

HALEWOOD INTERNATIONAL LIMITED

CONDITIONS OF SALE OF GOODS

In these Conditions of Sale, the following words shall have the following meanings:

"Buyer" means the company, firm, body or person with whom the Seller makes the Contract.

"Delivery" means the delivery of the Goods by the Seller and on behalf of the Seller, direct delivery by a supplier of the Seller or other third party or otherwise.

"Goods" means the drink products, and where applicable any dry goods, which are the subject matter of the contract.

"Order" means the purchase order in respect of the Goods whether it be telephone order or otherwise together with all documents referred to therein issued by the Buyer to the Seller which may be on the Buyer's official purchase order form.

"Seller" means Halewood International Limited (trading as HIL) whose registered office is at The Sovereign Distillery, Wilson Road, Huyton Business Park, Liverpool L36 6AD and any subsidiary of the Seller by which the Goods are sold.

1. GENERAL

1.1 The Seller's quotations are not binding on the Seller and a contract ("**Contract**") will only come into being upon acceptance by the Seller of the Order or (if earlier) the Company delivering the Goods to the Buyer and the following conditions shall be deemed to be incorporated in the Contract.

1.2 All Orders shall be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions of Sale and acceptance by the Seller of the Order shall be deemed conclusive evidence of the Buyers acceptance of these Conditions of Sale.

1.3 The Contract will be subject to these Conditions of Sale. All terms and conditions appearing or referred to in the Order or otherwise stipulated by the Buyer shall have no effect. No terms or conditions submitted by the Buyer to the Seller, irrespective of their date, shall prevail over these Conditions of Sale. Any variation of the Contract must be confirmed in writing by an authorised officer of the Seller.

1.4 Tenders submitted by the Seller shall remain open for acceptance for a period of 30 days from the date of the tender, unless in the tender some other period is specified or accepted or the tender is withdrawn by the Seller.

1.5 No agent or salesman of the Seller has authority to give any guarantee or warranty on behalf of the Seller or to transact business other than on the terms of these conditions.

1.6 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of the Order and for providing to the Seller any necessary information concerning the Goods within a sufficient time to enable the Seller to perform the contract. All offers are subject to market fluctuations and availability of stock.

1.7 Where Goods are to be supplied from stock, such supply is subject to availability of stocks at the date of Delivery.

1.8 These conditions apply to Services in the same way as they apply to Goods.

1.9 The Seller is under no obligation to acknowledge receipt of an order from the Buyer, and may execute any order without further reference to the Buyer.

1.10 Clause headings will not affect the construction of these Conditions.

2. PRICES

2.1 Where the Goods are sold by reference to the Seller's published price list, the price payable for the Goods shall be the ruling price as published in the price list current at the date of despatch of the Goods from the Seller's works unless otherwise agreed between the Seller and the Buyer.

2.2 Where the price for the Goods is varied in accordance with clause 2.1, the price, as varied, shall be binding on the Buyer and shall not give the Buyer any option of cancellation.

2.3 Quotations in a currency other than sterling are based on the rate of exchange at the time of quoting and, unless otherwise stated, the price may be subject to revision up or down if any different rate of exchange is ruling at the date of invoice.

3. TERMS OF PAYMENT

3.1 All Prices are net and are in sterling unless otherwise agreed.

3.2 Payment must be made in cash at the time of the Order unless credit has been approved by the Seller in writing and in which case the Buyer shall pay the full invoice price in accordance with these terms and the credit terms agreed by the Seller.

3.3 The time of payment of the price shall be the essence of the contract. All payments shall be made without deduction or set-off.

3.4 Save where credit has been approved, the Buyer shall pay the price of the Goods (and any costs incurred by the Seller pursuant to these Conditions of Sale) without deductions within 28 days of the date of the Seller's invoice, notwithstanding that Delivery may not have taken place or property may not have passed.

3.5 Where deliveries are spread over a period, each consignment will be invoiced as despatched and each invoice will be treated as a separate account and be payable accordingly.

