

LCBO PURCHASE ORDER TERMS AND CONDITIONS
EFFECTIVE June 1, 2026

The following terms and conditions apply to, and form part of, each purchase order ("**Purchase Order**") for the purchase of liquor products (the "**Products**") issued by the Liquor Control Board of Ontario ("**LCBO**"). For the purposes of this Purchase Order, any reference to Products includes the packaging and labelling of the Products. The terms and conditions set out in this Purchase Order apply to purchases by the LCBO for Products for sale through any of its retail channels or wholesale channels. The term (the "**Term**") of this Purchase Order commences on the order date on the front page of this Purchase Order and terminates upon the full and final delivery of the Products to LCBO or such other delivery location indicated on the Purchase Order (the "**Ship to Location**") and the acceptance of such Products by the LCBO or the applicable LCBO Customer. "**LCBO Customer**" means (a) the holder of a Grocery Store Licence under the *Liquor Licence and Control Act, 2019* ("**LLCA**"); (b) the holder of a Convenience Store Licence under the LLCA; (c) the holder of a Liquor Sales Licence under the LLCA; (d) the holder of an Offsite Winery Retail Store Licence with a Wine Boutique Endorsement under the LLCA; (e) a Duty Free Shop with an LCBO Authorization; or (f) an authorized LCBO Convenience Outlet.

The following Terms and Conditions are applicable to every Purchase Order issued by the LCBO. The additional terms and conditions in Schedule "A" apply only to Products purchased by the LCBO for sale through its retail channels, and the additional terms and conditions in Schedule "B" apply only to Products purchased by the LCBO for sale through its wholesale channels.

1. **AGREEMENT TO PURCHASE:** The Supplier will be deemed to have entered into a binding agreement (the "**Agreement**") with the LCBO upon: (a) confirming receipt of the Purchase Order through a Purchase Order Acknowledgement and accepting or acknowledging these Terms and Conditions through the LCBO's vendor portal ("**LCBO Gateway**") or, if applicable, through LCBO's approved Electronic Data Interchange system ("**EDI**"), or (b) supplying the Products ordered in the Purchase Order. The Agreement is subject to all of the terms and conditions contained in this document, which will supersede and take precedence over any conflicting provisions of any document submitted by the Supplier. Any Supplier proposal for additional or different terms or conditions or any attempt by the Supplier to vary the terms and conditions in the Agreement by any means will be considered as proposals for addition to this Agreement and will not be binding unless expressly agreed to in writing by the LCBO.
2. **ACKNOWLEDGMENT OF PURCHASE ORDER BY SUPPLIER:** Upon the LCBO's issuance of the Purchase Order, the Supplier shall provide the LCBO with the Purchase Order Acknowledgement through LCBO Gateway or through EDI within the timeline specified in the [Vendor Performance Program Guidelines](#), as may be amended from time to time by the LCBO, failing which the Supplier may be subject to a non-compliance fee pursuant to Section 19 below. Notwithstanding the foregoing, if the Terms and Conditions in Schedule "B" apply to this Purchase Order, the Supplier will provide the Purchase Order Acknowledgment in accordance with the terms and conditions in Schedule "B".
3. **PRICE/CURRENCY/TAXES:** The price payable by the LCBO shall not exceed the quoted price shown in the Purchase Order. The Supplier shall notify the LCBO of any reduction in the price of any Product ordered that is in effect prior to delivery of that Product to the Ship to Location, and will provide the LCBO with the benefit of any reduction in the price of such Product.

Unless otherwise specified in the Purchase Order, all references to monetary amounts shall be in Canadian Dollars. Except as expressly set forth in the Purchase Order, the prices quoted therein are inclusive of all sales and similar taxes, duties, tariffs, brokers fees, levies and similar amounts.

4. **PAYMENT:** Unless other payment terms are specified in the Purchase Order, payment will be due sixty (60) days after the receipt of the Product(s), subject to inspection and acceptance in accordance with Section 12, by: (a) the LCBO at an LCBO warehouse (which for greater certainty, includes any warehouse operated by a third party on LCBO's behalf) ("**LCBO Warehouse**"); or (b) by the LCBO's Customer (on behalf of the LCBO) at the applicable Ship to Location. Payment will be made to the Supplier unless the Supplier provides the LCBO with (i) an Appointment of Exclusive Agent Letter, and (ii) the completed Direction to Pay Agent Form (to be submitted in accordance with LCBO policy) (the "**Direction**"), prior to the Supplier's acknowledgement of the Purchase Order. For greater certainty, if LCBO has received the foregoing Direction, in no event shall the Supplier have any recourse against the LCBO in respect of any amounts paid by the LCBO to the Agent pursuant to the Direction, including, without limitation, for amounts paid to the Agent that the Agent fails to pay to the Supplier. Payment will be made by electronic funds transfer. The LCBO shall only be responsible for payment of the amounts set out in this Purchase Order.

