



Update Software Inc.
14620 South Highway 101
Hopland, CA 95449

Phone: 707/894-6163 Fax: 707/744-1138
Email: sales@VinNOW.com
www.VinNOW.com



2017 VinNOW® ORDER FORM & SUBSCRIPTION CONTRACT

VinNOW® Order Form

Desired Install (&Subscription) Start Date: \_\_\_\_\_

Contact person for implementation: \_\_\_\_\_

Email & Phone: \_\_\_\_\_

Physical Address:
(Where the software will be installed)

Billing Mailing Address:
(Where invoices should be sent)

Primary Contact Name

Contact Name

Address

Address

City, State, Zip

City, State, Zip

Email and phone

Email and phone

Ordering Instructions:

Please make sure all information is accurate and complete. MAIL complete order form, and the entire signed contract to:

Update Software
14620 South Highway 101
Hopland, California, 95449

Payment: Please call the office (707-744-1396) with a credit card number for payment.

Required installation fees and first month's subscription are due at the time of ordering VinNOW® software.

Monthly subscription fees are due on the first of each month for the following month's fees. Monthly payments are either set up via automatic credit card deduction at no charge or invoiced for the monthly subscription plus a ten dollar accounting fee.

Full payment is required for computer hardware purchases when the order is placed.

Installation:

Installation dates are scheduled only after order form, signed contract, and payment are received. Contact the VinNOW® support department for available install dates. A minimum of fifteen business days are typically required for data conversions.

Licensed Company Name:

Your VinNOW® license & database is established under this name. The licensed company name will print from VinNOW® on reports and invoices exactly as shown in the boxes below. A change to your licensed company name after install will require a \$600 data conversion fee.

Licensed Company Name (Minimum 9 Characters, Maximum 50 Characters):

Grid of 50 boxes for company name entry

Grid of 15 boxes for company name entry

Please note: Special characters (% ' ! , : # . " etc.) are not allowed. Only letters and numbers may be used. Upper and/or lower case may be used.

Software Upgrades, Training and Helpdesk Support are included in your monthly subscription fee. Upgrades insure that your VinNOW® stays current with Microsoft Windows, wine industry changes and credit card industry new requirements and changes. Training for staff is included in monthly fees.

17249 Initials: \_\_\_\_\_

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**Please check the subscription and choices below:**

VinNOW® Software is downloaded from the Internet. Prices are subject to change.

	Subscription Choices:	Platinum Monthly Fee	Gold Monthly Fee*
X	VinNOW® Base CRM, Order Management Software	200.00	120.00
	Wine Club Subscription	\$75.00	\$45.00
	Inventory Subscription	\$75.00	\$45.00
	Cashier Subscription (Point of Sale)	\$75.00	\$45.00
<b>All for a low monthly fee of:</b>		<b>\$425.00</b>	<b>\$255.00</b>

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\*The Gold Price is a 40% discount and is available for all wineries with fewer than 601 active wine club members. Once a winery reaches 601 active club members the monthly subscription will automatically be charged at the Platinum Price.

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**Monthly Subscriptions Include all the following for Free!\*\*:**

QuickBooks direct data push from VinNOW®	Compliance Manager	Shipping Logistics
Built in PCI Validated Credit Card Processing	Reporting	Gift Cards
VerticalResponse® Email Integration	UPS Integration	GSO Integration
DeVine Ware Integration	Cellar Pass Integration	FedEx Export
Constant Contact® Email Integration		

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**Training, Retraining, Help Desk Support and Software Upgrades are included for Free!\***

\*Free VinNOW support is during normal business hours Monday-Friday 9am to 5pm PST – after hours support is available for a fee.  
\* Free VinNOW support is for covered items only, refer to help text for covered items. Windows computer setup and networking are not covered.  
\*\*Note: Some integration companies require a service contract for their services please check with them for their fees. QuickBooks integration requires you to purchase QuickBooks Pro 2014-2016. QuickBooks is not supported by VinNOW® staff; refer to a QuickBooks specialist for support of the QuickBooks software. Kreck Design & Nexternal WebCarts & ShipCompliant requires you to have monthly service contract with them. **In order to provide support, a method to access the server from the main location needs to be provided for VinNOW software maintenance and support as necessary.**

**Additional Options: (1 workstation is included in base price)**

Number of additional workstations	\$25.00 each per month	10 workstations require the full Microsoft SQL Server 2012 software
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Payment Processing is built into VinNOW® and for your data safety is limited to our authorized credit card integration partner.

