher will include a code which allows you to redeem the loyalty points through the Trade/Loyalty section of our website at www.Funkincocktails.co.uk ("the Loyalty Page"). The voucher has an expiry date – after this date you will not be able to redeem the loyalty points and no replacement points or compensation will be given. We may also, from time to time, decide to credit your Trade Loyalty Account with loyalty points at our sole discretion.

- (b) We will, from time to time and subject to availability, provide you with the option to redeem your loyalty points on the Loyalty Page. We will confirm which of our Funkin branded goods and any non-Funkin branded goods ("Third Party Goods") you can redeem your loyalty points against. We may, at our discretion, from time to time allow you to pay for purchases on the Loyalty Page partly by cash and partly by your loyalty points. You will be required to pay postage fees when you make purchases through the Loyalty Page.
- (c) Any refunds payable by us in accordance with these terms and conditions for goods purchased in whole or in part with loyalty points will be refunded in accordance with these terms and conditions and any loyalty points eligible to be refunded will be credited to your Trade Loyalty Account.
- (d) We reserve the right, at any time, without notice to:
 - (i) vary the loyalty points available, and the number of loyalty points required to redeem any particular goods through the Loyalty Page;
 - (ii) cease to offer loyalty points or to allow you to redeem them; and
 - (iii) substitute or remove product ranges/services/offers available for redemption using loyalty points.
- (e) Loyalty points cannot be exchanged for cash. However, we may from time to time provide you with the option to use loyalty points as an alternative to making cash payments on the Loyalty Page. The cash equivalent rate for each loyalty point will be entirely at our discretion and may be varied at any time.
- (f) Loyalty points and vouchers cannot be transferred from one person or Trade Loyalty Account to another.
- (g) You will not be able to redeem any loyalty points whilst you are in breach of the Scheme Terms and Conditions, these terms and conditions or any other agreement you have with us. Where we believe that there has been a breach of the Scheme Terms and Conditions, these terms and conditions or any other agreement you have with us, we may withdraw your loyalty points and/or remove you from the Scheme without notice or compensation.
- (h) We cannot be responsible for your loss of any loyalty vouchers or coupons that you have received with your purchases nor will we be liable to replace them.
- (i) Goods provided to you under the Scheme may only be used in connection with the IFT outlet in respect of which your Trade Loyalty Account was opened (the "IFT Outlet"). You may not use the goods for your own personal benefit or for the commercial benefit of any other business.

18.4 **General**

- (a) Your membership of the Scheme starts when your Trade Loyalty Account is opened. It ends when your Trade Loyalty Account is closed or when we determine that the Scheme is no longer in operation.
- (b) As soon as your employment for, or ownership of the IFT Outlet ends, your Trade Loyalty Account will be closed and any unredeemed loyalty vouchers and loyalty points will be forfeited automatically.
- (c) We reserve the right to withdraw or cancel the Scheme at any time.
- (d) We reserve the right to close your Trade Loyalty Account at our sole discretion at any time.
- (e) All goods featured in our marketing e-mails, on the Loyalty Page and any promotional materials we provide to you are subject to availability.
- (f) We reserve the right to take any appropriate action where we determine that the Trade Loyalty Account holder has breached the Scheme Terms and Conditions.

19. OTHER IMPORTANT TERMS

19.1 If you are a business customer you shall:

- (a) comply with all applicable laws, statutes and regulations relating to anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) comply with our Anti-Bribery and Corruption Policy in force from time to time, copies of which are available on request; and
- (d) have and shall maintain and enforce, your own policies and procedures including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements.

19.2 You mustn't transfer or subcontract any of your obligations under these terms and conditions, or transfer or deal with any of your rights under these terms and conditions, without getting our written approval first. We may transfer our rights and obligations under these terms to another organisation

19.3 This contract is between you and us. No other person shall have any rights to enforce any of its terms and neither of us will need to get the agreement of any other person in order to end the contract or make changes to these terms.

19.4 Our rights and remedies set out in this agreement are in addition to and don't exclude or affect the rights and remedies available to us by law.

19.5 This agreement doesn't create a joint venture or partnership between us. And it doesn't authorise us to act as agent or make or enter into any commitments on one another's behalf.

19.6 If either of us is slow in insisting that the other does anything it is required to do under this contract, or in taking steps in response to the other breaking this agreement, this won't mean we'll have lost the right to do those things.

- 19.7 Each provision and part provision of this contract is separate from the others. This means that if any provision or part provision is held to be invalid, it will be deleted but this won't affect the validity of the rest of the contract.
- 19.8 We each confirm that this contract sets out everything we've agreed and that neither of us is entering into this contract in reliance on something that's not in it.
- 19.9 This contract will be ruled by English law. The English courts will be the only courts authorised to settle any disputes arising out of or in connection with this agreement.