

Terms and Conditions of Irish Distillers Limited (IDL) For Sales of Goods in The European Union (EU)

VERSION 2 (18 May 2021)

1. GENERAL

- 1.1 These terms and conditions (**Terms and Conditions**) shall apply to sales by IDL to the buyer of any goods (Buyer) which are to be supplied to destinations within the Republic of Ireland and other destinations within the EU. No variation or purported variation (including in particular any terms and conditions on any contract or order form of the Buyer), whether before or after the making of the contract, shall have effect unless expressly agreed to in writing by IDL.
- 1.2 There shall be no contract between IDL, and the Buyer until the Buyer's order is accepted by IDL.
- 1.3 These Terms and Conditions contain all the terms agreed between the parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between them whether oral or in writing. No party has relied on any representation, arrangement, understanding or agreement (whether oral or written) not expressly set out or referred to in these Terms and Conditions.
- 1.4 A person will be regarded as a Buyer for the purpose of these Terms and Conditions only if such person has completed IDL's New Account Registration Form (**NARF**) to the satisfaction of IDL and that person's order is accepted by or on behalf of IDL.
- 1.5 These Terms and Conditions and any contract governed hereby shall apply to and bind the successors and permitted assigns of IDL and the successors and permitted assigns or the administrators or executor of the Buyer (pursuant to clause 12) as the case may be.
- 1.6 The Contractual Rights which the Buyer enjoys by virtue of Sections 12, 13, 14 and 15 of the Sale of Goods Act, 1893 (as amended) are in no way prejudiced by anything contained in these Terms and Conditions (save that such provisions are fully excluded if the buyer is not dealing as consumer or in the case of an international sale of goods) to the extent permitted by law. All other terms whether implied by statute, common law or otherwise are fully excluded to the extent permitted by law.
- 1.7 Each order for goods placed by the Buyer hereunder will constitute a separate contract, and any default by IDL in relation to any order will not entitle the Buyer to treat any other contract subject to the Terms and Conditions as terminated.
- 1.8 The Buyer indemnifies IDL and shall keep IDL indemnified against any costs, expenses, amounts, damages or liabilities suffered by IDL as a result of the application of any foreign laws whatsoever to the goods supplied after their delivery in accordance with clause 3 including, but not limited to, any taxes, duties or charges which may be imposed in any jurisdiction.
- 1.9 Words and expressions defined in the Sale of Goods Act, 1893 (as amended) and Sale of Goods and Supply of Services Act 1980 (as amended) shall, when used in these Terms and Conditions, save where the context otherwise requires, bear the same meanings as therein.

2. TRANSFER OF OWNERSHIP

- 2.1 The property in any goods supplied by IDL to the Buyer shall remain in IDL until IDL has received payment in full for all sums due and owing on any account by the Buyer.
- 2.2 If the Buyer sells or otherwise disposes of the goods supplied before payment in full as aforesaid has been made to IDL, the Buyer shall in such case hold all monies received from such sale or disposal on trust for IDL, which monies shall belong to IDL absolutely, and shall on request furnish IDL with the names and addresses of the persons to whom such disposals have been made together with all necessary particulars to enable IDL to recover any outstanding sums due from such persons.
- 2.3 So long as the property in the goods supplied shall remain in IDL, the Buyer shall hold the goods as bailee for IDL and shall store the goods supplied so as to clearly show them to be the property of IDL, and IDL shall have the right, without prejudice to the rights of the Buyer to sell or otherwise dispose of the goods supplied, to retake possession of the goods supplied (and for that purpose the Buyer grants to IDL, its agents or representatives a licence to enter upon any premises owned, occupied or controlled by the Buyer and the Buyer indemnifies IDL and shall keep IDL indemnified fully against all claims, costs, expenses, damages or amounts suffered by IDL for breach of any rights of third parties in so doing).
- 2.4 Nothing in this clause shall confer any right upon the Buyer to return the goods supplied to IDL other than under Clause 6. IDL may maintain an action for the

price of the goods supplied together with VAT and any other applicable taxes and duties and any costs referred to in clauses 5.1 and 5.2 notwithstanding that property in the goods supplied shall not have vested in the Buyer.