3.6 Where contract work is to be performed over a period in excess of one month, the value of work carried out shall be ascertained by the Seller at the end of each month and (unless the Contract otherwise expressly provides) a sum equal to such value shall be invoiced and such invoice shall be paid in accordance with the provisions of 3.2 to 3.5 (inclusive)

3.7 Failure to pay any invoice in accordance with conditions 3.1, 3.2, 3.3, 3.4, 3.5 or 3.6 or other conditions in the Contract shall entitle the Seller to suspend or cancel further deliveries without prejudice to any other right the Seller may have and debit the Buyer with any consequent and/or resulting loss.

3.8 The Seller also reserves the right to charge interest on overdue credit accounts, such interest to be calculated on a day-to-day basis on the amount outstanding at the rate of 5 per cent above the arithmetic average for each day of the published base rate of Barclays Bank Plc.

3.9 Unless otherwise expressly agreed, if the contract provides for Delivery of Goods by instalments or for periodical delivery the Seller shall be entitled to withhold any and all deliveries and instalments until payment for all earlier deliveries has been made and the date for Delivery (if any) contained in any quotation shall be postponed to the extent to which such deliveries are withheld.

3.10 In addition to any right of lien given by law the Seller shall have a general lien upon all Goods to be supplied to the Buyer in respect of all sums due from or claims against the Buyer.

3.11 Where, genuine doubts arise as to a Buyer's financial position, or in the case of failure to pay for any Goods or Services or any Delivery or instalment as aforesaid, or in the case where an application is made for an administration order of the Buyer; or where the Buyer applies to enter a voluntary arrangement with its creditors; or where a receiver, liquidator, administrator, supervisor or administrative receiver is appointed in respect of the Buyer or its property, the Seller reserves the right to suspend Delivery or performance of any order or any part or instalment without liability until payment or satisfactory security for payment has been provided.

4. TITLE TO GOODS

4.1 Title to the Goods (whether separate and identifiable or incorporated in or mixed with other Goods) shall remain with the Seller until payment in full has been received by the Seller in cleared funds:

4.1.1 for those Goods;

4.1.2 for any other goods supplied by the Seller; and

4.1.3 of any other monies due from the Buyer to the Seller on any account,

and the Buyer acknowledges that while title remains with the Seller, notwithstanding that if the Goods have not been ascertained then title will only pass upon the Goods becoming ascertained. For the avoidance of doubt Goods shall become ascertained once they have been identified and labelled as belonging to the Buyer.

4.2 Until title to the Goods passes to the Buyer under 4.1, the Buyer shall keep the Goods separately from other stock and readily identifiable as the property of the Seller. In the meantime the Buyer may sell the Goods in the ordinary course of business to bona fide third party purchasers without notice of this clause but the Buyer must account to the Seller for the proceeds thereof pursuant to clause 4.3 below and in the case where the Goods are in the warehouse of the Seller, the Buyer shall immediately inform the Seller that such sale has taken place.

4.3 Any resale by the Buyer of Goods in which title has not passed to the Buyer, shall be made by the Buyer as agent and bailee for the Seller (but without any right to incur obligations on the part of the Seller) whether the Buyer sells on his own account or not.

4.3.1 and the Buyer shall hold the entire proceeds thereof in trust such proceeds shall be identifiable and not mixed with other monies;

4.3.2 if the Buyer has not received the proceeds of any such sale he will within seven (7) days of the Seller's request assign the Seller all rights against the person, body or entity to whom the Buyer has supplied the Goods.

4.4 At any time before title to the Goods passes to the Buyer (whether or not any payment to the Seller is then overdue or the Buyer is otherwise in breach of any obligation to the Seller), the Seller may (without prejudice to any other of its rights):

4.4.1 retake possession of all or any part of the Goods; and,

4.4.2 enter any premises where the Goods are stored or where they are reasonably thought to be stored for the purpose of repossessing the Goods (or the Seller may authorise others to do so); and,

4.4.3 require immediate delivery up to it of all or any part of the Goods,

and in such and any of these events the Buyer will cooperate in the identification of the Seller's Goods.

4.5 The Seller may, at any time, appropriate sums received from the Buyer as it thinks fit notwithstanding any purported appropriation by the Buyer.

