

**1. BASIS OF CONTRACT**

- 1.1 These Conditions apply to the Contract to the exclusion of any other terms that the Distributor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.2 All Orders shall be either in writing or submitted via our on-line portal and in such form as SBC may from time to time require. The Order constitutes an offer by the Distributor to purchase the Products in accordance with these Conditions. The Distributor is responsible for ensuring that the terms of the Order are complete and accurate.
- 1.3 The Order shall only be deemed to be accepted on SBC issuing a written acceptance of the Order, or in the absence of such acknowledgement, SBC notifying the Distributor that the Products are available for delivery, at which point the Contract shall come into existence.
- 1.4 The Contract constitutes the entire agreement between the parties. The Distributor acknowledges that it has not relied on any statement, promise, representation, assurance, or warranty made or given by or on behalf of SBC which is not set out in the Contract.
- 1.5 A quotation for the Products given by SBC shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.
- 1.6 Any obligation on a party not to do something includes an obligation not to allow that thing to be done

**2. DISTRIBUTOR UNDERTAKINGS**

- 2.1 The Distributor shall not;
  - (a) represent itself as an agent of the SBC for any purpose; or
  - (b) pledge the SBC's credit; or
  - (c) give any condition of warranty on the SBC's behalf; or
  - (d) make any representation on the SBC's behalf; or
  - (e) commit the SBC to any contracts.
- 2.2 The Distributor shall not without the SBC's prior written consent make any promises or guarantees about the Products beyond those contained in any promotional material supplied by SBC.
- 2.3 The Distributor will use all reasonable endeavours to promote the distribution and sale of the Products in the Territory.
- 2.4 Create, stimulate and continuously develop future, sustainable demand for the Products in all types of outlets.
- 2.5 The Distributor shall achieve the yearly Sales Targets
- 2.6 The Distributor will submit written sales and marketing reports to SBC showing details of sales volumes by channel, distribution channel, competition analysis, planned marketing activity, and any other information relating to the performance of its obligations under this Agreement.
- 2.7 Keep all stocks of the Products which it holds in conditions appropriate for their storage.
- 2.8 Maintain a stock holding of at least 3 months stock at any time.
- 2.9 Not make any alterations to the Products all their labelling without prior written consent.
- 2.10 Insure at its own costs with a reputable insurance company all stocks of the Products as are held by it, against all risks which would normally be insured against by a prudent businessman to at least their full replacement value and produce to the SBC on demand full particulars of that insurance and the receipt for the then current premium.

**3. PRODUCTS**

- 3.1 SBC hereby assigns to the Distributor the benefit of any warranties made by the producer of the Products to SBC to the extent that they can be assigned to the Distributor. SBC will co-operate with the Distributor in any reasonable arrangements to provide the Distributor with the benefit of such warranties or like condition including enforcement at the cost of and for the benefit of the Distributor.
- 3.2 SBC warrants that on delivery, and for the lesser duration of the shelf life of the Products or a period of three months from the date of delivery ("**Warranty Period**"), the Products shall:
  - (a) subject to clause 3.3 conform in all material respects with their description contained in SBC's catalogue or price list supplied to the Distributor by SBC and any applicable specification save that SBC reserves the right to amend the specification of any Products if required by any applicable statutory or regulatory requirements;
  - (b) where applicable, be free from material defects in design, material and workmanship; and
  - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 3.3 Any samples, drawings, descriptive matter, or advertising produced by SBC and any descriptions, illustrations or promotional materials provided by SBC are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract or have any contractual force.
- 3.4 Subject to clause 3.5, if:
  - (a) the Distributor gives notice in writing to SBC during the Warranty Period and within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 3.2;
  - (b) SBC is given a reasonable opportunity of examining such Products; and
  - (c) the Distributor (if asked to do so by SBC) returns such Products to SBC's place of business at the Distributor's cost, SBC shall, at its option, repair or replace the defective Products or refund the price of the defective Products in full.