**You will need an account with TSYS our authorized integration partner before VinNOW can be installed.**

Contact: Jeff Wurstner - Phone: 402-574-7059, Email: [jwurstner@tsys.com](mailto:jwurstner@tsys.com)

**Please note: Credit card processors may charge to tokenize credit cards when stored.  
A credit card processing account must be set up before data is imported**

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Customer data must be imported before VinNOW® is installed – Please select one:

I do have existing data for importing – Please do not send credit card information via Email – We will provide a secure upload site.

I do **NOT** have existing data for importing.

**Monthly Subscription Fees** to be paid by automatic credit card deduction.

Automatic credit card deduction. Please call Accounting with your credit card information. 707-744-1396
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**Installation and Initial Setup**

X	\$600.00 Required Installation and Setup of VinNOW on database machine, Payment is due with submission of order form.
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Installation - Setup and initial training must be completed prior to the use VinNOW® on a daily basis.

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Company Name: \_\_\_\_\_

Current Number of Active Wine Club Members: \_\_\_\_\_

Authorized Purchaser Name & Title (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Continued next page

17249 Initials: \_\_\_\_\_

# VinNOW® SUBSCRIPTION CONTRACT, TERMS, & CONDITIONS

Thank you for choosing VinNOW®, a complete integrated solution. Please contact us anytime with questions or for assistance. The following document, when signed by you as the Customer, ("**Customer**") constitutes all the contract terms and conditions with respect to your use of VinNOW® SOFTWARE ("**Software**") by Update Software Inc. ("**Update**").

## PART 1. VinNOW® SOFTWARE

### A. System Requirements: **Subject to change as technology changes.**

VinNOW® SOFTWARE is currently designed to operate on the 64 bit version of Microsoft, Windows 7 pro, Windows 8.1, Windows 10 pro, Server 2012 Essentials or Standard Operating Systems only.

*VinNOW does not provide any special network support for virtual environments. However virtual machines may be used; provided the VinNOW software can communicate on the network in the very same manner as if the machines were connected in a traditional non-virtual environment. If virtual workstations are used, the method or program used to connect to the virtual workstations (e.g. Remote Desktop) must provide the user with the same functionality as if they were on a local networked Windows machine using the VinNOW program. For example the Windows taskbar for the virtual machine must be visible and accessible to the VinNOW user.*

*In order to provide support, a method to access the server from the main location needs to be provided for VinNOW software maintenance and support as necessary. The client assumes all responsibility for maintaining and the support of their network environment and hardware.*

The Foundation version of Server 2012 is not supported. The computer from which VinNOW® SOFTWARE is intended to operate must have a minimum: 8GB ram and 500GB hard drive - recommended is quad core CPU 2.5 Ghz or higher with 16GB ram. Also required are an Internet connection and Microsoft SQL Server 2012 Express or full version. **The Customer is fully responsible for the installation and functionality of all hardware components, Microsoft SQL Server (including Native Client 2008R2) and operating system software (including peripherals).** While Update Software, Inc. can provide recommendations upon request for hardware and network vendors, Update is not responsible for such equipment or the vendors. Please visit the company website, [www.vinnow.com](http://www.vinnow.com) under Client Center for hardware specifications.

VinNOW® SOFTWARE is a software package designed on Microsoft Windows technology. Apple computers are not supported. Update recommends finding a computer provider to install your network (if applicable), set up your computers, install virus protection and maintain your Microsoft updates and security settings. Update reserves the right to change system requirements as technology develops or vendors change product offerings.

### B. General Software Description:

1. VinNOW® SOFTWARE" AS USED IN THIS AGREEMENT SHALL MEAN ALL COMPUTER PROGRAMS LICENSED UNDER THIS AGREEMENT, INCLUDING ALL RELATED FILES, DOCUMENTATION, AND OTHER MATERIALS, WHETHER IN WHOLE OR IN PART, INCLUDING ANY AND ALL MODIFICATIONS, DERIVATIVE WORKS, AND COPIES OF THE FOREGOING, REGARDLESS OF THE FORM OR MEDIA IN OR ON WHICH THEY MAY EXIST. THE SOFTWARE SHALL CONSIST OF THE PRODUCTS LISTED IN THE ATTACHED SOFTWARELICENSE SCHEDULE, WHICH IS INCORPORATED HEREIN BY REFERENCE.
2. VinNOW® SOFTWARE is a PC/server based CRM software system using a local Microsoft Sequel Server database. It will facilitate, manage and report on product sales, it also provides some tools to evaluate business performance and facilitate sales growth.
3. VinNOW® SOFTWARE will collect, record and report on sales data from its own retail Point-of-Sale (POS) module, automated Wine Clubs module and eCommerce module. VinNOW® SOFTWARE processes and tracks orders through shipping, and tracks, manages and reports on inventory. It also performs marketing database search and list segmentation.
4. Acting as the master database, VinNOW® SOFTWARE integrates with select industry standard web shopping cart software, compliance software, email marketing and social media software, shipping services software, financial reporting software and automated merchant services.
5. All features of VinNOW® SOFTWARE are subject to change in Update's sole discretion, and without prior notice to Customer.