4.6 Each clause and sub clause of this clause 4 is separate, severable and distinct and, accordingly, in the event of any of them being for any reason whatever unenforceable according to its terms, the others shall remain in full force and effect.

5. DELIVERY AND COMPLETION DATES

5.1 The minimum order for any one Delivery is one pallet UK Standard. Orders under one pallet UK Standard may be accepted at the discretion of the Seller and will be subject to carriage surcharges.

5.2 The dates for Delivery of the Goods are approximate only and, unless otherwise expressly stated, time is not of the essence for Delivery or performance. Delivery will be within a reasonable time if no date for Delivery is specified.

5.3 Reasonable delay shall not entitle the Buyer to reject any Delivery or performance or any further instalment or part of the Order or any other Order from the Buyer or to repudiate the Contract or the Order.

5.4 Where the Seller is responsible for arranging delivery and Goods are lost or damaged in transit the Seller will replace, free of charge the Goods lost or damaged in transit provided the Buyer:

5.4.1 inspects the Goods in detail at time of Delivery and notes any damages and/or shortages in detail on the carrier's Delivery Sheet, which a detailed inspection ought to reasonably reveal;

5.4.2 gives written notice to the Seller within seven (7) days of non-delivery or within five (5) days of the Delivery of the Goods in any other case; and

5.4.3 where the Goods are transported by an independent freight carrier, complies in all respects with the freight carrier's conditions of carriage including notifying claims for loss or damage in transit.

The Seller will not accept claims made outside these periods.

5.5 Unless the Seller receives notice from the Buyer in accordance with clauses 5.4.1, 5.4.2 and 5.4.3 the Goods will be deemed to have been delivered in accordance with the contract.

5.6 The Buyer must note that the Sellers' carriers will not inform the Seller of damages or shortages on behalf of the Buyer.

5.7 If Goods are returned to the Seller, through no fault of the Seller, the Seller will charge the Buyer such costs of re-handling the Goods.

5.8 If overnight carriage is requested this will incur a surcharge.

5.9 If Goods are ordered but are not in stock at the time of Delivery then the Buyer shall be required to re-order the shortfall in Goods as a new Order.

5.10 If the Buyer fails to accept delivery of the Goods within 7 days from the date specified for Delivery the Seller shall be entitled to treat the Order as cancelled or make a storage charge in respect thereof at such rate per cubic foot metre as the Seller considers reasonable.

6. SUB SALES

The Buyer shall not sell the Goods except in or from the bottles or other containers in which they are supplied by the Seller and exactly as supplied by the Seller.

7. LIMIT OF RESPONSIBILITY

THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITION 7.

7.1 Save where otherwise appears in this Contract the Seller excludes, all conditions, warranties, express or implied, statutory or otherwise to the fullest extent permitted in law. This does not affect the Buyer's statutory rights.

7.2 Save for liability which the Seller may have for death or personal injury or fraudulent misrepresentation, the Buyer's remedies in respect of any claim or any condition or warranty implied by law or any other claim in respect of the Goods or Services or any workmanship in relation to them (whether or not involving negligence on the part of the Seller) shall, in all cases, be limited to replacement, performance or refund of the purchase price provided that in the case of visible defects or visible damage to the Goods the Buyer shall give notice to the Seller in accordance with clause 5.4 and in the case of any other defect or damage the Buyer shall give notice to the Seller in writing within a period of 7 days from despatch of such Goods from the Seller's works. This clause shall not affect the Buyer's statutory rights.

7.3 Save in respect of death, personal injury or fraudulent misrepresentation, the Seller shall not in any circumstances be liable for any indirect or consequential loss or damage (whether for loss of profit, loss of business, loss of management time, depletion of goodwill or otherwise), costs, expenses, other liabilities or other claims for consequential compensation whatsoever (and however caused) which arise out of or in connection with the Contract. This clause does not affect the Buyer's statutory rights.

7.4 The Seller shall not be liable to refund or replace Goods if they have been tampered with or have not been handled or stored by the Buyer in accordance with normal industry practice. Damaged or defective Goods must be made available for inspection by the Seller.