- 3.5 SBC shall not be liable for Products' failure to comply with the warranty set out in clause 3.2 in any of the following events:
- (a) the Distributor makes any further use of such Products after giving notice in accordance with clause 3.4;
  - (b) the defect arises because the Distributor failed to follow SBC's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
  - (c) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - (d) the Products differ from their description or the specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 3.6 Except as provided in this clause 3, SBC shall have no liability to the Distributor in respect of the Products' failure to comply with the warranty set out in clause 3.2.
- 3.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 3.8 These Conditions shall apply to any replacement Products supplied by SBC.
- 3.9 SBC undertakes to use reasonable endeavours to meet all orders for the Products forwarded to it by the Distributor in accordance with SBC's terms of delivery. The Distributor shall buy the products for its own account for the resale under this agreement.
- 3.10 At any time on writing to the Distributor, SBC may vary Schedule 1 as it thinks fit to exclude one or more Products from the agreement if:
- (i) The production of such Products is permanently discontinued for any reason; or
  - (ii) A particular Product is commercially non-viable; or
  - (iii) SBC is of the reasonable opinion that export any such Products to the Territory would be detrimental to its on-going business.
- 3.11 If any Product is withdrawn from Schedule 1 pursuant to clauses 3.10, then any relevant sales targets and marketing plan in place between the parties shall be amended accordingly (if reasonably appropriate) to reflect any such event.
- 3.12 Where SBC introduces any new products into its brand range the Distributor shall be offered the opportunity of adding any such new product to the Products. Where the Distributor declines such offer (and any failure by the Distributor to respond within 30 days of receipt of such offer shall be deemed to be a rejection of such offer) the Supplier shall be entitled to sell such products to any other person of entity for sale in the Territory, notwithstanding anything to the contrary in this agreement.
- 3.13 SBC reserves the right to sell Products direct to customers in the Territory in the event the Distributor has first been requested to supply such products and for any reason the Distributor has been unable or unwilling to do so.

#### **4. COMPLIANCE WITH LAWS AND REGULATIONS**

- 4.1 Distributor shall be responsible for obtaining any licences, registrations, permits or approvals necessary or advisable for the importation, distribution, sale and promotion of the Products in the Territories, or delivery of the Products to Distributor, together with all necessary health and liquor licences, permits and registrations (together the Import Licences). SBC shall provide Distributor with reasonable assistance and support (including in particular technical advice and information) to enable it to comply with its obligations under this Clause.
- 4.2 Distributor shall comply with all laws and regulations applicable to the Products or the exercise of the Rights in the Territories, including as they may change from time to time (Local Regulations), and with any conditions binding on it in any Import Licences.
- 4.3 Distributor warrants to SBC that as at the date of this Agreement it has informed SBC of all Import Licences and Local Regulations and shall give Supplier as much advance notice as reasonably possible of any actual or potential changes to the Import Licences or Local Regulations during the term of this Agreement.
- 4.4 On receipt of notification from Distributor of any change to the Import Licences or Local Regulations, SBC shall use its reasonable endeavours to ensure that the Products comply with that change, by the date of implementation of that change or as soon as is reasonably possible thereafter.
- 4.5 In connection with this Agreement, each Party will comply with all applicable sanctions, import, re-import, export, and re-export control laws, including those administered and enforced by the United States, the United Nations, the European Union, His Majesty's Treasury and/or any other sanctions or export control authority (Sanctions) and neither Party will be required to undertake any activity pursuant to this Agreement that would violate any Sanctions. A Party shall promptly notify the other Party of any non-compliance and/or if the other Party, any of its employees, directors or officers, or any of its affiliated companies is, or becomes, a person with whom transactions are prohibited under any Sanctions. In any event, SBC may, without incurring any liability to Distributor, terminate this Agreement with immediate effect if: (i) any provision of this Agreement at any point violates, or is deemed to violate Sanctions; (ii) Sanctions make the performance of this Agreement commercially unreasonable; (iii) Distributor, or any of its directors, employees, shareholders, affiliated companies or sub-contractors, become subject to Sanctions or breach any Sanctions; or (iv) Distributor fails to notify Supplier in accordance with this Clause.

#### **5. CONTAINERS**

- 5.1 Some Products require the return of Stainless Steel Containers to SBC by the Distributor, and details are set out in SBC's Product list from time to time.