5. **SET-OFF:** Should the Supplier fail to pay or refund the LCBO any amounts owing by the Supplier to the LCBO, whether pursuant to or in connection with the Agreement or otherwise, when demanded by the LCBO, the LCBO may set-off such amounts against any amount that is or becomes payable by the LCBO to the Supplier for any orders for Product(s) which the LCBO has placed or may place with the Supplier. The LCBO, in its sole discretion, may set-off any amount that is or becomes payable by the Supplier to the LCBO, whether in connection with the Agreement or otherwise, against amounts that become payable to the Supplier under the Agreement.
6. **SUPPLIER CONFIRMATION:** The Supplier shall not change the specific quantity ordered or the ship date nor make any other changes or substitutions to a Purchase Order without the prior written agreement of the LCBO. Requests to change quantities or the ship date or to make any other changes or substitutions must be communicated, by the Supplier through a Purchase Order Confirmation in LCBO Gateway. If the LCBO, in its sole discretion, decides to accept the changes or substitutions proposed by the Supplier, the LCBO will issue a revised Purchase Order corresponding to the changes or substitutions proposed by the Supplier through LCBO Gateway. These Terms and Conditions will apply to, and form part of, each revised Purchase Order. Receipt of the revised Purchase Order by the Supplier will represent the acceptance by the LCBO of the Supplier's proposed changes or substitutions. The LCBO assumes no obligation for Products shipped in excess of quantities ordered hereunder and may return any excess Products to the Supplier at the Supplier's expense.
7. **SHIPPING AND DELIVERY:** All Products will be shipped and delivered in accordance with the dates, locations, shipping terms and quantities specified in the Purchase Order. All shipments of Products made pursuant to a Purchase Order issued under the Agreement shall be governed by the applicable Incoterms 2020 rules. The specific Incoterm rule and named place shall be clearly stated in each Purchase Order. If the shipping terms are not specified in the Purchase Order, the Products will be deemed to be shipped FOB or FCA, as applicable. The Supplier will procure all necessary export permits or licenses at the Supplier's expense.
8. **TITLE:** Title to and risk of the Product(s) shall pass to the LCBO, free and clear of all liens, encumbrances, security interests and rights of others, upon delivery of the Product(s) to the Ship to Location specified in this Purchase Order and: (a) acknowledgment of receipt by the LCBO at an LCBO Warehouse; or (b) acknowledgment of receipt by the LCBO's Customer at the Ship to Location (which for greater certainty, includes any warehouse operated by a third party on the LCBO Customer's behalf). Any such acknowledgement shall not constitute acceptance of the Product(s). This provision shall not limit the LCBO's rights and remedies under the Agreement.
9. **SHIPPING DOCUMENTATION:** The Supplier shall provide shipping documentation for the Products ("**Shipping Documents**") for each shipment, including, without limitation, a Bill of Lading, Canada Customs Invoice and a Certificate of Origin and any other documents required to support a claim (where applicable) for preferred tariff treatment under any applicable international trade agreement. The Supplier shall ensure that all Shipping Documents are fully and accurately completed and are delivered to the carrier or freight forwarder at the time the Products are shipped.
10. **SHIPPING PALLET PATTERN:** If a shipping pallet pattern is designated in the Purchase Order, then the Supplier shall ship in the pallet configuration shown (cases per tier x number of tiers per pallet).
11. **SUBCONTRACTING:** Supplier will not subcontract any part of its obligations under the Agreement without LCBO's prior written consent. If LCBO provides such consent, Supplier will ensure that such subcontracts are in writing. Without limiting the generality of the conditions which LCBO may require prior to consenting to the Supplier's use of a subcontractor, every contract entered into by the Supplier with a subcontractor shall adopt all of the terms and conditions of the Agreement as far as applicable to those parts of the services provided by the subcontractor. Nothing in the Agreement, or in such consent, creates a contractual relationship between any subcontractor and the LCBO. The Supplier is responsible for all acts and omissions of its subcontractor(s), and for ensuring that any such subcontractor operates in accordance with all applicable laws and regulations with respect to the shipping and delivery of the Products. The use of a subcontractor does not relieve the Supplier from any liability or obligation under the Agreement.
12. **INSPECTION OF PRODUCT AND ACCEPTANCE:** All Product(s) ordered shall be subject to inspection, including but not limited to product testing and validation, and acceptance by the LCBO, or where applicable, inspection and acceptance by the LCBO's Customer (on behalf of the LCBO). Such acceptance will be given within a reasonable time after receipt of the Products at an LCBO Warehouse or applicable Ship to Location, if the Products are not in unsatisfactory condition as described herein. Supplier is responsible for LCBO's

reasonable costs of product testing and validation in accordance with the QA Fee Schedule (as may be amended from time to time) available at www.doingbusinesswithlcbo.com (the “QA Fee Schedule”).