C. **Hardware and Other Software:** Update, at Customer's expense, may agree to provide certain required hardware as requested by Customer such as receipt printers or scanners. Any such hardware ordered on Customer's behalf from the hardware vendor/manufacturer is believed, but not guaranteed, to be reliable. All warranty and faulty product related issues shall be the responsibility of the Customer, not Update. Customer agrees to directly process any claims relating to hardware directly with product manufacturer or vendor. Update is not responsible for individual manufacturers' warranty policies. All hardware purchases are non-refundable through Update.

Standard VinNOW® installation covers only VinNOW® SOFTWARE on the server or database computer. You are responsible for all other non-VinNOW® SOFTWARE installations and operations, including Microsoft Windows, Microsoft SQL Server and any other software such as antivirus, together with installation of cabling, computer, network or peripheral device setup. Update Software reserves the right to postpone and delay the installation of VinNOW® SOFTWARE if the computer equipment or network is not established to the degree required at the scheduled installation time, without liability to Update. If Update has scheduled remote training and/or installation and Customer's computers or staff are not available at the scheduled time Update may impose a one hour fee for time allotted unless Customer has cancelled with a 24 hour notice.

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**PART 2. Installation:**

Before Installation of VinNOW® SOFTWARE, the following must occur:

1. Send completed order form along with entire signed contract and payment for installation and initial setup.
2. Setup the required computer system and Network (if in a multi computer environment) to be used.
3. Set up an account for merchant credit card processing; let them know you are a VinNOW® customer to get the best possible rate.
4. On receipt of payment, Update will schedule your data conversion if required, training and installation time.
5. Pre-setup documents are provided and must be completed and returned to Update prior to installation.

The installation timeframe is dependent on many factors including how many other installs we have on the calendar and the amount of existing data to convert into VinNOW® SOFTWARE.

**Prior to installation,** Update will schedule one or more phone call(s) to discuss the implementation process. During this process, Update will schedule installation and training times. Please allow a minimum of one hour for the initial phone call.

Following this phone call(s) the customer should ensure the correct environment exists in which to install VinNOW, specifics of which can be found at WWW.VinNOW.com/DOC. This would include but is not necessarily limited to correct Windows Operating System and Operating System Settings, SQL Server 2012 with Management Tools (express or full version), and Networking of all machines that VinNOW will be operating on. The initial installation process will be performed remotely via the internet and be the installation of the server/database only. Although VinNOW Support will be available for questions pertaining to Client machine installation and may assist, the Customer is ultimately responsible for the installation of VinNOW on all client machines. All the information needed to successfully perform those installations can be found at WWW.VinNOW.com/DOC

We want you to be successful. Sufficient time for setup and learning the full extent of the system is a must before going live. Customers have reported that the time involved to properly refine their system is between six to twenty hours depending on how many products need to be setup and prior knowledge of software systems.

**Part 3. Training & Help Desk Support:**

Required Initial Training sessions must be completed prior to the Customer attempting to use the program on a daily basis as part of its operations. In order to diagnose any issues, VinNOW Support must have access to the computer that has the VinNOW database on it and be able to be logged into that machine under the Administrator user profile that installed Microsoft SQL Server. The Microsoft SQL Server on the database machine must have been installed with Management Tools (i.e. Microsoft SQL Server Management Studio) for access to the database.

The VinNOW® help desk is staffed Monday to Friday 9:00 to 5:00 Pacific Standard Time except holidays. After hours support is available please refer to the support terms and conditions located in VinNOW Help. VinNOW® Help Desk only has the current version of VinNOW® available to them and will not be able to assist clients on older versions.

Help Desk assistance is subject to the terms and conditions posted on the website, and are subject to change without prior notice to Customer. Certain services may be subject to additional charges.