- 5.2 Containers must be returned in the same loading format in which they were delivered.
- (a) Either Palletised or on Layer boards.
  - (b) Containers must be safely stacked in the format as per delivery
  - (c) Containers must be returned to the place of original collection and must not be consolidated with other Containers not belonging to the brand owner.
  - (d) Containers not arriving in a safe format may be rejected or unloaded by a specialist team the cost of which will be borne by the Distributor.
- 5.3 If the Containers are not returned to SBC within six months of the date of delivery of the Products then SBC shall be entitled to invoice the Distributor for the cost of the Containers at a rate of £100GBP per 30Litre Container, and £150 per 50Litre Container as liquidated damages provided that any deposit paid by the Distributor under clause 5.8 in relation to such Containers shall be deducted from the amount invoiced for replacement.
- 5.4 If the Distributor fails to return the pallet or layer board within six months of the date of delivery of the Products, then SBC shall be entitled to invoice the Distributor for the cost of the replacement units at £35 each unit as liquidated damages.
- 5.5 The parties confirm that the liquidated damages set out in clauses 5.3 and 5.4 are reasonable and proportionate to protect the legitimate business interests of SBC, including the cost of replacement calculated by reference to the limited volume of replacement Containers, pallets or layer boards (as the case may be) that SBC would need to procure, and any associated administration and logistics costs. These liquidated damages are not intended to operate as a penalty.
- 5.6 The Distributor acknowledges that the Containers do not form part of the Products and at no point shall ownership of or title to the Containers pass to the Distributor.
- 5.7 The Distributor shall at all times:
- (a) not remove, deface or obscure any identifying mark or packaging on or relating to the Containers;
  - (b) maintain the Containers in satisfactory condition;
  - (c) notify SBC immediately if it becomes subject to any of the events listed in clause 12.2; and
  - (d) give SBC such information relating to the Containers as SBC may require from time to time.
- 5.8 SBC may levy a deposit of £25 in respect of certain Containers as may be notified to the Distributor by SBC from time to time. Such deposit shall be refunded on the return of the relevant Containers in good condition.

## **6. DELIVERY**

- 6.1 SBC shall ensure that:
- (a) each delivery of the Products is accompanied by a delivery note which shows all relevant Distributor and SBC reference numbers, the type and quantity of the Products (including the code number of the Products, where applicable) and, if the Order is being delivered by instalments, the outstanding balance of Products remaining to be delivered; and
  - (b) if SBC requires the Distributor to return any packaging materials or Containers to SBC, the Distributor shall deliver such packaging materials or Containers to the address advised by SBC. Returns of packaging materials and/or Containers shall be at the Distributor's expense.
- 6.2 Unless expressly agreed otherwise in an Order, the Distributor shall collect the Products from the premises notified in the order summary document or such other location as may be advised by SBC prior to delivery ("**Delivery Location**") on the agreed date as set out in the order confirmation.
- 6.3 "**Delivery**" of the Products shall be completed on the completion of loading of the Products at the Delivery Location.
- 6.4 Where SBC has agreed to deliver the Products to the Distributor, delivery shall be completed on the unloading of the Products at the Distributor's premises.
- 6.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence unless expressly agreed in writing by SBC.
- 6.6 If the Distributor fails to take delivery of the Products within three Business Days of SBC notifying the Distributor that the Products are ready, then, except where such failure or delay is caused by an event outside the reasonable control of the Distributor or SBC, then this will be deemed as failure to comply with its obligations under the Contract:
- (a) delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which SBC notified the Distributor that the Products were ready; and
  - (b) SBC shall store the Products until delivery takes place, and charge the Distributor for all related costs and expenses (including insurance).
  - (c) If SBC cannot store the Products, then the products will be destroyed and the Distributor will be liable for all related costs and expenses.
- 6.7 If 10 Business Days after the day on which SBC notified the Distributor that the Products were ready for delivery the Distributor has not taken delivery of them, SBC may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to the Distributor for any excess over the price of the Products or charge the Distributor for any shortfall below the price of the Products.

- 6.8 SBC may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Distributor to cancel any other instalment.