3. DELIVERY

- 3.1 Subject to these Terms and Conditions, delivery shall be in accordance with one of the following terms as agreed between the parties and as defined in the Incoterms 2020 (as may be amended or replaced from time to time) unless otherwise agreed in writing by IDL:
 - Cost Insurance and Freight (CIF) for goods delivered by or on behalf of IDL to Buyers (not covered by 3.1 below) in the Republic of Ireland, subject to the payment of excise duty, VAT and any other applicable taxes or duties by IDL;
 - Cost Insurance and Freight (CIF) for goods delivered by or on behalf of IDL to Buyers who have a Revenue approved bond in the Republic of Ireland, subject to the payment of excise duty, VAT and any other applicable taxes or duties by the Buyer;
 - Ex Works (EXW) for goods collected from IDL's premises or premises of third parties acting on behalf of or under an agreement with IDL by Buyers who have a Revenue approved bond in the Republic of Ireland, subject to the payment of excise duty, VAT and any other applicable taxes or duties by the Buyer;
 - Delivered Duty Unpaid (DDU) for goods delivered by or on behalf of IDL to Buyers outside of the Republic of Ireland in the EU, subject to the payment of all foreign and domestic excise duty, import and export duties, charges and taxes, VAT and any other applicable taxes or duties by the Buyer;
 - Cost and Freight (CFR) for goods delivered to Buyers outside of the Republic of Ireland in the EU, subject to the payment of all foreign and domestic excise duty, import and export duties, charges and taxes, VAT and any other applicable taxes or duties by the Buyer.
- 3.2 Any times quoted for delivery are estimates only and IDL shall not be liable for failure to deliver within the time frame quoted.
- 3.3 The Buyer shall be deemed to have accepted the goods delivered by the signing of the delivery docket, bill of lading or other equivalent document and such delivery docket, bill of lading or equivalent document duly signed by or on behalf of the Buyer and this shall be conclusive as to the type and quantity of goods delivered. Signature for this purpose means any form of signature by or on behalf of the Buyer, including but not limited to electronic signature.
- 3.4 IDL shall be entitled to make partial deliveries or deliveries by instalments and the Terms and Conditions shall apply to each such partial delivery or delivery by instalment.

4. RISK OR LOSS OF DAMAGE

- 4.1 Notwithstanding that the property in the goods may not have passed to the Buyer, the Buyer shall carry all risk of loss of and damage to the goods from the time any of the following occurs:
 - the goods are collected by the Buyer; or
 - the goods are delivered to a carrier for subsequent delivery to the Buyer; or
 - delivery of the goods to the stipulated place of delivery. Section 32(2) and (3) of the Sale of Goods Act, 1893 shall not apply.
- 4.2 From when the risk of loss of and damage to the goods supplied commences to be carried by the Buyer until IDL is paid in full for the goods supplied, the Buyer shall:
 - indemnify and keep indemnified IDL against all loss of and damage to the goods supplied and against any reduction in the re-sale value thereof below the price to be paid therefor by the Buyer.
 - insure and keep insured the goods in an amount which is at least equal to the price of the goods supplied together with VAT and any applicable taxes or duties to be paid by the Buyer and any other costs to be paid by the Buyer in accordance with these Terms and Conditions; and
 - hold upon trust for IDL absolutely all proceeds of such insurance.

5. PRICES AND TERMS OF PAYMENT

- 5.1 Unless otherwise agreed in writing, all prices shall be as specified in IDL's relevant price list as published from time to time and will be exclusive of VAT and any other applicable taxes or duties and the cost of any import or other licences or clearances. If the Buyer is required by the laws of any jurisdiction to withhold or deduct any amounts the Buyer shall pay to IDL such additional amounts as shall result in the receipt by IDL of the full amount stated in the

invoice. The Buyer indemnifies IDL and shall keep IDL indemnified against all costs, expenses, damages, liabilities or amounts to be paid by the Buyer pursuant to clause 3.