**Part 4. Software License:**

The software is licensed to you for use, as long as your subscription is current, with one database at one location and is not to be shared with other businesses, organizations, or individuals. If your subscription is not current the software will no longer function. Refer to the Termination of Subscription License below for details. VinTracker Bulk wine module is not included.

**Part 5. Payment Terms:**

Payments are due by the first of each month for the following month. Payments not received by the tenth of the month will be subject to a 15% late fee and will cause the subscription to be cancelled and the software will stop working by the end of the month. Failure to pay monies owed will subject the Customer's VinNOW® software to be suspended (the program will stop working) or terminate all service and support until the entire past due balance, together with service charges and re-instatement fees are paid. A reinstatement fee of \$200.00, all unpaid invoices and prepayment for the next month's subscription will be required to restart a subscription. In addition if while your subscription has lapsed Microsoft Windows and/or VinNOW® changed requiring support to upgrade VinNOW® you will be billed at the current hourly support rate for all time spent.

**Part 6. Software Upgrades:**

**Software upgrades are included in the monthly subscription fees.**

**Please note:**

- \* VinNOW® is designed to work exclusively as an integration exclusively with Kreck Design and Nexternal web shopping carts.
- \* The appropriate version of Microsoft Windows SQL Server 2012 Device CAL license is required to use more than ten VinNOW workstations.

**Integration & Interfaces:**

Update does not guarantee Software integrations or interfaces with other programs such as UPS Shipping, VerticalResponse, ShipCompliant, QuickBooks or others at any or all times. If an outside product vendor modifies their software or procedures without notifying Update, the integration may not function correctly. Update will use its reasonable best efforts to work with the vendor as soon as reasonably practicable to attempt to correct integration issues.

The VinNOW® to QuickBooks integration requires the QuickBooks Pro desktop versions that their Software Development Kit allows Update to program. Check with Update for current versions programmed for VinNOW®. As new QuickBooks versions are released, Customer may need to upgrade QuickBooks in order for the VinNOW® integration to function.

17249 Initials: \_\_\_\_\_

250 **Merchant Credit Processing:**  
251 VinNOW® offers you direct credit card processing between VinNOW® and our authorized credit card processor.  
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253 **VinTracker Bulk Wine Tracking:**  
254 This is an add-on module to VinNOW. This module is not currently available.  
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256 **Data Import:**  
257 To ensure data integrity in VinNOW®, VinNOW® does not have a data import function outside of our web shopping cart integration  
258 and our XML Import. Update is not responsible for database issues caused by improperly formatted imported data. Current  
259 programming and support hourly fees apply to all calls and work performed for data correction when caused by outside data sources.  
260 Conversions of data must be done before VinNOW® is installed. This process is to protect the data integrity of the VinNOW®  
261 database. Please contact Update for specifications, details and any associated costs.  
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263 **Customer's Expectations:**  
264 Please see General Software Description, Part 1.B., above. Customer is responsible to satisfy themselves regarding any  
265 expectations for the features included with the software before ordering the software. While VinNOW® is designed specifically for  
266 wine tasting rooms, there are variations in how each business is operated and the selected software may not accomplish all expected  
267 tasks the Customer intended.  
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269 **Part 7. Software License:**  
270 By installing, copying, downloading, accessing or otherwise using VinNOW® Software ("**Software**") purchased from Update,  
271 Customer agrees to be bound by the terms of this LICENSE. If Customer does not agree to the terms of this license, Customer  
272 may not use or copy the Software, and should promptly contact Update.  
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#### 274 **A. GRANT OF NON-EXCLUSIVE, LIMITED LICENSE**

275 VinNOW® software is licensed, not sold. *The license is not assignable, nor can Customer sub-license rights.* Any rights not clearly  
276 and expressly granted to Customer under this license are reserved to Update. Provided Customer has paid all applicable fees,  
277 registered the Software with Update and otherwise complied with this license, then Update grants Customer the following personal,  
278 non-exclusive, non-transferable, limited rights:  
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280 i. Customer may use *and execute* the software on the one database at one location on any individual single computer; use the  
281 software on a network, provided that Customer has a copy licensed for network use; or copy the Software for archival purposes,  
282 provided any copy must contain all of the original Software's proprietary notices. Use for multiple organizations, such as a service  
283 bureau, is not allowed without written permission from Update.  
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285 ii. Customer may not decompile, disassemble, extract or otherwise reverse engineer any of the Software. Customer shall not have  
286 the right to obtain or use any source code. Customer shall not have the right to copy, reproduce, or distribute the Software except  
287 as provided above. Customer agrees not to rent, lease, or loan the Software, nor use the Software to render time sharing of service  
288 bureau services. Customer may not use the Software in a software production "foundry" environment to make third party software  
289 ready for manufacture or installation. Customer may not make any commercial use of the Software code except as expressly  
290 permitted under this agreement.  
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292 iii. The documentation that accompanies the Software is licensed for internal, non-commercial reference purposes only. The  
293 Software may include document templates. Customer is **not** licensed to do any of the following:

