



Pernod Ricard UK

STANDARD TERMS & CONDITIONS

Compliant with Grocery Supply Code of Practice

November 2020



1) DEFINITIONS

- 1.1 “Seller” means Pernod Ricard UK Ltd whose registered office is at Building 7, Chiswick Business Park, 566 Chiswick High Road, Chiswick, London W4 5YG.
- 1.2 “Buyer” means the person, firm or company placing an Order with the Seller.
- 1.3 “Goods” means the article(s) described in the Order.
- 1.4 “Order” means an Order for goods placed by the Buyer with the Seller.

2) CONDITIONS

- 2.1 These conditions apply to all Orders for purchases of Goods by the Buyer from the Seller. They prevail over any other terms and conditions, standard or otherwise, of the Buyer. Any change or addition to these conditions can only be made in writing signed by a duly authorised signatory of the Seller. These conditions constitute the entire agreement and understanding between the Seller and the Buyer with regard to the Goods and supersede any previous agreement between the Buyer and Seller relating to the goods. In entering into this agreement, Buyer and Seller agree that it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding howsoever made other than as expressly set out in this agreement. Nothing in this clause shall operate to exclude or limit any liability for fraud.
- 2.2 The Buyer acknowledges and agrees that the Goods are supplied subject to the Portman Group Guidelines for responsible drinking and promotions (the “Guidelines”) and that it is an essential term of these conditions that all Goods supplied are not used in connection with any promotion or other activity which would contravene the Guidelines. A copy of the Guidelines is available from <http://www.portmangroup.org.uk/about>. In the event of any failure to comply with the Guidelines by the Buyer the Seller reserves the right at its sole discretion to cancel or suspend delivery of Goods ordered by the Buyer or to exercise such other remedy as the Seller considers appropriate.
- 2.3 All provisions of the Groceries (Supply Chain Practices) Market Investigation Order 2009 (the “Order”) shall be deemed to apply to, and be incorporated into these terms for any supply arrangements with a Designated Retailer (as defined in the Order). In the event of any conflict between these terms and the provisions of the Order, in regard to supply arrangements with a Designated Retailer, then the provisions of the Order shall prevail.

3) ORDERS

- 3.1 Except as expressly agreed by the Seller in writing the minimum order of Goods is 50 physical cases for Orders which include wine products and a minimum of 20 physical cases for Orders which are exclusively for spirits products. The minimum order quantities may be subject to change from time to time and if relevant to an Order the Buyer shall be notified of any variances to the quantities stated in this clause at the time of Order.



3.2 Orders agreed by the Seller at less than the stated minimum order quantity detailed in 3.1 will be subject to a pre-agreed surcharge.

3.3 Acceptance of Buyer's Order is subject to supplies being available and unsold.

4) PRICES

4.1 The price of the Goods shall be the price set out in the Seller's confirmed Order, or, if no price is quoted, the price set out in the Seller's published price list in force as at the date of delivery.

4.2 Prices quoted are exclusive of VAT but inclusive of customs duty as applicable.

4.3 Where Goods are quoted duty paid, the price includes the excise duties at the rates prevailing at date of publication (unless otherwise specified). The duty element of the price of Goods may be altered by the Seller without notice at any time prior to delivery in accordance with any changes in the rate or application thereof. The Seller reserves the right to alter the price of Goods exclusive of duty without notice at any time prior to acceptance of an Order but after acceptance prices quoted shall be fixed.

4.4 Prices are inclusive of delivery within the UK mainland, unless otherwise stated, and subject to the conditions contained in 3.2.

4.5 The Seller reserves the right to charge a Non Cooperating Destination (NCD) a charge of £11.50 per pallet where the customer of the Seller fails to declare to or inform Chep UK of the final destination of any one way trip utilising Chep UK equipment.

4.6 Special price quotations will lapse unless written acceptance is received by the Seller within thirty days from the date of the quotation.