- 13. UNSATISFACTORY PRODUCT:** If, at any time before or after paying for the Product(s), the LCBO determines in its sole discretion that all or any part of any Product(s) is unsatisfactory in that such Product(s): (a) is not of merchantable quality or is defective in any manner; (b) does not satisfy the provisions of any applicable law of Ontario or Canada; (c) does not comply with any federal or provincial standards established for Products of that description; (d) does not match the Product listing attributes and/or sample of the same Product(s) previously submitted to and approved by the LCBO; (e) does not match the quality of the same Product(s) previously supplied by the Supplier to the LCBO; (f) is delivered after the date specified for delivery in the Purchase Order; (g) is subject to or may become subject to any claim, allegation, suit or dispute whatsoever, including, without limitation, a claim, allegation, suit or dispute that the Product(s) violates or infringes any Intellectual Property rights of any person; (h) does not correspond with the description of the Products in the Purchase Order; or (i) does not otherwise comply with any covenant, warranty or other requirements of the Agreement; then the LCBO may, in its sole discretion, in addition to any other remedies available at law or in equity or under Section 31(e), upon written notification to the Supplier: (A) return to the Supplier, at the Supplier's risk and expense, all or any portion of the shipment which is unsatisfactory; or (B) refuse any portion of the shipment which is unsatisfactory and dispose of same at the Supplier's expense, unless within fifteen (15) days after being notified by the LCBO that the Products are unsatisfactory, the Supplier requests the LCBO to return the unsatisfactory Products to the Supplier, at the Supplier's risk and expense; or (C) cancel the Agreement in whole or in part at any time without liability and at the Supplier's expense and risk. Notwithstanding clause (B) in the preceding sentence, the LCBO is not required to return unsatisfactory Product that has been transferred from an LCBO Warehouse to an LCBO retail store or other Ship to Location and the LCBO may, in its sole discretion and without the Supplier's approval, dispose of such unsatisfactory Product, at the Supplier's expense. Where the LCBO exercises any remedy provided in this section, the Supplier shall fully indemnify the LCBO for all costs including, without limitation, the Landed Cost of the Product(s), the freight expenses incurred in returning the Product(s) or any portion thereof and expenses incurred in disposing the Product(s) or any portion thereof. The LCBO reserves the right to charge the Supplier a reasonable fee for inspecting and handling unsatisfactory Products in accordance with the QA Fee Schedule. “**Intellectual Property**” means trade or brand names, business names, trademarks, service marks, copyrights, patents, trade secrets, know-how, inventions, research data, drawings and designs, formulae, processes, technology, and other intellectual, industrial or proprietary rights, together with all rights under licences and other agreements relating to any such rights or which embody, emulate or employ any part of such rights. “**Landed Cost**” means the total amount paid by the LCBO to acquire the Product, including the purchase price, transportation and freight charges and any taxes, levies, duties or charges the LCBO is required by law to pay.
- 14. NO PRICE DISCRIMINATION:** The Supplier shall not sell any Product(s) ordered to the LCBO at a price (exclusive of taxes, duties and freight) which is higher than the price at which the Product, in the same quantity, is being sold by the Supplier to another government liquor board or government liquor purchasing body in Canada; nor shall it sell any Product(s) to the LCBO upon terms and conditions respecting sale or delivery which are less advantageous than those offered to any other government liquor boards or government liquor purchasing bodies in Canada; nor shall it in any other way discriminate against the LCBO with respect to the sale of the Product(s) ordered or any portion thereof. Should the Supplier breach this provision, it shall pay to the LCBO on demand an amount equal to the difference between any amount(s) paid by the LCBO to acquire the Product(s) which is in excess of the amount(s) paid by any other government liquor board or government purchasing body in Canada to acquire such Product(s).
- 15. PACKAGING AND LABELLING (PRE-PACKAGED PRODUCTS):** All Products must conform to the requirements established under (a) the LCBO's Product Packaging Standards and Guidelines for Chemical Analysis, as published and amended from time to time, including through updates thereto posted on www.doingbusinesswithlcbo.com (the “**Product Packaging Standards**”), (b) the Canadian Association of Liquor Jurisdictions' Product Identification Standards for use in the Distribution of Beverage Alcohol, as published from time to time (the “**CALJ Product Standards**”), which together with the Product Packaging Standards, form part of the Agreement (collectively, the “**Packaging Standards**”); and (c) all applicable packaging and labelling requirements for alcoholic beverages pursuant to applicable provincial and federal laws and regulations (including but not limited to the *Food and Drugs Act*, the *Safe Food for Canadians Act* and the *Consumer Packaging and Labelling Act*, and the Regulations made thereunder, respectively). Without limiting the foregoing, (a) all selling units must conform to the packaging and labelling requirements in the Product Packaging Standards, and (b) selling units must be packaged in shipping containers (cartons/trays) which meet or exceed the applicable requirements established under the Product Packaging Standards and the CALJ Product Standards. The Product Packaging Standards prescribe minimum requirements for package design, strength and construction, in addition to applicable mandatory markings. Shipping containers must be

sealed in a manner that will plainly show any evidence of tampering. No hay, straw or other fodder packing may be used in a shipment to Ontario. The Packaging Standards are available at www.doingbusinesswithlcbo.com. If the LCBO receives any Products that do not comply with the Packaging Standards, then the LCBO may, at its option, take corrective measures to bring such Products into compliance with the Packaging Standards or exercise any other remedy for unsatisfactory Product set out in Section 13 above. The Supplier shall provide any documentation reasonably requested by the LCBO to conduct a review and/or to bring a Product into compliance with the Packaging Standards. The LCBO reserves the right to charge the Supplier a reasonable fee, in accordance with the QA Fee Schedule, for bringing such Products into compliance with the Packaging Standards and the Supplier shall reimburse the LCBO for all such reasonable costs. LCBO's approval of or contribution to any Product sample, label or packaging, including laboratory tests and inspections, does not relieve the Supplier's sole responsibility to ensure that the Product and its labeling and packaging conform to the Packaging Standards and comply with all applicable laws and the Supplier's other obligations under the Agreement.