## 7. TITLE AND RISK

- 7.1 The risk in the Products shall pass to the Distributor on completion of **“delivery”** in accordance with incoterms 2020©.
- 7.2 Title to the Products shall not pass to the Distributor until the earlier of:
- (a) SBC receives payment in full (in cash or cleared funds) for the Products; or
  - (b) the Distributor resells the Products, in which case title to the Products shall pass to the Distributor at the time specified in clause 7.4.
- 7.3 Until title to the Products has passed to the Distributor, the Distributor shall:
- (a) store the Products separately from all other goods held by the Distributor so that they remain readily identifiable as SBC's property;
  - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
  - (c) maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - (d) notify SBC immediately if it becomes subject to any of the events listed in clause 12.2; and
  - (e) give SBC such information relating to the Products as SBC may require from time to time.
- 7.4 Subject to clause 7.5, the Distributor may resell or use the Products in the ordinary course of its business (but not otherwise) before SBC receives payment for the Products. However, if the Distributor resells the Products before that time:
- (a) it does so as principal and not as SBC's agent; and
  - (b) title to the Products shall pass from SBC to the Distributor immediately before the time at which resale by the Distributor occurs.
- 7.5 If before title to the Products passes to the Distributor, the Distributor becomes subject to any of the events listed in clause 12.2, then, without limiting any other right or remedy SBC may have:
- (a) the Distributor's right to resell the Products or use them in the ordinary course of its business ceases immediately; and
  - (b) SBC may at any time:
    - (i) require the Distributor to deliver up all Products and Containers in its possession which have not been resold, or irrevocably incorporated into another product; and
    - (ii) if the Distributor fails to do so promptly, enter any premises of the Distributor or of any third party where the Products and/or Containers are stored in order to recover them.

## 8. PRICE AND PAYMENT

- 8.1 The price of the Products shall be the price set out in the Order, or, if no price is quoted, the list price in effect as at the date of delivery.
- 8.2 Unless expressly set out in the Order, the price of the Products is exclusive of costs and charges of packaging, insurance and transport of the Products, which shall be invoiced to the Distributor.
- 8.3 Unless expressly set out in the Order, the price of the Products is exclusive of all applicable duties (including, but not limited to Beer Duty).
- 8.4 The price of the Products is exclusive of amounts in respect of value added tax (**“VAT”**). The Distributor shall, on receipt of a valid VAT invoice from SBC, pay to SBC such additional amounts in respect of VAT as are chargeable on the supply of the Products.
- 8.5 Where the Distributor has been granted a credit account by SBC:
- (a) SBC may invoice the Distributor for the Goods on or at any time after completion of **“Delivery”**;
  - (b) the Distributor shall pay the invoice in full and in cleared funds within its agreed credit terms. Payment shall be made to the bank account nominated in writing by SBC (referencing the relevant invoice number); and
  - (c) SBC may revoke or suspend the Distributor's credit account or alter any credit limit at its sole discretion and need not provide any reason for doing so.
- 8.6 Where the Distributor does not have a credit account with SBC then:
- (a) SBC may invoice the Distributor for the Goods on or at any time after the acceptance of the Order; and
  - (b) the Distributor shall pay the invoice in full and in cleared funds in advance of delivery or collection. Payment shall be made to the bank account nominated in writing by SBC (referencing the relevant invoice number).
- 8.7 Time of payment is of the essence.
- 8.8 Bespoke Productions of any Product must be payable in advance.
- 8.9 The minimum order of any single product will be one pallet, unless it is a bespoke production which will be agreed in writing in advance.



- 8.10 If the Distributor fails to make any payment due to SBC under the Contract by the due date for payment, then the Distributor shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Distributor shall pay the interest together with the overdue amount.
- 8.11 Each party shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law).

## 9. OVERSEAS SALES – TAXES

This clause 9 shall apply to all overseas sales.

- 9.1 The Distributor shall be responsible for the collection, remittance and payment of any or all Taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase, importation, sale, lease or other distribution of the Products.
- 9.2 The Distributor agrees that it will promptly provide SBC with all such information as it may reasonably request to satisfy SBC's reporting requirements in respect of the export of the Products, including but not limited to SBC's HMRC due diligence enquiries. The Distributor warrants and represents that all information supplied to SBC is complete, accurate and not misleading.
- 9.3 Any failure by the Distributor to provide the information required under clause 9 may result in SBC being obliged to supply the Products duty paid, in which case the Distributor shall be responsible for all such duties.
- 9.4 All payments whatsoever under this Agreement shall be made by the Distributor free and clear of, and without liability or withholding or deduction for or on account of, any Tax, unless any withholding or deduction for or on account of Tax is required by applicable law.
- 9.5 If the Distributor is obliged by applicable law to make any such withholding or deduction for any Tax imposed, levied, collected, assessed, deducted or withheld by or within the jurisdiction in which the Distributor is organised or resident for tax purposes or any political subdivision or taxing authority in such jurisdiction or by any jurisdiction in which the Distributor carries on business or by any other country or jurisdiction (or any taxing authority in such jurisdiction) from or through which payments hereunder by the Distributor are actually made or in which the Distributor is considered to be tax resident (each, a "**Taxing Jurisdiction**"), then the Distributor shall promptly:
- pay over to the relevant Taxing Jurisdiction the full amount required to be deducted, withheld or otherwise paid by the Distributor;
  - pay to SBC such additional amount as is necessary in order that the amount received by the Distributor under this Agreement after any required deduction, withholding or other payment of Tax (including, without limitation, any required deduction, withholding or other payment of Tax on or with respect to such additional amount, together with any interest and penalties relating thereto), will equal the amount SBC would have received had no such deduction, withholding or other payment of Tax been required; and
  - at the request of the Distributor and subject to the Distributor providing timely and reasonable written notice that the same are to be completed by SBC, SBC shall complete, in accordance with the reasonable timeframe specified by the Distributor in the written notice, any applicable forms, certificate or other documents and do such other things (including, without limitation, the filing of such forms, certificates or other documents) as are reasonably necessary or beneficial for the Distributor to be able to make payment under this Agreement free from or subject to the lowest possible ratio of Tax.

