

LCBO PURCHASE ORDER TERMS AND CONDITIONS  
EFFECTIVE February 2, 2024

The following terms and conditions apply to, and form part of, each purchase order ("**Purchase Order**") for the purchase of beverage alcohol 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 beverage alcohol products. The terms and conditions set out in this Purchase Order apply to purchases by the LCBO for Products for sale through its retail channels, through its wholesale channels, or both, as applicable. 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 and the acceptance of such Products by the LCBO or the applicable LCBO customer.

**SECTION A.** Terms and Conditions applicable to every Purchase Order. (The terms and conditions in Section A below apply to every Purchase Order issued by the LCBO.)

1. **AGREEMENT TO PURCHASE:** The Supplier will be deemed to have entered into a binding agreement (the "**Agreement**") with the LCBO upon: (a) signing and returning the acknowledgement copy of the Purchase Order, (b) giving the LCBO written notice of acceptance of the Purchase Order, (c) confirming receipt of the Purchase Order and accepting these Terms and Conditions through the LCBO's web-based Purchase Order or Grocery Management System (the "**WebPO System**"), or (d) 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 this 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. **CONFIRMATION OF PURCHASE ORDER RECEIPT BY SUPPLIER:** Within two (2) Business Days of the LCBO's issuance of the Purchase Order, the Supplier shall provide the LCBO with confirmation of receipt of the Purchase Order through the WebPO System, failing which the Supplier will be subject to a non-compliance fee pursuant to Section 8 below. Notwithstanding the foregoing, the Supplier shall not be required to confirm receipt of the Purchase Order in accordance with this section if the Terms and Conditions in Section C below apply to this Purchase Order.

For purposes of this Agreement, "**Business Day**" means any working day, Monday to Friday inclusive, excluding statutory and other Ontario provincial government holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; and Boxing Day, and any other day which the LCBO has elected to be closed for business.

3. **PRICE/QUANTITY/CURRENCY/TAXES:** The price payable by the LCBO shall not exceed the quoted price shown in the Purchase Order. The Supplier shall provide the LCBO with the benefit of any reduction in the price of any Product ordered that is in effect prior to delivery to the LCBO.

If "Ex Cellar" is specified, the price includes only the cost of the Products, which shall be made available for shipment from the Supplier's warehouse. If "FOB (Port)" is specified, the price includes all charges (including, without limitation, customs clearance and transportation) up to and including loading on board vessel at the designated port of shipment. If "FCA (Forwarder's Warehouse)" is specified, the price includes all charges (including, without limitation, customs clearance and transportation) up to and including delivery to the designated warehouse.

The Supplier shall not change the specific quantity or bottle size ordered nor make any substitutions without the prior written consent of the LCBO. Requests to change quantities or bottle sizes or to make substitutions must be communicated, before shipping the Products ordered, to the attention of the appropriate LCBO buyer. The LCBO will be deemed to have accepted the changes or substitutions proposed by the Supplier only upon the LCBO issuing a revised Purchase Order corresponding to the changes or substitutions proposed by the Supplier. 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.

Unless otherwise specified in the Purchase Order, all references to monetary amounts shall be in Canadian Dollars.