- 16. PACKAGED ITEMS AND VALUE ADDED ITEMS:** In the event the Products are packaged with a non-liquor item ("**Packaged Items**") or are accompanied by extra items (the "**Value Added Items**") pursuant to the LCBO's Value Add Program (the "**Program**"), the LCBO shall have no liability for any such Packaged Items supplied by the Supplier or for any such Value Added Items supplied by the Supplier or its agents under the Program. The Supplier represents and warrants that it has obtained all third party consents, approvals, permissions to sell, market and advertise the Packaged Items or the Value Added Items in connection with the Supplier's Products, and that the use of (i) the Packaged Items, or (ii) the Value Added Items in connection with the Program, shall not infringe any third party rights (including Intellectual Property, personality, or privacy rights). The Supplier agrees to indemnify, defend and hold harmless the LCBO, its members, officers, representatives, agents and employees from and against all liabilities, losses, costs, damages, expenses (including all reasonable legal fees, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings that are in any way based upon, occasioned by or attributable to any claim related to Packaged Items or Value Added Items, including claims related to (a) a defect in the Packaged Items or Value Added Items, irrespective of the time when such defect is discovered, (b) the manufacture, production, shipment or delivery of the Packaged Items or Value Added Items by the Supplier, and (c) Packaged Items or Value Added Items determined by the LCBO to be unsatisfactory.
- 17. ADVERTISING MATTER, ETC.:** Unless approved in writing in advance by the LCBO, advertising matter or novelties of any kind must not be enclosed in cases or attached to Products (excluding approved neck tags, Packaged Items and approved Value Added Items) or shipped in LCBO containers. Unsolicited shipment of non-liquor items in LCBO containers is prohibited.
- 18. RECORD RETENTION AND AUDIT.** During the Term and for seven (7) years after, the Supplier will maintain and keep accurate books and records showing all Products sold by the Supplier to the LCBO under the Agreement or otherwise related to the Agreement, including with respect to the prices charged and compliance obligations, in accordance with International Financial Reporting Standards, and all applicable statutory and regulatory requirements. During the Term and for seven (7) years after, LCBO and its duly authorized representatives, or an independent third party auditor, may, at LCBO's expense, no more than once per calendar year and upon at least five (5) Business Days notice to Supplier, examine, audit and make copies of the records described above, wherever located, during normal business hours, to verify: (a) Supplier's compliance with the Agreement; (b) the accuracy of the amounts invoiced and (c) the security and integrity of LCBO's Confidential Information. LCBO will bear the cost of any such audit, unless the audit reveals an overcharge of the relevant invoices or a material breach by the Supplier, in which case the Supplier will promptly repay the full discrepancy amount, cover the cost of the audit, and reimburse LCBO for any overpayments.
- 19. COMPLIANCE WITH PURCHASE ORDER REQUIREMENTS, LCBO GATEWAY REFERENCE GUIDE AND VENDOR PERFORMANCE PROGRAM GUIDELINES:** The Supplier will, and will cause its Representatives to, comply at all times with: (a) these Purchase Order Terms and Conditions; (b) the LCBO Gateway Reference Guide, as may be amended from time to time at the LCBO's discretion, and which is available on www.doingbusinesswithlcbo.com; and (c) the Vendor Performance Program Guidelines, as may be amended from time to time at LCBO's discretion, and which is available on www.doingbusinesswithlcbo.com; each of (a) to (c) above shall form part of the Agreement, but shall not limit the rights and remedies of the LCBO contained herein. Without limiting Section 13 or any other remedies available to the LCBO: (i) if the Supplier supplies Products that do not comply with this Purchase Order, supplies Products that do not comply with the Product information previously provided to the LCBO, or the Supplier requests certain change(s) to this Purchase Order after it is issued, as more particularly set out in the LCBO Fee Schedule for Non-Compliance to Purchase Order Terms and Conditions (the "**Fee Schedule**"); or (ii) if the Supplier fails to meet the terms of

the LCBO Gateway Reference Guide and/or the Vendor Performance Program Guidelines, the Supplier shall pay the applicable LCBO handling and administration fee(s) as set out in the Fee Schedule, which is available on www.doingbusinesswithlcbo.com.

- 20. FAILURE TO DELIVER QUANTITY OF PRODUCTS ORDERED:** Without limiting Section 13 or any other remedies available to the LCBO, if the Supplier delivers fewer Products than the quantity specified in this Purchase Order (the “**Order Quantity**”) or more Products than the Order Quantity, then the Supplier shall forthwith pay to the LCBO an amount representing the LCBO’s liquidated damages for not receiving the correct quantity of Products specified in this Purchase Order. The liquidated damages shall be equal to 5% of the unit price payable for the applicable Product multiplied by the amount by which the number of units delivered to the LCBO is more or less than the Order Quantity (the “**Shortage/Overage**”), which the parties agree represents a genuine pre-estimate of the loss LCBO will suffer due to such Shortage/Overage. Despite the foregoing, the Supplier is not liable to pay liquidated damages under this section if: (a) the Shortage/Overage is less than 5% of the Order Quantity, (b) the Terms and Conditions in Schedule “B” apply to this Purchase Order; (c) the Supplier’s failure to deliver the Order Quantity is a result of force majeure (as described in Section 38), or (d) the LCBO expressly waives the requirement for such payment in writing.
- 21. CUSTOMER PRODUCT RETURNS:** If, at any time, an LCBO retail customer returns a container(s) of the Product to the LCBO because the Product is unsatisfactory for any reason, or if an LCBO retail customer returns a Product that cannot be safely resold (including, but not limited to, the following Products: beer, cream-based liquor, or Products in bag-in-a-box, tetra pack or PET containers), then the Supplier shall refund to the LCBO an amount equal to the Landed Cost of the returned Product(s), promptly after receiving written notification from the LCBO to do so. LCBO may set-off any amounts owing by the Supplier for Product returns in accordance with Section 5. This remedy is in addition to any other remedies available at law or in equity or under Section 31(f).
- 22. LCBO SUPPLIER CODE OF CONDUCT.** The Supplier shall at all times comply with the provisions of the LCBO Supplier Code of Business Conduct, as amended from time to time at the LCBO’s discretion (the “**LCBO Supplier Code**”). The LCBO Supplier Code shall form part of the Agreement but shall not limit the rights and remedies of the LCBO contained herein. A copy of the LCBO Supplier Code may be obtained from the LCBO upon request in writing, or at www.doingbusinesswithlcbo.com.
- 23. RESPONSIBILITY OF SUPPLIER.** The Supplier is liable for the acts and omissions of its directors, officers, employees, agents, consultants, advisers, contractors, subcontractors, partners, affiliates and other representatives (“**Representatives**”). This paragraph is in addition to any and all of the Supplier’s liabilities under the Agreement and under the general application of law. The Supplier shall advise its Representatives of its obligations under the Agreement and, without limiting the generality of the foregoing, shall take appropriate action to ensure compliance with (i) the Agreement generally, (ii) the LCBO Gateway Reference Guide, the Vendor Performance Program Guidelines, the LCBO Supplier Code and the Packaging Standards; and (iii) the requirements of Section 26 (Confidentiality) of the Agreement. In addition to any other liabilities of the Supplier pursuant to the Agreement or otherwise at law or in equity, the Supplier shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of the Agreement resulting from the actions of its Representatives.
- 24. ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT:** Supplier will ensure that: (a) the Products provided to LCBO meet or exceed the criteria set out in the at [LCBO Accessibility Standard](http://www.doingbusinesswithlcbo.com), available at www.doingbusinesswithlcbo.com, as updated by LCBO from time to time; and (b) each Representative that provides Products on its behalf and who interacts with LCBO employees or the public, or participates in developing LCBO’s policies, practices or procedures, receives training on the requirements of the accessibility standards under Ontario Regulation 191/11 made pursuant to the *Accessibility for Ontarians with Disabilities Act, 2005* and on the Ontario Human Rights Code as it pertains to persons with disabilities. Such training will be appropriate to the scope of the Products being provided. Supplier will maintain a record of such training, including the name of each individual trained and the date completed, and will make these records available to LCBO upon request.
- 25. CONFLICT OF INTEREST:** Supplier will: (a) avoid any Conflict of Interest in the performance of the Agreement; (b) disclose to LCBO, without delay, any actual or potential Conflict of Interest that arises during the Term; and (c) comply with any directions of LCBO to resolve any Conflict of Interest. If Supplier fails to disclose an actual or potential Conflict of Interest, fails to comply with any LCBO directions to address it, or if, in the sole discretion of LCBO, the Conflict of Interest cannot be resolved, LCBO may immediately terminate the Agreement on written notice to Supplier. Such termination will be without liability to LCBO. “**Conflict of**