## 10. TRADE MARKS & MARKETING

- 10.1 Distributor shall ensure that its promotional efforts for the Products within the designated Territories (referred to as "Marketing Activities", including without limitation social media activity), which encompass the utilisation of Trademarks and other associated Intellectual Property Rights related to the Products:
- Comply with the Local Regulations and adhere to any brand guidelines and instructions provided by the SBC or the Brand Owner, which may change over time.
  - Receive prior written approval from SBC or the Brand Owner.
  - The Distributor must ensure that the positioning of the brand for each of the Products and all Marketing Activities duly acknowledges the outstanding international reputation of the Products and their respective trademarks.
  - The Distributor shall promptly furnish reports, along with all relevant documentation that satisfies SBC, to substantiate actual marketing expenditures and activities. This includes but is not limited to receipts, contracts, and related materials.
  - In the event that Distributor fails to meet Sales Targets or Key Performance Indicators (KPIs) or violates its obligations as outlined in this Agreement, the Supplier reserves the right to terminate or suspend its financial contribution to the Marketing Spend, if applicable.

## 11. INTELLECTUAL PROPERTY

- 11.1 Distributor acknowledges the legitimacy of the Intellectual Property Rights and The Brand Owners unequivocal ownership of these rights, with the exclusive authority to take all necessary actions to safeguard them.
- 11.2 The Distributor acknowledges and hereby consents to the following:

- (a) Any positive reputation or benefits resulting from Distributor's utilisation of the Intellectual Property Rights automatically becomes the property of the Brand Owner. The Distributor hereby transfers and assigns such benefits to Brand Owner (or to another member of Brand Owner's group, as designated by Brand Owner) without any cost or obligation.
- (b) Except as specifically outlined in this Agreement, Distributor possesses no rights, claims, or interests related to the Intellectual Property Rights..
- (c) In the event that Distributor becomes aware of an actual, alleged, or impending violation or any other claim pertaining to Intellectual Property Rights within any designated Territory, Distributor shall promptly inform SBC and the Brand Owner in writing, providing comprehensive details of the situation.

## **12. TERMINATION AND SUSPENSION**

- 12.1 If the Distributor becomes subject to any of the events listed in clause 12.2, SBC may terminate the Contract with immediate effect by giving written notice to the Distributor.
- 12.2 For the purposes of clause 12.1, the relevant events are:
- (a) The Distributor fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or
  - (b) the Distributor suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
  - (c) the Distributor commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where the Distributor is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Distributor with one or more other companies or the solvent reconstruction of the Distributor];
  - (d) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Distributor, other than for the sole purpose of a scheme for a solvent amalgamation of the Distributor with one or more other companies or the solvent reconstruction of the Distributor;
  - (e) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Distributor;
  - (f) (being a company) the holder of a qualifying floating charge over the Distributor's assets has become entitled to appoint or has appointed an administrative receiver;
  - (g) a person becomes entitled to appoint a receiver over the Distributor's assets or a receiver is appointed over the Distributor's assets;
  - (h) (being an individual) the Distributor is the subject of a bankruptcy petition or order;
  - (i) a creditor or encumbrancer of the Distributor attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
  - (j) any event occurs, or proceeding is taken, with respect to the Distributor in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2(a) to clause 12.2(i) (inclusive);
  - (k) the Distributor suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - (l) the Distributor's financial position deteriorates to such an extent that in SBC's opinion the Distributor's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
  - (m) (being an individual) the Distributor dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
  - (n) the Distributor party commits a material breach of any material terms of this Agreement (other than failure to pay any amounts due under this Agreement) and (if such breach is remediable) fails to remedy that breach within a period of 14 days of being notified in writing to do so.
- 12.3 Without limiting its other rights or remedies, SBC may suspend provision of the Products under the Contract or any other contract between the Distributor and SBC if the Distributor becomes subject to any of the events listed in clause 12.2, or SBC reasonably believes that the Distributor is about to become subject to any of them, or if the Distributor fails to pay any amount due under this Contract on the due date for payment.
- 12.4 On termination of the Contract for any reason the Distributor shall immediately pay to SBC all of SBC's outstanding unpaid invoices and interest.
- 12.5 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 12.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## **13. LIMITATION OF LIABILITY**