Except as expressly set forth in this Agreement, the prices quoted herein are inclusive of all sales and similar taxes, duties, 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) in acceptable condition by (a) the LCBO at its 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 the completed form LCB 2296 Direction to Pay Agent (to be submitted to the LCBO Accounts Payable Department at [accounts.payable@lcbo.com](mailto:accounts.payable@lcbo.com)). Payment will be made by electronic funds transfer unless the parties agree otherwise. 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 other 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. **INSPECTION OF PRODUCT:** All product(s) ordered shall be subject to inspection and acceptance by the LCBO, or where applicable, the LCBO's customer (on behalf of the LCBO). Such acceptance will be given within a reasonable time after receipt of the products at the LCBO's warehouse or applicable Ship to Location, if the products are in satisfactory condition as described herein.
7. **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 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 trade marks, patents, industrial designs, copyrights or other 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 addition to any other remedies available at law or in equity or under Section 24(d), 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 that 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. 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. **"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.
8. **NON-COMPLIANCE WITH PURCHASE ORDER REQUIREMENTS, THE WEBPO MANUAL, AND VENDOR PERFORMANCE PROGRAM GUIDELINES:** Without limiting Section 7 or any other remedies available to the LCBO, the Supplier shall pay the applicable LCBO handling and administration fee if (a) the Supplier supplies Products that do not comply with this Purchase Order, (b) the Supplier supplies Products that do not comply with the Product information previously provided to the LCBO, (c) the Supplier requests certain change(s) to this Purchase Order after this Purchase Order is issued, as more particularly set out in the LCBO Fee Schedule for Non-Compliance to Purchase Order Terms and Conditions, (d) the Supplier requests a change to this Purchase Order through any means other than the WebPO System, (e) the Supplier fails to confirm receipt of the Purchase Order through the LCBO WebPO System within two (2) Business Days of the LCBO's issuance of the Purchase Order, (f) the Supplier fails to confirm the Purchase Order as 'Ready to Ship' through the WebPO System or EDI on or before (i) the Scheduled Ship Date for imported orders or (ii) the end of the vendor prep time (Scheduled Arrival Date minus the Transportation Leadtime) for domestic orders, or (g) if the Supplier fails to meet the LCBO Web PO Manual and the Vendor Performance Program Guidelines (as may be amended from time-to-time at LCBO's discretion). These handling and administration fees are set out in the LCBO Fee Schedule for Non-Compliance to Purchase Order Terms and Conditions, which is available on [www.doingbusinesswithlcbo.com](http://www.doingbusinesswithlcbo.com).

9. **FAILURE TO DELIVER QUANTITY OF PRODUCTS ORDERED:** Without limiting Section 7 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**”). 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 Section C below apply to this Purchase Order; (c) the Supplier’s failure to deliver the Order Quantity is a result of Force Majeure (as defined in Section 28), or (d) the LCBO expressly waives the requirement for such payment in writing.
10. **CUSTOMER PRODUCT RETURNS:** If, at any time, an LCBO customer returns an opened container(s) of the Product to the LCBO because the Product is unsatisfactory for any reason, 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. This remedy is in addition to any other remedies available at law or in equity or under Section 24(e)).
11. **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 7; (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 Policies (as hereinafter defined) as published from time to time; 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 be given by mail, personal delivery, email or through the WebPO System.
12. **VALUE ADDED ITEMS:** In the event the Products 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 Value Added Items supplied by the Supplier or its agents under the Program. The Supplier represents and warrants that they have obtained all third party consents, approvals, permissions to sell, market and advertise the Value Added Items in connection with the Supplier’s Products, and that the use of 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 Value Added Items, including claims related to (a) a defect in the Value Added Items, irrespective of the time when such defect is discovered, (b) the manufacture, production, shipment or delivery of the Value Added Items by the Supplier, and (c) Value Added Items determined by the LCBO to be unsatisfactory.
13. **LCBO POLICIES:** The Supplier shall at all times comply with the provisions of i) LCBO’s Product Management Policies and Procedures as amended from time to time, relating to the Product(s) ordered, and ii) LCBO’s Supplier Code of Business Conduct, as amended from time (collectively with LCBO’s Product Management Policies and Procedures as the “**LCBO Policies**”). The LCBO Policies shall form part of the Agreement, but such LCBO Policies shall not limit the rights and remedies of the LCBO contained herein. A copy of each LCBO Policy may be obtained from the LCBO upon request in writing, or at [www.doingbusinesswithlcbo.com](http://www.doingbusinesswithlcbo.com).
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 from time to time (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**"), and (c) the LCBO's Product Management Policies and Procedures, as published from time to time, all of which (collectively, the "**Packaging Standards**") form part of this Agreement. 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 Packaging Standards prescribe minimum requirements for package design, strength and construction, in addition to applicable mandatory markings (including, without limitation, U.P.C. bar coding, shipping containers, EAN bar coding, and labelling and standards for tamper evident packaging). 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](http://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. The Supplier shall reimburse the LCBO for all costs incurred by the LCBO to bring such Products into compliance with the Packaging Standards. The LCBO reserves the right to charge the Supplier a reasonable fee for bringing such Products into compliance with the Packaging Standards.