- 294 • Sell, resell, license, rent, lease, lend, or otherwise transfer for value, the templates.
- 295 • Distribute the templates available via Internet-based services as part of any product or service.
- 296 • Copy or post any templates available through internet-based services on any network computer or broadcast it.

297 Customer must indemnify and defend Update against any claims or lawsuits, including attorneys' fees, which arise from or result  
298 from the licensing or distribution of the templates or database as modified by Customer.  
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#### 300 **B. COPYRIGHT & "MORAL RIGHT"**

301 The Software and documentation is copyrighted by Update. Update's copyrights include, but are not limited to ©2002-2016 Update  
302 Software, Inc. All Rights Reserved. Making unauthorized copies of any product of Update is prohibited. No part of the Software or  
303 documentation may be reproduced, transmitted, transcribed, stored in a retrieval system or translated into any human or computer  
304 language without prior written permission of Update. Update asserts its "Moral Right" to be identified as the author of this work, in  
305 all jurisdictions that recognize the "Moral Right."

#### 306 **C. TRADEMARKS AND SERVICE MARKS**

307 Update owns a number of registered and unregistered trademarks and service marks (the "Marks"). These Marks are extremely  
308 valuable to Update and shall not be used by Customer, or any other person, without Update's express written permission. The  
309 Marks include, but are not necessarily limited to the following: Update Software, VinNOW®. Update expressly reserves the right to  
310 use additional registered and unregistered Marks in connection with its business, and such additional registered and unregistered  
311 Marks shall be entitled to full protection under applicable law. Any use of any of Update's Marks without the prior written consent  
312 shall be deemed an intentional and willful violation of substantial rights of Update. Customer agrees not to remove, deface, or  
313 destroy any copyright, patent notice, trademark, service mark, other proprietary markings, or confidential legends placed on or within  
314 the Software.

315 In addition to Update's Marks, some Update products may include trademarks or service marks owned by other corporations.  
316 These other marks include, but are not necessarily limited to: WINDOWS®, Windows 7, Window 8, Windows 8.1, Window 10,  
317 Microsoft SQL Server and WINDOWS XP which are registered Trademarks of Microsoft Corporation. QuickBooks® which is a  
318 registered Trademark of Intuit, Inc. UPS which is a registered Trademark of United Parcel Service. Apple, the Apple logo, and  
319 iPhone are trademarks of Apple Inc., registered in the U.S. and other countries. Apple Pay and Touch ID are trademarks of Apple

320 Inc. © 2015 Google Inc. All rights reserved. Google Wallet™ is a trademark of Google Inc. EMV is a registered trademark or  
321 trademark of EMVCo LLC in the United States and other countries.

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323 Customer shall not use any of the trademarks, or service marks of Update, Microsoft Corporation, Intuit or any other entity, without  
324 the express written permission of such trademark or service mark owner.

325 **D. CONSENT OF USE OF DATA.** Customer agrees that Update may collect and use technical information gathered as part of the  
326 product support services provided to Customer, if any, related to the Software. Update may use this information solely to improve  
327 its products or to provide customized services or technologies to Customer and will not disclose this information in a form that  
328 personally identifies Customer. Update has no access to Customer's data. Customer may use the Software to send data, including  
329 confidential information to third parties, including QuickBooks, UPS, FedEx, and others. Update will not send any of Customer's  
330 data to a third party without Customer's express authorization.