- 13.1 Nothing in these Conditions shall limit or exclude SBC's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987 or the Consumer Rights Act 2015; or
- (e) any matter in respect of which it would be unlawful for SBC to exclude or restrict liability.

13.2 Subject to clause 13.1:

- (a) SBC shall under no circumstances whatever be liable to the Distributor, 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 the Contract; and
- (b) SBC's total liability to the Distributor in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 120% of the price of the Products.

#### **14. FORCE MAJEURE**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by an event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable.

#### **15. ANTI-BRIBERY COMPLIANCE**

15.1 The Distributor Shall:

- (a) comply with all applicable laws, statues, regulations relating to anti-bribery and 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 of the Bribery Act 2010 if such activity practice or conduct has been carried out in the UK;
- (c) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate;
- (d) promptly report to the Supplier any request or demand for any undue financial or other advantage of any kind received by the Distributor in connection with the performance of this Agreement.

15.2 Breach of this clause 16 by the Distributor may be deemed a material breach of this agreement, at SBC's discretion.

#### **16. MODERN SLAVERY**

16.1 The Distributor warrants that:

- (a) neither the Distributor nor any of its officers, employees, agents or subcontractors has:
  - (i) committed an offence under the Modern Slavery Act 2015 (a "MSA Offence");
  - (ii) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
  - (iii) is aware, having made reasonable investigations, of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
  - (iv) it shall comply with the Modern Slavery Act 2015;
  - (v) it shall notify SBC immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents, subcontractors or members of its supply chain have breached or potentially breached any of the Distributor's obligations under this clause 16.

16.2 SBC (or a third party acting on its behalf) shall have the right from time to time at its own cost to conduct an audit of the Distributor's operations, facilities and working conditions and its ethical procedures to ensure that the Distributor has the appropriate facilities, procedures, systems and personnel appropriate to and as may be required by the Distributor to perform the services in accordance with the Modern Slavery Act 2015 and for that purpose shall be entitled to have access to the Distributor's premises and to any premises of the Distributor's subcontractors or agents where services are being performed during normal working hours on giving reasonable notice to the Distributor.

16.3 Breach of this clause 17 by the Distributor may be deemed a material breach of this agreement, at SBC's discretion.

#### **17. CONFIDENTIALITY**

17.1 For the purposes of this clause, the following phrase shall have the following meaning:

- (a) "Confidential Information" means all information relating to business or financial or other affairs (including future sales and targets) which is marked "confidential", or is or could be, commercially sensitive and is not publicly known.

17.2 Each party undertakes that it shall not at any time during this Agreement, and for a period of three years after termination of this Agreement, disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party or its Group, nor any terms of this Agreement, except as permitted by clause 17.3.

17.3 Each party may disclose the other party's Confidential Information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall procure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with this clause 17; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 17.4 No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this Agreement.
- 17.5 All documents and other records (in whatever form) containing Confidential Information supplied to or acquired by one party from the other party shall be returned or destroyed promptly on termination of this Agreement, and no copies shall be kept, whether digitally or otherwise. If reasonably requested by the disclosing party, compliance with this clause shall also be confirmed in writing.