Interest” means any situation where, in carrying out its obligations under an LCBO contract, Supplier’s other commitments, relationships or financial interests could, or could be seen to: (i) improperly influence its ability to act independently and impartially; or (ii) compromise, impair or be incompatible with the performance of its contractual obligations.

- 26. CONFIDENTIALITY:** Supplier may obtain or receive Confidential Information of the LCBO in connection with the Agreement. Supplier will keep such information confidential and only disclose it to those of its Representatives who need to know it for the sole purpose of performing its obligations under the Agreement, provided such Representatives are under written confidentiality obligations equivalent to those in the Agreement. Supplier shall not use Confidential Information for any other purpose, including but not limited to any competitive, commercial, or other strategic purpose unrelated to fulfilling the Agreement. Neither Supplier, nor its personnel or Representatives, will disclose the Confidential Information, except as permitted by the Agreement, with LCBO’s prior written consent, or as required by law. Copies of the Confidential Information may only be made if necessary to the performance of the Agreement. For greater certainty, **“Confidential Information”** means any information that LCBO identifies as confidential or should reasonably be treated as confidential, regardless of how such information is communicated and whether or not marked as confidential. Confidential Information includes the terms of the Agreement, all Personal Information (**“Personal Information”**), as such term is defined in the *Freedom of Information and Protection of Privacy Act* (Ontario) and its associated regulations (collectively, **“FIPPA”**), and all non-public information related to LCBO’s business, assets, customers, contractors, equipment, financials, Intellectual Property, inventory, ideas, data, software, strategies, operations, pricing, goods, suppliers, plans, services, techniques and specifications. Confidential Information does not include information that is: (i) or becomes publicly available other than through a breach of the Agreement; (ii) lawfully received from a third party without breach of a duty of confidentiality; or (iii) independently developed without reference to the Confidential Information and such development is adequately documented (provided that such exceptions may not apply to Personal Information in certain circumstances). In the event of any unauthorized use, disclosure or disposal of Confidential Information, Supplier will: (a) immediately notify LCBO, in writing, of the unauthorized incident with full details; (b) provide regular and comprehensive updates about the unauthorized incident to LCBO; (c) take all reasonable steps to respond to, and prevent the recurrence of, the unauthorized incident; and (d) cooperate fully with LCBO and any regulatory body in any related investigation or response.
- 27. PRIVACY AND ACCESS:** Supplier will, and will cause its Representatives to, comply with all applicable privacy laws with respect to any Personal Information obtained, accessed, stored, transferred or otherwise handled in the performance of its obligations under the Agreement. Without limiting the generality of the compliance obligations set out in this Section, Supplier will comply with the requirements of FIPPA, as if it were an institution subject to FIPPA, with respect to any Personal Information handled in connection with the Agreement. Supplier acknowledges that LCBO is subject to FIPPA and may be required to disclose records related to the Agreement, including any confidential information. Supplier is responsible for properly marking any such information and should seek legal advice as needed. Subject to FIPPA, LCBO will use reasonable efforts to protect information marked as confidential but is not liable for any disclosure permitted pursuant to this section, required by law, or required by order of the Information and Privacy Commissioner. Supplier further acknowledges that LCBO may disclose Supplier’s confidential information to the Ontario Ministry of Finance, its sole shareholder, without notice.
- 28. DATA AND INFORMATION SECURITY:** Supplier will have in place appropriate technical, physical and organizational security safeguards to protect the Confidential Information against unauthorized, unlawful or accidental access, collection, use, loss or disclosure, and provide a level of security for such Confidential Information that is appropriate to the sensitivity of such information. Supplier will ensure its Representatives comply with this Section. In the event of any unauthorized use, disclosure or disposal of Confidential Information, Supplier will: (a) notify LCBO, in writing, of the unauthorized incident with full details as soon as reasonably practicable, and in any event within twenty-four (24) hours of becoming aware of the incident; (b) provide regular and comprehensive updates about the unauthorized incident to LCBO; (c) take all reasonable steps to respond to, and prevent the recurrence of, the unauthorized incident; and (d) cooperate fully with LCBO and any regulatory body in any related investigation or response. Supplier acknowledges that a breach of Sections 26, 27 or 28 may cause irreparable harm to LCBO, not adequately compensated by damages alone. Accordingly, LCBO will be entitled to interim and permanent injunctive relief, specific performance, and other equitable remedies, in addition to any other relief to which it may become entitled.
- 29. REPRESENTATIONS, WARRANTIES AND COVENANTS:** During the Term, Supplier represents, warrants and covenants that: (a) it is not party to any agreement that prevents it from carrying out its obligations under the Agreement; (b) the Agreement is legally binding and enforceable against it; (c) it has or will obtain and maintain all permits, licenses and other rights necessary to fulfill its obligations under the Agreement; (d) the