7.5 A claim in respect of any defect or failure to comply in respect of any Delivery or instalment of any Order or any part of it shall not entitle the Buyer to cancel or refuse delivery or of payment for any other Order or Delivery or instalment or any part of the same Order.

7.6 The maximum amount of liability pursuant to this Contract shall be limited to the price of the Contract.

7.7 Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or fraudulent misrepresentation.

8. SALES UNDER BOND

8.1 The Seller reserves the right to refuse to accept orders for supply under bond.

8.2 When Goods are supplied under bond, the Buyer shall provide full details of the destination warehouse and be responsible for the payment of Excise Duties and VAT.

8.3 The Buyer shall ensure that all necessary receipted documentation is returned to the Seller within 7 days.

8.4 The Buyer shall not cause the Goods to be diverted to any destination other than that originally specified without the expressed consent of the Seller in writing signed by a Director.

8.5 Upon delivery of Goods the Buyer warrants and undertakes that a suitable authorised signatory (as approved by HM Customs & Excise) shall upon presentation sign the delivery note and sign the following HM Customs & Excise forms:

8.5.1 Where Delivery is within the UK, Form W8;

8.5.2 Where Delivery is within the EU, Form W8 and all the necessary documents required by HM Customs & Excise ("**Relevant Documents**") and the Buyer shall return Form W8 and such Relevant Documents to the Seller by registered post or courier within 2 working days of delivery. If Form W8 and the Relevant Documents are not returned to the Seller within such time the Distributor covenants agrees and undertakes to indemnify and save harmless and to keep indemnified the Seller from any claims, demands, actions, taxes, duties, debts, dues, costs or damages arising directly out of or in any way connected with the non return of Form W8 and/or the Relevant Documents.

8.6 The Buyer shall comply and shall ensure that the warehouse of receipt complies with paragraph 37 of Notice 197 Excise Goods: Holding and Movement produced by HM Customs & Excise.

9. DELAYED ACCEPTANCE

9.1 Any time or date for dispatch or delivery of the Goods is an estimate only. Delay in delivery shall not give rise to any liability upon the Seller or entitle the Buyer to cancel the contract. Risk shall pass on delivery. Delivery shall be deemed to take place in accordance with the agreed delivery terms.

9.2 The Buyer must immediately examine Goods on arrival and if there is damage to Goods, shortages or Goods or other loss, the delivery note must be signed accordingly. This is essential.

9.3 If for any reason the Buyer is unable to accept delivery of the Goods when the Goods are due and ready for delivery, the Seller shall be entitled to treat the Order as cancelled or may arrange storage of the Goods at the Buyer's risk and the Buyer shall be liable to the Seller for the reasonable costs (including insurance) of such storage. This provision is without prejudice to any other right which the Seller may have in respect of the Buyer's failure to take delivery of the Goods or pay for them in accordance with the Contract.

10. TERMINATION

If the Buyer enters into a deed of arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the court shall make an order that the Buyer shall be wound up (otherwise than for the purposes of amalgamation or reconstruction) or if a receiver (including an administrative receiver) shall be appointed of any of the assets of the Buyer or if the Buyer suffers the appointment or the presentation of a petition for the appointment of an administrator or if circumstances shall arise which entitle the court or a creditor to appoint a receiver (including an administrative receiver) or a manager or which entitle the court to make a winding-up order or if the Buyer takes or suffers any similar action in consequence of debt or of the financial responsibility of the Buyer shall, in the opinion of the Seller, become impaired or if the Buyer shall commit any breach of any part of the Contract, the Seller may, without prejudice to its rights and remedies under these conditions, stop all Goods in transit and suspend further deliveries and by notice to the Buyer may terminate the Contract immediately.

11. FORCE MAJEURE

11.1 Neither Party shall be liable in any circumstances to the other party for the consequences of any delay in delivery or performance or failure to deliver or perform if the duration of the delay is not substantial or if the delay or failure is due to an act of God, fire, flood, storm, inclement or exceptional weather conditions, industrial action (whether at the Seller's premises or elsewhere), riot, civil commotion, hostilities, shortage of labour, materials, power or other supplies, embargoes, late delivery or performance or non-delivery or non-performance by sellers or subcontractors, terrorism, explosions, governmental order or intervention (whether or not having the force of law) or any other cause whatever beyond the Seller's control or of an unexpected or exceptional nature.