16. **ADVERTISING MATTER, ETC.:** Unless approved in advance by the LCBO, advertising matter or novelties of any sort must not be enclosed in cases or attached to bottles (excluding approved neck tags and approved Value Added Items) or shipped in LCBO containers. Unsolicited shipment of non-alcohol items in LCBO containers is prohibited.
17. **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.
18. **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).
19. **ACCESSIBILITY:** The Supplier shall ensure that all of its personnel, agents, employees or other representatives of the Supplier who provide the Products to the LCBO receive training on (i) the accessibility standards set out in Ontario Regulation 191/11 made pursuant to the *Accessibility for Ontarians with Disabilities Act, 2005*; and (ii) the Ontario Human Rights Code as they relate to the persons with disabilities. The training shall be appropriate to the scope of the Products being provided. Training is available online at [www.accessforward.ca](http://www.accessforward.ca). The Supplier shall ensure that it keeps a record of every individual who receives the required training as set above, which shall include the name of the employee or representative and the date on which the training was completed. The Supplier shall provide a copy of all such records upon request by the LCBO.
20. **CONFIDENTIALITY:** During and following the Term of this Agreement, the Supplier shall keep strictly confidential all information of the LCBO that is of a confidential nature, including all confidential information in the custody or control of the LCBO, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of the Supplier in connection with this Agreement (including trade secrets, know how, techniques, processes, programs, documentation, data, service manuals, technical reports, and financial information) (the "**Confidential Information**"), except as is otherwise necessary for the delivery of the Products. For the purposes of greater certainty, Confidential Information shall: (a) include: (i) all new information derived at any time from any such information whether created by the LCBO, the Supplier or any third-party; (ii) all information (including Personal Information as defined below) that the LCBO is obliged, or has the discretion, not to disclose under provincial or federal legislation; (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to the LCBO or to any third-party; (ii) the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence; (iii) the Supplier can demonstrate to have been rightfully known to or in the possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the Supplier; but the exclusions in this clause shall in no way limit the meaning of Personal Information or the obligations attaching thereto under this Agreement or at law.

21. **PRIVACY AND ACCESS:** The Supplier acknowledges that the LCBO is an institution to which the *Freedom of Information and Protection of Privacy Act* (Ontario) and its associated regulations (collectively, “**FIPPA**”) apply. The Supplier acknowledges that information it may receive from the LCBO may contain information about identifiable individuals (“**Personal Information**”) and agrees to use any and all Personal Information provided to it by the LCBO only to fulfill its obligations under this Agreement and for no other purpose and in any event, in accordance with the requirements of FIPPA. Without limiting the foregoing, the Supplier further agrees that it shall (i) not directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the LCBO, (ii) restrict access to Personal Information to those of its directors, officers, personnel, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the Products, provided that all individuals granted access to Personal Information must be advised of the confidentiality obligation herein, and are bound by confidentiality obligations at least as protective as those imposed in this Agreement, (iii) return or destroy the Personal Information as and when directed by the LCBO, and in any event upon the expiry or termination of this Agreement, unless required by law to retain such Personal Information for a longer period of time, (iv) co-operate with the LCBO in granting timely access to the Personal Information of a specific individual, if such individual has requested access through the LCBO and promptly refer to the LCBO any requests it receives for access to, amendments of or complaints about the Personal Information, (v) maintain appropriate security in respect of the Personal Information and permit the LCBO, on prior notice, to have reasonable access to its facilities and records to review the same, and (vi) notify the LCBO immediately of any breach of this Section 21 and co-operate with the LCBO to remedy the same. Any Confidential Information or Personal Information supplied to either party may be disclosed by such party where it is obligated to do so under FIPPA, by an order of a court or tribunal, or pursuant to a legal proceeding. As between the LCBO and the Supplier, the LCBO shall own and control all Personal Information collected, generated, modified, stored or created in the course of provision of the Products in connection with this Agreement.
22. **DATA AND INFORMATION SECURITY:** The Supplier shall be solely responsible for ensuring that appropriate technological, physical and organizational security measures are in place to keep confidential and protect any Confidential Information, including Personal Information, that comes into its possession or custody or that is collected, transmitted, generated or created by it or to it in the course of providing the Products. The Supplier shall maintain a security incident response process which is to be followed in the event of any reasonably suspected attack upon, intrusion upon, unauthorized access to Confidential Information (including Personal Information). The Supplier shall promptly, and no later than forty-eight (48) hours after discovery, report to the LCBO any collection, use or disclosure (of which it becomes aware) of any Personal Information that is inconsistent with the terms of this Agreement, contrary to applicable law, or inconsistent with the purpose for which it was collected (including if any Personal Information in its possession or control has been stolen, lost, or accessed by unauthorized persons or for unauthorized purposes). The Supplier shall cooperate fully and promptly from time to time with the LCBO in connection with any request regarding access to or correction of (or both) any Personal Information. The Supplier shall only amend Personal Information upon receiving instructions to do so from LCBO and in accordance with applicable law. The Supplier shall transfer, return and/or securely destroy all Personal Information collected, used, disclosed, generated or retained by it in connection with the Products in accordance with this Agreement, as directed by the LCBO, and in compliance with applicable law. The Supplier shall provide its personnel that have access to Personal Information with regular training regarding the proper collection, use and storage of Personal Information, information security, and the application of FIPPA, generally. The Supplier shall implement processes and procedures for responding to privacy breach and data security-related events including, without limitation, processes and procedures for identifying and containing privacy breaches, data security incidents and breaches, conducting forensic analyses of such incidents and breaches and developing and implementing recommendations for dealing with such events. The Supplier shall promptly report to the LCBO no later than twenty-four (24) hours after discovery of any potential breach of security or potential unauthorized use, unauthorized disclosure, theft, loss, or other unauthorized access to any Personal Information, LCBO systems or Confidential Information.
23. **NOTICES AND COMMUNICATIONS:** Any communications (including notices) that are required or permitted under the Agreement may be given electronically by e-mail or through the WebPO System. The parties agree that communications given in such manner are acceptable as a signed writing. The use of a WebPO System user identification code (“**user ID**”) issued by the LCBO to the Supplier is sufficient to verify the Supplier’s identity and the authenticity of any Supplier communication made with the use of such user ID.
24. **INDEMNIFICATION:** The Supplier shall indemnify and save 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, suits, claims, demands, damages, including consequential damages, and expenses of every kind (including, without limitation, legal fees on a solicitor client basis) arising in any manner from or connected with (directly or indirectly): (a) its breach of any covenant, warranty or other provision of the Agreement; (b) any defect with respect to the Product(s), irrespective of the time when same is discovered; (c) any violation or