performance of its obligations under the Agreement, and all the materials, information and the Products provided by Supplier, do not and will not infringe, misappropriate, or otherwise violate any rights of any third party, including Intellectual Property rights, rights of confidentiality, privacy rights, rights of publicity, or any rights relating to defamation or similar claims; (e) its knowledge, skill, experience and abilities are appropriate and sufficient to carry out its obligations under the Agreement; (f) it will at all times comply, and cause its Representatives to comply, with all applicable laws in its performance of its obligations under the Agreement; (g) it will at all times comply, and cause its Representatives to comply, with the LCBO Supplier Code; (h) all information provided by it or its Representatives to LCBO and its representatives in connection with the Agreement is, to the best of Supplier's knowledge, true and correct; and (j) to the best of its knowledge, the materials incorporated into the Products were generated in compliance with the *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (Canada).

30. PRODUCT WARRANTIES: The Supplier represents, warrants and covenants that: (a) the Products, including any replacements, are transferred to the LCBO with good title free and clear of liens, encumbrances and rights of others; (b) the Products are manufactured, assembled, and tested in accordance with all applicable quality-control standards and conditions; (c) the Products are produced, packaged, shipped and sold in compliance with goods manufacturing practices, applicable licences, and all applicable laws; (d) the Products are fit for the intended purpose, of merchantable quality and free of defects in design, material and workmanship; (e) the Products are compliant with all applicable laws and regulations; and (f) the Products do not, and LCBO's use of the Products do not, infringe upon any Intellectual Property rights of a third party. The foregoing warranties are in addition to, and shall not derogate from, any express warranty of the Supplier or any other right or remedy which the LCBO may have under applicable law.

31. INDEMNIFICATION: The Supplier shall indemnify, defend and hold harmless the LCBO, its board members, officers, employees, customers, agents, representatives and persons it authorizes to sell the Product(s) from and against all liabilities, losses, claims, damages, penalties, investigations, actions, proceedings, regulatory actions, suits, demands, levies, costs and expenses (including reasonable legal and advisory fees) of whatever kind or nature, including personal injury, bodily harm, death and property damage, related to: (a) Supplier's or its Representatives' fraud, negligence or willful misconduct; (b) Supplier's breach of the Agreement; (c) any allegation of infringement or misappropriation of a third party's Intellectual Property rights by the Product(s) or the Supplier or its Representatives; (d) any defect with respect to the Product(s), irrespective of the time when same is discovered; (e) the manufacture, production, shipment, delivery or sale of the Products by the Supplier and any of its Representatives; (f) Product(s) which is determined by the LCBO to be unsatisfactory within the meaning of Section 13; and (g) any actual or alleged violation of applicable laws by the Supplier or its Representatives.

Any express or implied reference to the LCBO providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the LCBO, whether at the time of execution of the Agreement or at any time during the Term of the Agreement shall be void and of no legal effect.

In no event will LCBO be liable for any special, incidental, indirect, consequential, exemplary or punitive damages or any damages for loss of profits, loss of data, business interruption, or loss of business information relating to the Agreement. These limitations will apply regardless of the claim, and regardless of whether LCBO has been advised of the possibility of such damages. If circumstances arise where Supplier is entitled to recover damages relating to the Agreement, the aggregate liability of LCBO, if any, will in no event exceed the value of the prices paid by LCBO to Supplier under the applicable Purchase Order.

32. INSURANCE: Supplier will, at its expense, obtain and maintain throughout the Term, such insurance as a reasonably prudent person carrying out the same or similar activities would maintain, including Commercial General Liability Insurance with limits of at least \$2,000,000 per occurrence. Supplier will provide LCBO with certificates of insurance confirming the required coverage upon request. Policies must include thirty (30) days' notice of cancellation or change. In addition, notwithstanding the foregoing, if the Terms and Conditions in Section 2.B of Schedule "B" apply to this Purchase Order, the Supplier will, at its expense, obtain and maintain the additional insurance coverages as set out therein.

33. WORKPLACE SAFETY: If the Supplier is subject to the *Workplace Safety and Insurance Act* ("WSIA"), or other similar legislation, it will provide a valid WSIA clearance certificate to the LCBO prior to the effective date of the Agreement and upon request throughout the Term. Supplier will, and will ensure its subcontractors, stay in good standing and pay all WSIA amounts when due, failing which LCBO may pay the outstanding amounts and recover such amounts, and all costs incurred by LCBO in connection with such payment, from any payments owed to Supplier.

- 34. CANCELLATION OF PURCHASE ORDER:** The LCBO reserves the right to cancel the Agreement in whole or in part at any time without liability and at the Supplier's expense and risk: (a) upon written notice to the Supplier, where the shipment or any part thereof is determined by the LCBO to be unsatisfactory within the meaning of Section 13; (b) by giving fifteen (15) days written notice to the Supplier, where, for any reason beyond the control of the LCBO including, without limitation, any reason relating to the marketing of the Product(s), the LCBO is unable to complete the purchase of the Product; (c) upon written notice to the Supplier where the Supplier has failed to comply with any covenant, warranty or other provision of the Agreement, including failure to adhere to the provisions of the LCBO Gateway Reference Guide, Vendor Performance Program Guidelines, the LCBO Supplier Code and the Packaging Standards or (d) upon written notice to the Supplier where any Product(s) has been ordered but has not yet been delivered to the LCBO's carrier, or applicable Ship to Location. Notice of cancellation may only be given through LCBO Gateway.
- 35. DISPUTE RESOLUTION:** Without limiting the termination or cancellation rights in Sections 13, 25, 34 and 38 or in any other Sections of the Agreement, the parties will try to resolve any disputes, through good faith negotiations within thirty (30) days after a written request by either party. Unless otherwise agreed by the parties in writing, and without limiting the termination or cancellation rights referenced above, if a dispute is not settled through negotiation, then either party will submit the dispute to arbitration. Such arbitration will take place in Toronto, Ontario, in English, by a single arbitrator, pursuant to the ADR Institute of Canada Arbitration Rules and the *Arbitration Act, 1991 S.O. 1991, c. 17* (the "**Arbitration Act**"). The arbitrator's award may be enforced through any court having jurisdiction, in accordance with the Arbitration Act. Expenses and fees of the arbitrator will be shared equally by the parties, but each party will otherwise pay its own expenses. Either party may appeal the arbitrator's award to the Superior Court of Justice on a question of law in accordance with subsection 45(2) of the Arbitration Act.