11.2 The party affected by an event referred to in clause 11.1 above shall provide the other party with particulars as soon as it becomes aware of the same.

12. PACKAGING

12.1 Unless otherwise specified, packing cases and packing materials will be included in the price. Where not returnable, the Buyer will dispose of all packaging in accordance with all regulations (whether statutory or otherwise) relating to the protection of the environment.

12.2 The Buyer will keep pallets in good condition until they are collected or returned to their owner.

12.3 The Seller uses all reasonable endeavours to ensure, where necessary, suitability of packing before despatch.

13. ASSIGNMENT AND SUBCONTRACTING

13.1 None of the rights or obligations of the Buyer under the Contract may be assigned or transferred in whole or in part without the prior written consent of the Seller.

13.2 The Seller shall be entitled to subcontract any work relating to the contract without obtaining the consent of, or giving notice to, the Buyer.

14. HEALTH AND SAFETY

The Buyer agrees to pay due regard to any information on the Goods or any revised information whenever supplied by the Seller (and is deemed to have read and understood it) relating to the storage use for which the Goods are designed and where applicable, directions for opening the Goods, and the Buyer undertakes to take such steps as may be specified by the above information to ensure that, as far as reasonably possible, the Goods will be safe and without risk to health at all times as mentioned above. For these purposes, the Buyer is deemed to have been given a reasonable opportunity to test and examine the Goods before delivery.

15. NOTICES

15.1 Any notice or other communication to be given under these conditions must be in writing and may be delivered or sent by prepaid first class letter post or facsimile transmission.

15.2 Any notice or document shall be deemed served: if delivered, at the time of delivery; if posted, 48 hours after posting; and if sent by facsimile transmission, at the time of transmission.

16. WAIVER

The waiver or failure of a Party in insisting in any one or more instances upon the performance of any provision of this Contract shall not be construed as a waiver or relinquishment of that party's rights to future performance of such provision and the other party's obligation in respect of such future performance shall continue in full force and effect.

17. INVALIDITY

If any provision of the Contract is found by any court, tribunal or administrative body or competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and/or the remainder of such provision shall continue in full force and effect.

18. THIRD PARTY RIGHTS

A person who is not party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

19. LAW AND JURISDICTION

The Contract (and any proceedings whereby one party might be entitled to join the other as a third party) shall be governed by and construed in all respects in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English courts.

20. DATA PROTECTION ACT

20.1 We may transfer information about you to our bankers (financiers) for the purposes of providing services and for the following purposes (a) obtaining credit insurance (b) making credit reference agency searches (c) credit control (d) assessment and analysis (including credit scoring, market, product and statistical analysis) (e) securitisation and (f) protecting our interests. We will provide you with details of our bankers/financiers and that of any credit reference agencies used upon request.

20.2 We or our bankers (financiers) may make credit reference agency searches in respect of your business and its principals. Please note that credit reference agencies make a record of searches which may be used to prevent fraud or money laundering or by other subscribers to make credit decisions about you.

20.3 Our bankers (financiers) may give information about you and your indebtedness to the following for the purposes stated:

20.3.1 any other divisions or associated companies of theirs – for the business purposes of such divisions or companies;

20.3.2 our or their insurers – to quote for and issue any credit policy or to deal with any claims;

20.3.3 any advisers acting on our or their behalf – so the advisers can carry out their services;

20.3.4 any business to whom your indebtedness or our financing arrangements with them may be transferred to facilitate such transfer; and

20.3.5 to any person to whom they have a duty of disclosure or to whom the law permits disclosure.

Our bankers may make decisions about you solely using an automated decision making process, such as credit scoring; however, they will tell us (and in turn we will tell you) if they make a significant decision only using such a process. Through us you can then request a review of their decision using our means.

Our bankers may monitor and / or record your phone calls to them for training and / or security purposes.

We will provide you with details of our bankers on request, including a contact telephone number from where you can obtain details of the credit reference agencies used by them and any third parties to whom information is transferred.