5) VAT

The Buyer agrees to pay Value Added Tax on Goods in accordance with the current VAT legislation.

6) PAYMENT

6.1 Unless credit facilities have been expressly agreed in writing, payment must be made to the nominated bank account, net cash (cleared funds) where agreed against proforma invoice. Time for payment shall be of the essence.

6.2 For customers to whom credit facilities have been granted, and except as expressly agreed by the Seller in writing, payment for the Goods must be paid in full no later than thirty days from the date of the invoice to the bank account nominated by the Seller.

6.3 The Seller reserves the right to charge interest at the rate prescribed in terms of the Late Payment of Commercial Debts Regulations 2013 from time to time on any



sums which are not paid in accordance with the condition 6.2 calculated from the date of the invoice until receipt by the Seller whether before or after judgment.

- 6.4 The Seller reserves the right to withdraw any special discounts or promotional monies offered to the Buyer at or before the date of acceptance of the Order should the Buyer fail to make full payment on time. All payments payable to the Seller shall become due immediately upon termination of this agreement despite any other provision.
- 6.5 The Buyer shall make all payments due in respect of any Order in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

7) DELIVERY

- 7.1 Any time or date for delivery given by the Seller is an estimate only and the Seller shall not be liable for the consequences (financial or otherwise) of any delay in delivery nor shall delay of delivery entitle the Buyer to reject the Goods. The Buyer shall provide sufficient labour, equipment and facilities to offload Goods at the place of delivery.
- 7.2 If for any reason the Buyer fails to accept delivery of any Goods when they are ready for delivery, or the Seller is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorizations:
- 7.2.1 risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Seller's negligence);
 - 7.2.2 the Goods shall be deemed to have been delivered; and
 - 7.2.3 the Seller may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

8) ARTICLE NUMBERING

The printing of barcodes on Goods by the Seller is not the subject of any contract between the Seller and the Buyer. The Seller will endeavour to observe the recommendations of the International Article Numbering Association but it will not be liable to the Buyer for any loss, damage or expense attributable to the absence or defect of any such barcode printing unless the same shall result from negligence by the Seller.



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9) LOSS OR DAMAGE

The Buyer shall take all reasonable measures for the purpose of averting or minimising the loss of goods.

9.1 The Buyer shall:

9.1.1 inspect the Goods immediately upon receipt and record any loss or damage to the Goods on the carrier's copy of the delivery note for the Goods and verbally notify the Seller immediately of any such loss or damage. All damaged goods must be kept for inspection until otherwise advised; and

9.1.2 within three days of receipt notify both the Seller and the Carrier in writing of any loss or damage to the Goods. No claim for loss or damage shall otherwise be accepted.

9.2 Claims for non-delivery shall only be accepted if the Seller and the Carrier are advised no later than seven days after a delivery was due to be made. Any liability for non-delivery of the Goods shall be limited (at Seller's election) to replacing the Goods within a reasonable time (provided that the Seller has available stocks) or issuing a credit note at the pro rata contract rate against any invoice raised for such Goods.

9.3 If the Seller agrees that Goods supplied are not of satisfactory quality then it shall, at its option, supply replacement Goods or reimbursement to a maximum of the invoice value of the Goods. Where Goods are replaced, the Buyer shall return the defective Goods, or that part of the Goods which are defective, to the Seller at the Seller's own expense or upon agreement the Seller will collect.

9.4 No claims of the nature specified in clause 9.3 will be entertained by the Seller after the expiry of three calendar months from the date of invoice.

9.5 If the Seller complies with its obligation in clause 9.4 then it shall have no further liability in respect of such Goods.