331 **E. ADDITIONAL SOFTWARE & SERVICES.** This license applies to updates, supplements, add-on components, or Internet-based  
332 services components of the Software ("Supplemental Components") that Update or its affiliates or subsidiaries may provide to  
333 Customer or make available to you after the date you obtain your initial copy of the Software, unless other terms are provided along  
334 with the Supplemental Components. If other terms are not provided along with such Supplemental Components and the  
335 Supplemental Components are provided to you by Update, its affiliates or subsidiaries, then you will be licensed by such entity  
336 under the same terms and conditions of this license, except that TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW,  
337 THE SUPPLEMENTAL COMPONENTS AND ANY (IF ANY) SUPPORT SERVICES RELATED TO THE SUPPLEMENTAL  
338 COMPONENTS ARE PROVIDED "AS IS AND WITH ALL FAULTS." ALL PROVISIONS BELOW REGARDING DISCLAIMER OF  
339 WARRANTIES, EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES, AND LIMITATION OF  
340 LIABILITY AND REMEDIES SHALL APPLY TO SUCH SUPPLEMENTAL COMPONENTS.

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342 **F. LIMITED WARRANTY FOR SOFTWARE ACQUIRED IN THE US.**

343 Update warrants that the Software will perform substantially in accordance with the accompanying materials for a period of sixty  
344 (60) days from the date of installation.

345 If an implied warranty or condition is created by your state/jurisdiction and federal or state/provincial law prohibits disclaimer of it,  
346 you also have an implied warranty or condition, BUT ONLY AS TO DEFECTS DISCOVERED DURING THE PERIOD OF THIS  
347 LIMITED WARRANTY (SIXTY DAYS). AS TO ANY DEFECTS DISCOVERED AFTER THE SIXTY-DAY PERIOD, THERE IS NO  
348 WARRANTY OR CONDITION OF ANY KIND. Some states/jurisdictions do not allow limitations on how long an implied warranty  
349 or condition lasts, so the above limitation may not apply to Customer.

350 Any supplements or updates to the Software, including without limitation, any (if any) service packs or hot fixes provided to you after  
351 the expiration of the Sixty-day Limited Warranty period are not covered by any warranty or condition, express, implied or statutory.

352 **LIMITATION ON REMEDIES; NO CONSEQUENTIAL OR OTHER DAMAGES.** Customer's exclusive remedy for any breach of this  
353 Limited Warranty is as set forth below. Except for any refund elected by Update, CUSTOMER IS NOT ENTITLED TO ANY  
354 DAMAGES, INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL DAMAGES, if the Software does not meet Update's Limited  
355 Warranty, and, to the maximum extent allowed by applicable law, even if any remedy fails of its essential purpose. The terms of  
356 Part 7 H. ("Exclusion of Incidental, Consequential and Certain Other Damages") are also incorporated into this Limited Warranty.  
357 Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or  
358 exclusion may not apply to Customer. This Limited Warranty gives Customer specific legal rights. Customer may have other rights  
359 which vary from state/jurisdiction to state/jurisdiction.

360 **CUSTOMER EXCLUSIVE REMEDY.** Update's entire liability and Customer's exclusive remedy for any breach of this Limited  
361 Warranty or for any other breach of this Agreement or for any other liability relating to the Software shall be, at Update's sole and  
362 exclusive option from time to time exercised subject to applicable law, (a) return of the amount paid in that month (if any) for the  
363 VinNOW® Software, or (b) repair or replacement of the Software that does not meet this Limited Warranty. If Update determines  
364 that the repair or replacement option is not commercially feasible, then Licensor shall return to Licensee any license fees paid for  
365 the Software in that month, and in that event, any licenses granted by Update to Customer for the Software shall terminate. Customer  
366 will receive the remedy elected by Update without charge. This Limited Warranty is void if failure of the Software has resulted from  
367 accident, abuse, misapplication, abnormal use or a virus. Any replacement Software will be warranted for the monthly subscription  
368 period or sixty (60) days, whichever is longer, and Update will use commercially reasonable efforts to provide customer's remedy  
369 within a commercially reasonable time of Customer's compliance with Update's warranty remedy procedures.

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371 **G. DISCLAIMER OF WARRANTIES.** The Limited Warranty that appears above is the only express warranty made to Customer  
372 and is provided in lieu of any other express warranties or similar obligations (if any) created by any advertising, documentation,  
373 packaging, or other communications. Except for the Limited Warranty and to the maximum extent permitted by applicable law,  
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375 disclaim all other warranties and conditions, whether express, implied or statutory, including, but not limited to, any (if any) implied  
376 warranties, duties or conditions of merchantability, of fitness for a particular purpose, of reliability or availability, of accuracy or  
377 completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence, all with regard to the  
378 Software, and the provision of or failure to provide support or other services, information, software, and related content through the  
379 Software or otherwise arising out of the use of the Software. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET  
380 ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO  
381 THE SOFTWARE