- 5.2 IDL reserves the right at any time prior to delivery of the goods to adjust the price to take account of any increase in the costs to it of materials, labour services, and any applicable taxes or duties or of any currency differences or fluctuations which increase the costs to it of goods supplied to the Buyer under these Terms and Conditions.
- 5.3 Payment by the Buyer to the Company for the goods supplied shall be made at IDL's bank or at such other institution as may be designated by IDL. Such payment shall be made in such currency as is directed by IDL either by direct debit, cheque, bankers draft, cash, or foreign bank notes at a value on the date of presentation to the bank or institution or electronic bank transfer. If the Buyer attempts to make a payment and, for whatever reason, payment is refused or held to be unacceptable by the bank or other institution, the Buyer shall:
- be liable to pay any resulting bank or other charges incurred by IDL; and
 - not be regarded as having made payment, and the provisions of clause 5.8 shall apply if full payment is not made by the due date.
- 5.4 Credit terms are available to the Buyer at the discretion of IDL in accordance with the current price list.
- 5.5 A discount for early settlement at the current rate from time to time may at the discretion of IDL be given to the Buyer provided payment is made before the due date.
- 5.6 Quantity discounts may at the discretion of IDL be given to the Buyer at the current rate from time to time provided payment is made by the due date. IDL shall review on an annual basis the provision of any such discount.
- 5.7 IDL reserves the right to operate deliveries with a minimum quantity requirement.
- 5.8 IDL currently operates a direct debit payment system. Discounts may at the discretion of IDL be given to the Buyer at the current rate from time to time provided the direct debit remains valid and is not revoked by the Buyer. If IDL ceases to operate a direct debit payment system and designates that payments be made in a different manner pursuant to clause 5.3, the Buyer shall no longer be entitled to the discounts it enjoyed while the direct debit payment system was in operation.
- 5.9 In the event that full payment for goods supplied is not made by the Buyer by the due date, IDL shall be entitled to disallow any allowance, discount or rebate given in respect of the goods and to charge the Buyer interest on such late payment in accordance with the European Communities (Late Payment in Commercial Transactions) Regulations 2012. The Buyer shall be obliged to pay the full amount due to IDL in respect of the goods supplied excluding the amount of any allowance, discount or rebate on such goods, together with interest in accordance with the European Communities (Late Payment in Commercial Transactions) Regulations 2012.
- 5.10 Nothing in this clause shall be taken as limiting IDL's rights under clause 7.

6. LIABILITY AND REMEDIES FOR DEFECTS

- 6.1 Save where otherwise provided for in these Terms and Conditions, all warranties including collateral warranties, conditions and representations, express or implied, statutory or otherwise, including those relating to the quality or fitness for any particular purpose of the goods supplied are hereby excluded to the extent permitted by law and IDL shall not be liable in contract, tort or otherwise for any loss, damage, expense or injury of any kind whatsoever, consequential or otherwise including but not limited to loss of profit or interest charges or loss of reputation, arising out of or in connection with the goods supplied or sold or any defect in them or from any other cause whether or not any such matter amounts to a fundamental breach of a fundamental term of the contract.
- 6.2 If the provisions of clause 6.1 above are found in any particular case not to be applicable and by reason of any defect in the goods supplied there shall be a breach of any implied condition or warranty, IDL may, at its option, either repair or replace the goods supplied or issue credit to the Buyer, provided that:
- IDL is notified in writing within 7 days of the discovery of any such defects by the Buyer and in any event not later than 10 days after delivery.
 - the relevant goods supplied are returned to IDL,
- (i) at the cost of the Buyer where IDL does not accept liability; or
- (ii) at the cost of IDL where IDL does accept liability,
- for the defect in the goods supplied under this clause 6.2.

- an examination of such goods supplied by IDL discloses to its satisfaction that the defect or failure to conform to specifications existed at the time of delivery of the goods or that a breach of an implied condition or warranty has occurred as aforesaid, and in particular that the goods have not been affected by misuse, neglect, accident, improper storage, installation or handling or by repair or alteration not effected by IDL; and
- the Buyer shall pay to IDL the cost (as stated by IDL) of any examination of the goods supplied as a result of which IDL does not accept liability for the defect in the goods supplied.