GENERAL

- 36. INDEPENDENT CONTRACTOR:** The Supplier and LCBO are independent contractors. Nothing in the Agreement creates a joint venture, partnership, agency, employment relationship, or appointment under the *Public Service of Ontario Act*. No party may bind the other or make representations on its behalf.
- 37. NOTICES AND COMMUNICATIONS:** Any communications (including notices) that are required or permitted under the Agreement must be given electronically through LCBO Gateway or by e-mail. Notices are deemed received on the day sent unless after 5:00 p.m. (ET) or on a non-Business Day, in which case on the next Business Day. The parties agree that communications given in such manner are acceptable as signed written notice. The Supplier's use of an LCBO Gateway account as authorized by the LCBO is sufficient to verify the Supplier's identity and the authenticity of any Supplier communication made with the use of such account.
- For purposes of the Agreement, "**Business Day**" means any day excluding a Saturday, Sunday or statutory holiday in the Province of Ontario and any other day on which LCBO has elected to close its head offices for business.
- 38. FORCE MAJEURE:** Neither party will be liable for any failure or delay in its performance under the Agreement due to any cause beyond its reasonable control that could not have been avoided by the exercise of reasonable foresight, including natural disasters, epidemics, pandemics, public health emergencies, wars, embargoes, riots, sabotage, terrorism or governmental acts (not resulting from the actions or inactions of the party relying on such failure or delay), but not including, in the case of the Supplier (a) labour unrest or strikes of Supplier's employees, agents or subcontractors; (b) an increase in the cost of raw materials or supplies; or (c) constraints upon the Supplier's capacity resulting from filling orders for other customers, provided the affected party promptly notifies the other party and uses reasonable efforts to promptly correct such failure or delay. For clarity, no shortages or delays in Products, materials or other deliverables required in connection with the Agreement will be deemed an event of force majeure.
- 39. NON-EXCLUSIVITY:** The Supplier agrees that it enters into the Agreement on a non-exclusive basis, and the LCBO reserves the right to contract with other parties for goods and services the same as or similar to the Products provided by the Supplier.
- 40. ENTIRE AGREEMENT.** The Agreement constitutes the entire understanding and agreement between the parties with respect to its subject matter and supersedes all prior oral and written agreements, negotiations, representations and understandings between the parties regarding such subject matter.

- 41. AMENDMENTS:** The Agreement may only be amended by written amendment signed by the LCBO and the Supplier.
- 42. GOVERNING LAW:** The Agreement will be governed by the laws of the Province of Ontario and the applicable laws of Canada, without regard to any conflict of law principles. The *United Nations Convention on Contract for the International Sale of Goods* and any domestic statute implementing it do not apply. The parties irrevocably attorn to the non-exclusive jurisdiction of the courts located in the Province of Ontario to determine issues arising from the Agreement, other than those determined under Section 35.
- 43. ASSIGNMENT:** The Agreement will enure to the benefit of and is binding upon each party and its respective successors and permitted assigns. Supplier will not assign the Agreement, in whole or in part, without LCBO's prior written consent, which may be subject to such terms as LCBO may determine.
- 44. REMEDIES:** Notwithstanding any other provision of the Agreement, all rights and remedies of the parties under the Agreement are in addition to such party's other rights and remedies and are cumulative, not alternative.
- 45. WAIVER:** A party's waiver of any right, or failure to exercise a remedy, is not a continuing waiver of such right or remedy.
- 46. SEVERABILITY:** If any part of the Agreement is held to be invalid or unenforceable, such part will be severed and the rest of the provision and the Agreement will remain in full force and effect.
- 47. TIME IS OF THE ESSENCE:** Time is of the essence for all of Supplier's obligations under the Agreement.
- 48. ENGLISH LANGUAGE:** The parties hereto confirm their desire that the Agreement, along with all other documents including all notices relating hereto, be written in English language. Les parties aux présentes confirment leur volonté que cette convention de même que tous les documents, y compris tout avis, s'y rattachant, soient rédigés en anglais.
- 49. FURTHER ASSURANCES.** Each party will promptly execute and deliver such additional documents and take such further action as may be reasonably necessary to give effect to the provisions of the Agreement.
- 50. SURVIVAL.** The following sections will survive cancellation, expiration or termination of the Agreement: Sections 5 (Set-Off), 14 (No Price Discrimination), 18 (Record Retention and Audit), 25 (Conflict of Interest), 26 (Confidentiality), 27 (Privacy and Access), 28 (Data and Information Security), 29 (Representations, Warranties and Covenants), 30 (Product Warranties), 31 (Indemnification), 32 (Insurance), 35 (Dispute Resolution), 36-50 (General), and any other provisions which by their nature or express terms are intended to survive expiration or termination of the Agreement.