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383 **H. EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES.** TO THE MAXIMUM EXTENT  
384 PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL UPDATE, ITS AFFILIATES OR SUBSIDIARIES, BE LIABLE FOR ANY  
385 SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT  
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390 LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS  
391 INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY OF GOOD FAITH  
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394 OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT  
395 THROUGH THE SOFTWARE, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS LICENSE, EVEN  
396 IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF  
397 CONTRACT OR BREACH OF WARRANTY OF UPDATE, ITS AFFILIATES OR SUBSIDIARIES, AND EVEN IF UPDATE, ITS  
398 AFFILIATES OR SUBSIDIARIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.  
399

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402 DIRECT OR GENERAL DAMAGES IN CONTRACT OR ANYTHING ELSE), THE ENTIRE LIABILITY OF UPDATE, ITS  
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404 HEREUNDER (EXCEPT FOR ANY REMEDY OF REPAIR OR REPLACEMENT ELECTED BY UPDATE WITH RESPECT TO ANY  
405 BREACH OF THE LIMITED WARRANTY) SHALL BE LIMITED TO THE GREATER OF THE ACTUAL DAMAGES CUSTOMER  
406 INCURS IN REASONABLE RELIANCE ON THE SOFTWARE UP TO THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE  
407 SOFTWARE OR US\$5.00. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE  
408 MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.  
409

410 **J. NON-MANUFACTURED PRODUCTS.** Update expressly extends neither warranties nor representations of suitability,  
411 functionality or fitness for a particular use of any software not produced by Update. QuickBooks is not a product of Update, and as  
412 such, Update makes no guarantees or warranties as to QuickBooks or what versions of QuickBooks will work with VinNOW@.  
413

414 **K. SOFTWARE ENHANCEMENTS.** All software manufactured by Update is provided "as is" without any promise of specific future  
415 enhancements. Update may make future enhancements to its software at its sole discretion, but is under no obligation to do so.  
416 Update has not and will not, authorize any sales persons to make representation, oral or written nor will Update be bound by such  
417 unauthorized representation regarding: whether future software enhancements; and/or the future specifications or performance  
418 characteristics of future versions of Update's software. No employee or agent of Update is authorized to make any representation  
419 which contradicts any term or provision of this agreement absent expressed written modification signed by Update's President.  
420 Customer may not rely on such unauthorized representations in its purchase or use of Update's software. Update is not responsible  
421 for claims and/or representations by salespersons who are not agents of Update Software, including but not limited to  
422 representations regarding the past, present or future performance characteristics of its software.  
423

424 **L. MODIFICATION TO DATABASE.** The Software is licensed with one (1) database only. Any changes, modifications or alterations  
425 to such database that resulted from using software other than the software purchased from Update may cause the Software not to  
426 function or function incorrectly. Any changes to the database made directly or with other programs or programming tools may also  
427 prevent future upgrades to function. Update may, at its option, elect to terminate all services to Customer as a result of such  
428 modification, alteration or change.  
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430 **M. CONFIDENTIALITY OF SOURCE CODE.** The license granted under this agreement is to use the Software and Customer has  
431 no rights to Source Code. Customer agrees to maintain in confidence the Software by using not less than the same physical and  
432 other security measures used for Customer's own confidential technical information and documentation. Customer further agrees  
433 not to disclose the Software, or any aspect thereof, including the fundamental database, to anyone other than Customer's employees  
434 who have a need to know or obtain access to such information in order to support your authorized use of the software and are bound  
435 to protect such information against any other use or disclosure. Customer further agrees to instruct its personnel to keep the Software  
436 confidential by using the same care and discretion that they use with other data designated by Licensee as confidential. Customer  
437 agrees that any disclosure of the Software to a third party constitutes a material breach of this Agreement and shall terminate the  
438 license granted by this Agreement. Customer further agrees that it shall be strictly liable for all damages to Update that result from  
439 any disclosure of the Software to any third party.  
440