- 6.3 All implied conditions and warranties other than those arising under Section 12 of the Sale of Goods Act, 1893 (as amended) are hereby excluded in relation to any parts, components and accessories supplied by, but not manufactured by, IDL, but IDL will so far as possible pass to the Buyer the benefit of any guarantee, condition or warranty given to IDL by the manufacturer.
- 6.4 IDL's liability for any claim, whether in contract, tort (including negligence) or otherwise, for any loss or damage arising out of or in connection with or resulting from the sale, delivery or use of the goods shall in no case exceed the price paid by the Buyer to IDL for the goods which give rise to the claim, plus expenses of customs, taxes, freight and insurance incurred by the Buyer in connection with the purchase of the goods supplied. In no event shall IDL be liable for any loss of profits, or other special or consequential damages suffered by the Buyer, including interest charges, arising out of or in connection with or resulting from the sale, delivery or use of the goods supplied. Nothing contained in this clause shall by implication create any liability or obligation on the part of IDL or affect or diminish any disclaimer of liability elsewhere contained in these Terms and Conditions.
- 6.5 If the exclusions contained in these Terms and Conditions are held for any reason not to be applicable and IDL is found liable in any way in respect of goods supplied by IDL to the Buyer, IDL's liability under these Terms and Conditions shall be limited to a period of one year from the date of delivery of the goods by IDL in accordance with these Terms and Conditions.
- 6.6 The Buyer shall not reject any goods or cancel or purport to cancel the contract or any part of it because of an alleged default unless and until IDL has failed to correct such alleged default within thirty days of written notice specifying the default.
- 6.7 Nothing in this clause 6 will be taken as in any way limiting or excluding any liability which IDL may have to the buyer under Section 2 of the Liability for Defective Products Act, 1991.

7. DEFAULT BY BUYER

- 7.1 If the Buyer:
- fails to comply with any term (including stipulations as to payment) of these Terms and Conditions.
 - commits an act of bankruptcy, makes an arrangement or composition with creditors or suffers any distress or execution; or
 - resolves or is ordered to be wound up or has a receiver, examiner, liquidator or similar or analogous person appointed,

then the Buyer shall immediately inform IDL of such event and in any such event IDL shall have the right (without prejudice to any other remedies) to cancel any uncompleted order and withhold or suspend delivery of further goods, and to demand payment forthwith of all sums due by the Buyer to IDL and/or the return of any goods supplied for which payment has not yet been received.

- 7.2 In the event that IDL exercises any rights it may have to stop goods in transit because of the Buyer's financial condition as referred to in this Clause 7, IDL may at its option resell such goods by a public or private sale without notice to the Buyer and without affecting IDL's rights to hold the Buyer liable for any loss or damage caused by a breach of contract by the Buyer.

8. INTELLECTUAL PROPERTY AND INFRINGEMENT

- 8.1 The Buyer acknowledges and agrees that any and all intellectual property (meaning trademarks, trade names, brand names, trade dress, patents, copyrights, logos, slogans, designs, trade secrets, know-know and confidential information, irrespective of whether such rights are registered or not, for the duration of their protection) in and relating to the goods, and/or IDL's business (hereinafter the "Intellectual Property") belongs solely to IDL and/or its licensors as applicable and shall remain entirely in the ownership or control of IDL. Nothing said or done by either party shall be construed as giving the Buyer any license, right, title, or interest in or to any of such Intellectual Property.
- 8.2 The Buyer acknowledges and accepts that the Intellectual Property and related goodwill are of substantial value to IDL and agrees not to undertake any action that results or may result in a reduction of such value or in an invalidation of the Intellectual property or of a part thereof, or that adversely

affects or may affect IDL's rights or abilities to sell, distribute, or promote the goods and utilize the Intellectual Property worldwide.