10) RISK

Risk of loss or of damage to the Goods or liability for duty (if any) shall pass to the Buyer upon delivery and the Buyer shall insure the Goods for their full replacement value (and for duty liability if applicable) for the period from delivery to the date when title passes to the Buyer as provided for by these conditions. The Buyer shall hold the proceeds of any such insurance on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

11) TITLE TO GOODS

11.1 Ownership of the Goods shall not pass to the Buyer until the Seller has received in full (in cash or cleared funds) all sums due to it in respect of:



- 11.1.1 the Goods; and
 - 11.1.2 all other sums which are or which become due to the Seller from the Buyer on any account.
- 11.2 Until ownership of the Goods passes from the Seller to the Buyer, the Buyer must:
- 11.2.1 hold the Goods on a fiduciary basis solely as bailee for the Seller;
 - 11.2.2 store the Goods (at no costs to the Seller) in good condition, clearly identifiable as the Seller's property and separately from all other Goods in its possession;
 - 11.2.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods.
- 11.3 Notwithstanding that some or all of the Goods remain the Seller's property, the Buyer may sell the Goods in the ordinary course of its business for the Seller's account for market value. The Buyer may not otherwise sell or otherwise dispose of the Goods until title to them has passed to the Buyer. Any sale or dealing permitted by this condition shall, as between the Buyer and its customer, be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale or dealing and not as agent.
- 11.4 If the Buyer commits any illegal act, or a default which entitles the Seller to terminate under Clause 15.2, then A) the Seller shall (without prejudice to any of its other rights and remedies) have the right to repossess and use the Goods. For this purpose the Seller may enter the premises or vehicles owned, occupied or controlled by the Buyer or third party where the Goods are reasonably thought to be, in order to remove them and the Buyer gives the Seller irrevocable authority to enter its premises or vehicles without notice and B) any rights of the Buyer under Condition 11.3 to sell or otherwise dispose of the Goods shall immediately cease.
- 11.5 The Buyer must not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the Seller's property. Without prejudice to any of the Seller's other rights, if the Buyer does any such thing all monies whatsoever owing by the Buyer to the Seller shall immediately become due and payable.
- 11.6 If the Buyer fails to make any payment due to the Seller within fourteen days after it falls due under these conditions or otherwise, or if any distress or execution is levied on any of the Seller's Goods, if any of the events listed in clause 15.2 take place:
- 11.6.1 all sums outstanding in respect of the Goods shall become payable to the Seller immediately; and
 - 11.6.2 the Buyer's right to possession of the Goods will end.



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12) FORCE MAJEURE

The Seller shall not be liable to the Buyer by reason of any delay or non-performance of any of its obligations under these conditions to the extent that such delay or non-performance is due to any matter outside the Seller's reasonable control. If by reason of such circumstances the Seller is able to fill only part of its total commitments then the Seller shall be entitled to allocate available supplies at its sole discretion amongst its customers.

13) LIMITATION OF LIABILITY

13.1 The following provisions set out the Seller's entire liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

13.1.1 any breach of this agreement;

13.1.2 any use made or resale by the Buyer of any of the Goods or any product incorporating any of the Goods; and

13.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with this agreement.

13.2 Nothing in these Conditions shall limit or exclude the Seller'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

(e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

13.3 Subject to clause 13.2, all warranties, conditions and other terms otherwise implied by statute or common law are excluded to the fullest extent permitted by law.

13.4 Subject to 13.2 and 13.3 above the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising out of this agreement shall be limited to the value of the Goods in the Order placed by the Buyer to which the claim relates, and the Seller shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with this agreement.



14) WARRANTIES

14.1 The Seller warrants that (subject to other provisions of these Terms and Conditions) upon delivery the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended).

14.2 The Seller shall not be liable for a breach of the warranty in condition 14.1 unless:

14.2.1 the Buyer complies with the notice obligations in clause 9; and

14.2.2 the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business [at the Buyer's cost] for the examination to take place there.

14.3 The Seller shall not be liable for a breach of the warranty in condition 14.1 if:

14.3.1 the Buyer makes any further use of such Goods after giving such notice; or

14.3.2 the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, use or maintenance of the Goods or (if there are none) good trade practice; or

14.3.3 the Buyer alters or repairs such Goods without the written consent of the Seller.