Schedule "A"

ADDITIONAL TERMS AND CONDITIONS FOR PRODUCTS PURCHASED BY THE LCBO FOR SALE THROUGH ITS RETAIL CHANNELS

1.A. PRICE ADJUSTMENTS (ESTIMATED RETAIL PRICE): The LCBO has established the retail selling price (including applicable container deposit) at which LCBO intends to initially offer the Products through its retail channels (the "**Estimated Retail Price**"). The Estimated Retail Price is available by accessing the LCBO's New Item Submission System. This section does not limit the LCBO's right to establish a different retail selling price of the Product. The price specified in this Purchase Order is based upon an estimate of the price required to achieve the Estimated Retail Price, using the LCBO standard pricing and mark-up policy in effect at the date of this Purchase Order. If the actual LCBO retail selling price, calculated as of the date that the LCBO receives the Products at an LCBO Warehouse, using the standard pricing and mark-up policy in effect at that time (the "**Actual Retail Price**"), is different than the Estimated Retail Price, then the price in this Purchase Order will be automatically adjusted to the extent necessary to produce the Estimated Retail Price. For example, but without limiting the foregoing, adjustments to the price may be required as a result of fluctuations in foreign currency exchange rates or in shipping rates between the Purchase Order date and the date that the Products are received by the LCBO. The LCBO will notify the Supplier whenever an adjustment to the price is required under this section. An adjustment to the price is not required if the LCBO, in its sole discretion, decides to revise the Estimated Retail Price so that it corresponds to the Actual Retail Price.

2.A. SALES TARGET REBATE: The Supplier may be required, at the sole discretion of the LCBO, to pay the LCBO a rebate if the LCBO's sales of the Product do not exceed the applicable sales level described in this section.

- a. Vintages Products (other than "**Essentials**"): This paragraph applies if the Products are sold through an LCBO "Vintages" sales channel (including LCBO retail stores and www.vintagesshoponline.com) and are not designated by the LCBO as a "Vintages Essentials" product. The Supplier may be required, at the sole discretion of the LCBO, to pay the LCBO a 20% rebate of the price paid by the LCBO (subject to any price adjustments required under the Price Adjustments (Estimated Retail Price) section above) if the LCBO does not sell 75% of the Products received by the LCBO within ninety (90) days after the date on which the LCBO makes the Products available for distribution to its retail stores (the "**Sell-Through Period for Vintages Products**"). The LCBO shall issue an invoice to the Supplier in LCBO Gateway for any such rebate, which is payable in respect of all warehouse and retail inventories remaining on hand at the end of the Sell-Through Period for Vintages Products.
- b. All Other Products: This paragraph applies if the Products (a) are sold through an LCBO sales channel other than "Vintages", or (b) are designated by the LCBO as a "Vintages Essentials" product. The LCBO has established annual sales targets for various beverage alcohol product groups ("**Sales Targets**"). Sales Target information is available at www.doingbusinesswithlcbo.com. A Sales Target is not a representation, warranty, guarantee or other agreement regarding the volume of Products that the LCBO will purchase from the Supplier during any LCBO fiscal year. "**Total Sales**" means, at any point in time, the LCBO's total sales of the Product named in this Purchase Order (regardless of whether the Products sold by the LCBO were acquired under this Purchase Order or other purchase orders) during the thirteen (13) LCBO fiscal periods immediately prior to such point in time. If the Total Sales of the Product do not exceed the Sales Target for the applicable product group, then the Supplier may be required, at the sole discretion of the LCBO, to pay the LCBO a rebate of 30% of the price paid by the LCBO in the most recent purchase order issued by LCBO for the Products (subject to any price adjustments required under the Price Adjustments (Estimated Retail Price) section above) for all warehouse and retail inventories of the Product remaining on hand at that time and for any inventories on-order at the time that the rebate is calculated. The LCBO shall issue an invoice to the Supplier for any such rebate.
- c. Exception: Despite the foregoing, Section 2.A does not apply if (a) there is a prior written agreement between the LCBO and the Supplier regarding rebates that are payable if the Sales Targets are not attained, or (b) the LCBO expressly waives this rebate requirement in writing.

3.A. MARKETING FEES (FOR VINTAGES PRODUCTS ONLY): This section applies only if the Products are purchased for sale through the LCBO "Vintages" sales channel. The Supplier shall pay the LCBO a marketing fee: (a) equal to 1.5% of the price of the Products purchased, if the Products are designated by the LCBO as

a "Vintages Essentials" brand, or (b) equal to 1% of the price of the Products purchased, if the Products are designated by the LCBO as a "Vintages Collaborative Products" brand. If the Products are not a "Vintages Essential" brand or a "Vintages Collaborative Products" brand, then the Supplier shall pay the applicable marketing fee specified on www.doingbusinesswithlcbo.com. The LCBO may set-off the fee payable under this section against amounts that become payable to the Supplier under the Agreement or issue an invoice for such fee.

4.A. BULK LIQUOR: Shipments of bulk liquor (as defined in O. Reg. 745/21) must be accompanied by a gauge sheet showing the contents of each cask in litres, the net tare and gross weights and the percentage of absolute alcohol by volume. Percentage of obscuration is also to be shown for liquors only.

Schedule "B"

ADDITIONAL TERMS AND CONDITIONS FOR PRODUCTS PURCHASED BY THE LCBO FOR SALE THROUGH ITS WHOLESALE CHANNELS

- 1.B. COMPLIANCE WITH LCBO WHOLESALE PROCEDURES MANUAL.** The Supplier will, and will cause its personnel to, comply at all times with the LCBO Wholesale Supply and Delivery Procedures Manual (the "Manual") as may be amended from time to time at LCBO's discretion, which is available at www.doingbusinesswithlcbo.com. Without limiting the foregoing, the Supplier shall adhere to the timelines for Purchase Order Acknowledgement, Purchase Order Confirmation, Advance Shipping Notice, order fulfillment and the delivery guidelines set out in the Manual.
- 2.B. SUPPLYING SOURCE PROGRAM.** Suppliers who have registered with the LCBO as a participant in the Supplying Source Program (as defined and set out in the Manual), must enter into and comply at all times with the terms and conditions of the Service Level Agreement, including but not limited to, the additional insurance requirements set out therein.