- 8.3** The Buyer shall not use any of the Intellectual Property in or as part of its company, corporate, or trade name without the prior written consent of IDL, nor shall it apply to register any trademark, design, domain name or social media account which includes or is part of the Intellectual Property.
- 8.4** The Buyer shall not alter, in any manner whatsoever, the labels, bottle dress (trade dress), shipping cases, POS or boxes used in association with the goods and shall not remove, dilute, modify, ad-mix or otherwise tamper with the contents of goods bottles or other containers prior to sale and shall not refill or re-use such bottles for any purpose.
- 8.5** The Buyer shall immediately notify IDL, in writing, of any apparently illegal, deceptive, unfair or fraudulent use or infringement of the Intellectual Property by a third party of which it is aware.
- 8.6** The Buyer will indemnify IDL against all damages, penalties, costs and expenses to which IDL may become liable as a result of work done or the supply of goods in accordance with the Buyer's specifications which involves the infringement of any letters patent, registered design, copyright, trademark or trade name or other rights of confidentiality of information or industrial, commercial or intellectual property.

9. CONFIDENTIALITY

- 9.1** The Buyer shall keep in strict confidence and not disclose to any third parties any and all technical or commercial know-how, pricing information, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by IDL, its employees, agents or subcontractors, together with any other confidential information concerning IDL's business, its products, customers and services which the Buyer may obtain.

10. DATA PRIVACY

- 10.1** Both the Buyer and IDL will comply with all applicable requirements of the Data Protection Legislation in connection with these Terms and Conditions. For the purposes of this clause 10, Data Protection Legislation means the Irish Data Protection Act 2018 (as amended, replaced or superseded), the EU General Data Protection Regulation (EU) 2016/679 (the "GDPR"); and all other applicable data protection and data privacy laws and regulations including the EU Privacy & Electronic Communications Directive 2002/58/EC (to include any relevant amendments, transpositions, successors or replacements to those laws), European Commission decisions and binding EU and national guidance.

11. ANTI BRIBERY

- 11.1** The Parties state and agree that they and their affiliates have not, and will not, during the term of the applicable contract violate any applicable Anti-Bribery Laws (meaning any law, regulation or administrative requirement relating to, anti-corruption, anti-bribery, conflicts of interest), any applicable Trade Sanctions, including but not limited to the Criminal Justice (Corruption Offences) Act 2018, the French Sapin 2 law, as well US regulations (Foreign Corrupt Practices Act) and UK regulations (UK Bribery Act) with extraterritorial reach, insofar as they are applicable) and the applicable Anti-Money Laundering Laws (meaning the anti-money laundering laws of all applicable jurisdictions, the rules and regulations thereunder).
- 11.2** In particular, each Party warrants and undertakes to the other that it shall not, directly or indirectly, offer, promise, give, ask for, authorize or agree to receive or accept anything of value (including any form of bribe, rebate, pay-off, influence payment, kickback or facilitation payments), to and from any person, private or public, to (i) obtain or retain a contract, agreement or commitment or an undue advantage in business and/or (ii) influence a public officer in the performance of his public duty, in each case, in violation of any Anti-Bribery or Anti-Money Laundering Laws.
- 11.3** The Parties shall cause their directors, officers, employees, subcontractors, and agents (the "Representatives"), their affiliates (current or future) and their affiliates' Representatives, to comply at all times with the obligations under this article 11.
- 11.4** Each Party shall make its own and its affiliates' books, and accounting records relating to the provision(s) of services or goods under these Terms and Conditions available to the other Party for inspection and / or auditing from time to time at the other's Party request.
- 11.5** Should either of the Parties determine in good faith or have good reasons to suspect that the other Party, its affiliates, group companies, sub-contractors, agents, or representatives are engaging, or have engaged in a conduct that violates the applicable Anti-Bribery and Anti-Money Laundering Laws and regulation, or may place either Party at risk of liability under the same, including the breach of any representation herein, each Party shall have the

right, to unilaterally to immediately suspend or terminate the applicable contract without any compensation.

12. CHANGE IN CONTROL OR LEGAL PERSONALITY

- 12.1** If there is a change in control of the Buyer or if there is a change in the legal personality, status or identity of the Buyer, the Buyer shall forthwith inform IDL. If the Buyer is an individual and seeks to commence trading through a company or other legal person, such company or other legal person shall not constitute the Buyer for the purpose of these Terms and Conditions until it has completed a NARF to the satisfaction of IDL, and the Buyer shall notify IDL of such intention in writing as soon as possible and in any event prior to the commencement of trading by the company or other legal person.