15) TERMINATION

15.1 If the Buyer becomes subject to any of the events listed in clause 15.2, the Seller may terminate the Contract with immediate effect by giving written notice to the Customer.

15.2 For the purposes of clause 15.1, the relevant events are:

(a) the Buyer 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;

(b) the Buyer 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 Buyer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer];

(c) (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 Customer, other



than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;

(d) (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 Customer;

(e) (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;

(f) a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;

(g) (being an individual) the Buyer is the subject of a bankruptcy petition or order;

(h) a creditor or encumbrancer of the Buyer 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;

(i) any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.2 (a) to (f) inclusive (inclusive);

(j) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;

(k) the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

15.3 Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in clause 15.2(a) to (l), or the Seller reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.

15.4 On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.

15.5 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

15.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.



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16) INTELLECTUAL PROPERTY

The Buyer shall not infringe any trade mark, trade name, registered design, copyright, database right or other intellectual property belonging to the Seller (or any third party) and/or relating to the Goods or any other thing supplied by the Seller with or in relation to the Goods. If the Seller makes any changes to any Goods at the request of the Buyer then the Buyer shall indemnify the Seller against all claims, costs and liabilities arising from any resultant infringement of a third party's intellectual property rights.

17) COMMUNICATIONS

Any communication required to be served by a party in connection with these conditions shall be sent by ordinary first class mail to the registered office of the other party or any other address communicated in writing by one party to the other for this purpose.

18) USE OF PERSONAL INFORMATION

18.1 The Seller will use the personal information the Buyer provides to:

18.1.1 provide the Goods;

18.1.2 process the Buyer's payment for such Goods;

18.1.3 send communications and notifications regarding amendments and updates with respect to their business to the Buyer;

18.1.4 conduct credit checks and obtain trade references; and

18.1.4 inform the Buyer about similar products or services that the Seller provides. The Buyer may stop receiving these at any time by contacting the Seller.

18.2 The Seller may share the Buyer's personal data with its contracted third parties, where these third parties are providing services to the Seller where access to such data is required for:

- a. technical and IT support;
- b. company audits and financial reporting; and
- c. analytical studies.

The parties agree to comply with all applicable privacy laws in the UK. For the purpose of this provision, the Seller is the Data Processor and the Buyer is the Data Controller as defined by the Data Protection Act 1998 or any subsequent legislation including the General Data Protection Regulation 2016/679 and both parties shall comply with their respective obligations under as required by law.

19) APPLICABLE LAW AND JURISDICTION

This agreement, 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. 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 agreement or its subject matter or formation (including non-contractual disputes or claims).

20) GENERAL

- 20.1 If any provision of this agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the agreement and the remainder of such provision shall continue in full force and effect.
- 20.2 Failure or delay by the Seller in enforcing or partially enforcing any provision of the agreement shall not be construed as a waiver of any of its rights under this agreement.
- 20.3 Any waiver by the Seller of any breach of, or any default under, any provision of the agreement by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the agreement.
- 20.4 The parties do not intend that any term of the agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it, save that affiliates and sister companies of the Seller may enforce rights relating to clause 15 (Intellectual Property Rights).
- 20.5 Neither party shall be liable for any failure or delay in performing its obligations under this agreement to the extent that such failure or delay is caused by a Force Majeure Event. A "Force Majeure Event" means any 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, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- 20.6 The Seller 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 this agreement. The Buyer 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 this agreement without the prior written consent of the Seller.
- 20.7 Buyer agrees to comply with all applicable laws, statutes, regulations and the PRUK Anti-Bribery policy relating to anti-bribery and anti-corruption but not limited to the Bribery Act 2010. The Buyer will not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK.



20.8 Each party undertakes that it shall not at any time during this agreement, and for a period of two 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. Each party may disclose the other party's confidential information: (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause; and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

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Signed by a duly authorised director of

Company Reg No: _____

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Signed for and on behalf of

PERNOD RICARD UK LTD

Company Reg No: 1870414