**18. EQUIPEMENT LOAN AND MAINTENANCE - FONTS AND DISPENSE EQUIPMENT**

- 18.1 Loan Basis:
- (a) The Dispense Equipment provided SBC to the distributor, under the terms of this contract, is on a loan basis only.
  - (b) The distributor acknowledges that ownership of the Dispense Equipment remains with SBC, and this equipment is provided solely for the purpose of facilitating the distribution of SBC's products.
- 18.2 Return of Equipment:
- (a) Upon termination of this contract, for any reason whatsoever, the distributor agrees to promptly return all Dispense Equipment to SBC in the same condition as received, normal wear and tear excepted.
  - (b) The distributor shall bear all costs associated with the safe and timely return of the Dispense Equipment to SBC.
- 18.3 Maintenance Obligations:
- (a) The distributor is obliged to maintain the Dispense Equipment in excellent working condition throughout the term of this contract
  - (b) The distributor shall bear all costs associated with routine maintenance, repairs, and replacements necessary to keep the Dispense Equipment in good working order
- 18.4 Inspections and Confirmation of Location:
- (a) At any time during the term of this contract, SBC reserves the right to inspect the Dispense Equipment to ensure proper maintenance and compliance with the terms herein
  - (b) The distributor shall promptly provide SBC with the location of the Dispense Equipment upon request and allow authorized representatives of SBC reasonable access for inspection purposes.
- 18.5 Liability for Loss or Damage:
- (a) The distributor is fully responsible for any loss, theft, or damage to the Dispense Equipment while in their possession.
  - (b) In the event of loss, theft, or damage, the distributor shall immediately notify SBC and take appropriate measures to rectify the situation
- 18.6 Indemnification:
- (a) The distributor agrees to indemnify and hold SBC harmless from any claims, damages, or liabilities arising out of the use, maintenance, or possession of the Dispense Equipment.

**19. GENERAL**

- 19.1 **Assignment and other dealings.**
- (a) SBC may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
  - (b) The Distributor may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of SBC.
- 19.2 **Notices.**
- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
  - (b) A notice or other communication shall be deemed to have been received: if delivered personally; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
  - (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 19.3 **Severance.**
- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible,

the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

- (b) If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

- 19.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 19.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 19.6 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by SBC.
- 19.7 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 19.8 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

**20. INTERPRETATION**

20.1 **Definitions.** In these Conditions, the following definitions apply:

|                              |  |
|------------------------------|--|
| <b>“Business Day”</b>        | a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.  |
| <b>“SBC”</b>                 | Sovereign Beverage Company Limited (registered in England and Wales with company number 05207790) whose registered office address is The Innovation Centre, Haslingden Road, Blackburn, Lancashire BB1 2FD. SBC’s VAT registration number is GB 900 5864 39.   |
| <b>“Conditions”</b>          | the terms and conditions set out in this document as amended from time to time in accordance with clause 19.6  |
| <b>“Containers”</b>          | includes all packaging of any nature, including but not limited to kegs, bottles, casks, crates, pallets and cases.  |
| <b>“Contract”</b>            | the contract between SBC and the Distributor for the sale and purchase of the Products in accordance with these Conditions.  |
| <b>“Distributor”</b>         | the person or firm who purchases the Products from SBC.  |
| <b>“Order”</b>               | the Distributor's order for the Products, as set out in the Distributor's purchase order form, the Distributor's written acceptance of SBC's quotation, or otherwise.  |
| <b>“Products”</b>            | the Products (or any part of them) set out in the Order.   |
| <b>“Tax”</b>                 | any present or future taxes, levies, imposts, duties, fees, charges, deductions or withholdings (including, without limitation, any interest, additions to tax or penalties applicable thereto) of any nature imposed by or for any government or other authority having power to tax  |
| <b>“Taxing Jurisdiction”</b> | has the meaning given to it in clause 9  |
| <b>“Trade Marks”</b>         | any trade marks (whether registered or unregistered) owned by SBC or its licensors, that SBC may from time to time permit the Distributor to use in respect of the Products.   |
| <b>“Delivery”</b>            | The term delivery is used in accordance with the definitions outlined by Incoterms 2020©   |
| <b>“Brand Owner”</b>         | Generally the Manufacturer of the Goods, is an individual, organisation, or entity that holds legal ownership and control over a specific brand or trademark. The Brand Owner may develop and enforce brand guidelines, engage in marketing and promotional activities, and make strategic decisions regarding the brand's positioning, products, and services. Brand owners also have the authority to take legal action to protect their brand against infringement or unauthorised use by others. |

20.2 **Construction.** In these Conditions, the following rules apply:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
  - (e) A reference to **writing** or **written** includes e-mails.