13. ASSIGNMENT

- 13.1** The Buyer shall not assign or transfer to any other person any contract which is subject to these Terms and Conditions or the benefit of any condition, warranty or guarantee or other term or condition (express or implied) forming any part of these Terms and Conditions without the prior written consent of IDL. IDL may assign or transfer to any other person any contract or the benefit of any condition, warranty or guarantee or other term or condition (express or implied) forming any part of these Terms and Conditions without the consent of the Buyer.

14. FORCE MAJEURE

- 14.1** IDL shall not be under any liability of whatever kind for non-performance in whole or in part of its obligations under these Terms and Conditions due directly or indirectly by reason of any causes beyond the control of IDL or beyond the control of IDL's suppliers including, but not limited to, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, terrorist attack, epidemic or pandemic, acts of the Buyer or a third party, acts of any Government or agency or subdivision thereof, Government regulations, judicial actions, strike, lockout, harbour disturbance, labour dispute, government action, embargoes, armed conflict, accident, fire, explosion, flood, tempest, illness, unavailability, breakdown or delay in transportation, delay in delivery to IDL or IDL's suppliers or shortage of labour, fuel, raw materials or machinery or technical failure or act of God or any other matter whatsoever beyond the control of IDL. In any such event, IDL may, without liability, cancel or vary the terms of contract including, but not limited to, extending the time for performing the contract for a period at least equal to the time lost by reason of such causes.

15. RESPONSIBLE DRINKING

- 15.1** IDL is committed to promoting a culture of responsible drinking for those adults who choose to drink alcohol. Responsible drinking forms an essential part of IDL's Sustainability & Responsibility strategy.
- 15.2** IDL aims to market our products responsibly and fully supports the range of codes governing the marketing, sales, advertising, and sponsorship of alcohol products. IDL is committed to fighting alcohol misuse in society by taking action on harmful drinking and engaging with its stakeholders for real change.
- 15.3** We would encourage all IDL customers to promote the following:
- consumption of alcohol should only be part of a balanced lifestyle.
 - do not break any alcohol-related legislation and adhere to the legal drinking age.
 - not to encourage or condone excessive or irresponsible consumption; and
 - Ensure your performance and judgement at work are not impaired by the consumption of alcohol.
- 15.4** IDL, as part of the Pernod Ricard Group, is a member of the International Alliance for Responsible Drinking (IARD), Pernod Ricard and other key players of the industry have committed to accelerate efforts towards eliminating underage drinking. IDL is committed to working with retailers (both on-line and off-line) and delivery companies to develop global standards to prevent the sale and delivery of alcohol to underage individuals. IDL will also introduce a clear age-restriction symbol or equivalent language on all of our alcohol brand products, including alcohol-free extensions. We will also continue our work with leading digital platforms to implement rigorous online safeguards to prevent minors from seeing or interacting with our brands online

16. HEADINGS

- 16.1** The headings of these Terms and Conditions are for convenience only and shall have no effect on the interpretation thereof.

17. SEVERABILITY

- 17.1** All the terms and provisions of these Terms and Conditions are distinct and severable, and if any term or provision is held unenforceable, illegal or void in whole or in part by any court, regulatory authority or other competent authority it shall to that extent be deemed not to form part of these Terms and Conditions, and the enforceability, legality and validity of the remainder of these Terms and Conditions will not be affected; provided that, in any case where as a result of the operation of this clause the rights or obligations of a

party are materially altered to the detriment of that party, that party may terminate this Agreement within 30 days from the date of the relevant decision of the relevant court, regulatory authority or other competent authority.

18. GOVERNING LAW

18.1 These Terms and Conditions and the applicable contracts which are subject to these Terms and Conditions shall be governed and construed in all respects in accordance with the laws of the Republic of Ireland and the Irish courts shall have exclusive jurisdiction to hear and determine any dispute arising out of or in connection with these Terms and Conditions or the applicable contracts which are subject to these Terms and Conditions and the Buyer irrevocably waives and irrevocably agrees to waive any objection which it may have now or subsequently to the laying of the venue of any proceedings in the Irish courts and any claim that any such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any proceedings brought in the Irish courts will be conclusive and binding upon the Buyer and may be enforced in the courts of any jurisdiction.