441 **N. TERMINATION OF SUBSCRIPTION LICENSE.** The license set forth in this agreement will terminate automatically if Customer  
442 fails to comply with the terms, conditions, or limitations contained in this agreement, including the timely payment of applicable  
443 charges, price, or fees. Upon termination, Customer shall destroy all copies of the Software and documentation. Customer may  
444 terminate this License at any time (with no obligation on the part of Update) by sending a thirty day written notice and destroying all  
445 copies of the Software, deleting the Software from Customer's computer and storage drives, ceasing all use of the Software and  
446 documentation. Upon Termination the Software will no longer function. The duties of Customer, disclaimer of warranty and  
447 limitations on liability contained in this agreement shall continue in force even after Customer's rights to use the Software under the  
448 terms of the License have been terminated by either Update or Customer. Update may terminate the contract by sending a thirty  
449 day written notice.  
450

451 Prior to termination the customer has the ability to export lists of customer information excluding credit card information directly  
452 from within the VinNOW program. As the customer credit cards are only tokenized representations of the credit card numbers in  
453 VinNOW, VinNOW has no access to provide the credit card information upon termination. Customers should contact their credit  
454 card processor for any questions pertaining to obtaining that information.  
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17249 Initials: \_\_\_\_\_



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**Part 8. Miscellaneous Provisions:**

**A. Interpretation & Governing Law.**

This agreement, as well as any further differences, disagreements, and/or disputes between the parties, shall, in all respects, be interpreted, enforced, and governed by and under the laws of the State of California and by a tribunal of competent jurisdiction located within the County of Mendocino, State of California. This agreement shall be construed as a whole in accordance with its fair meaning and not strictly for or against any party hereto regardless of the drafter.

**B. Successors and Assigns.**

The provisions of this agreement shall bind and benefit the respective successors and assigns of the parties hereto.

**C. Entire Agreement.**

This agreement contains the entire agreement and understanding between the parties concerning the subject matter hereof and supersedes and replaces all prior discussions, agreements, proposed agreements, or conditions, whether written or oral. There are no representations, agreements, arrangements, or understandings, oral or written, between or among the parties relating to the subject matter of this agreement that are not fully expressed in this agreement.

**D. Authority to Execute.**

Each person executing this agreement on behalf of a party represents and warrants to the other parties that he/she/it has full and complete authority to bind and commit each such party to this agreement and to the provisions hereof.

**E. Severability.**

If any paragraph, section, sentence, clause or phrase in this agreement shall become illegal, null or void for any reason, or shall be held by a tribunal of competent jurisdiction to be illegal, null or void or against public policy, such portion of the agreement shall be deemed severed herefrom, but the remaining paragraphs, sections, sentences, clauses, phrases or other portions of this agreement shall not be affected thereby, and shall remain in full force and effect.

**F. Waiver.**

No party shall not be deemed to have waived any rights under this agreement unless such waiver is in writing and signed by such party. No delay or omission on the part of such party in exercising any right shall operate as a waiver of such right or any other right.

**G. Amendment.**

The provisions of this agreement may be modified at any time only by written agreement of the parties. Any such agreement made after the date of this agreement shall be ineffective to modify this agreement in any respect unless in writing and signed by the party to be charged.

**H. Captions.**

All paragraph, parts and section captions are for reference only and shall not be considered in construing or interpreting this agreement.

**I. 60 Day Money Back Guarantee.**

For any reason, you may submit a written request to cancel your subscription, within 60 calendar days of the installation date of the VinNOW software onto your computer. Upon cancellation, your refund will be limited to the amount you paid to Update Software for your installation fee and the first two months of your paid subscription. Once cancelled, the VinNOW program will no longer be operable on your computer and you will not be able to access any of the information within VinNOW. Your credit card processor may charge a fee to extract credit card data – VinNOW does not store credit card numbers. **NOTE: To qualify for the Money Back Guarantee the primary VinNOW user must have completed all Training Sessions.**

**The undersigned Customer agrees that this agreement is entered into at Hopland, California. During the installation process by clicking "I accept the terms in the license agreement" Customer is conclusively stipulating that Customer has read and understands the terms of the License.**

Customer: \_\_\_\_\_  
*Company Name*

Name & Title: \_\_\_\_\_  
*Authorized Purchaser Name & Title (Printed)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*Authorized Purchaser*

**Please MAIL entire completed VinNOW Order Form and Monthly Subscription Contract to:**

**Update Software Inc. \*\*\*\* Contract must be received before installation \*\*\*\***  
14620 South Highway 101  
Hopland, CA 95449

Please do not send credit card information in an email.  
Please call our accounting office at Milano Family Winery 707-744-1396.

**Please have your IT (Computer) person read our computer and network requirements located in the Client Center on our website [www.vinnow.com](http://www.vinnow.com)**

End contract: 17249

17249 Initials: \_\_\_\_\_