infringement by the Product(s) or the Supplier of any trade marks, patents, industrial designs, copyrights or other intellectual property rights of any person, including, without limitation, from any allegations of such infringement or violation which are made by any person even if such allegations are false; (d) the manufacture, production, shipment or delivery of the Products by the Supplier and any of its employees, agents and subcontractors; (e) Product(s) which is determined by the LCBO to be unsatisfactory within the meaning of Section 7; and (f) the negligence or other wrongdoing of the Supplier and any of its employees, agents and subcontractors including the violation of any applicable laws.

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 this Agreement or at any time during the Term of this Agreement shall be void and of no legal effect.

The LCBO and the LCBO's officers, employees, independent contractors, subcontractors, agents, and assigns shall not be liable to the Supplier for any losses, expenses, costs, claims, damages, and liabilities arising out of or by reason of or attributable to the Supplier's Products or performance of the Supplier's obligations under this Agreement.

25. **INDEPENDENT SUPPLIER:** The Supplier is acting as an independent contractor in the performance of this Agreement and shall not be deemed to be an employee, partner, agent, or in joint venturer with, the LCBO. The Supplier shall have no power or authority to bind the LCBO or to assume or create any obligation or responsibility, express or implied, on behalf of the LCBO.
26. **WARRANTIES:** The Supplier warrants that: (a) the Products are of good and merchantable quality and will comply with the provisions of the Agreement; (b) the Products are fit for the purposes for which the Products are intended to be used; (c) the Products are transferred to the LCBO with good title free and clear of liens, encumbrances and rights of others; and (d) neither the Supplier nor the Products shall violate or infringe the trade marks, patents, industrial designs, copyrights or other intellectual property rights of any person. The Supplier expressly warrants that it has the full right and power to enter into this Agreement and there is no agreement with any other party that would in any way interfere with the rights of the LCBO under this Agreement.

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.

27. **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 delivery point specified in this Purchase Order and (a) acknowledgment of receipt by the LCBO at the LCBO's warehouse; or (b) acknowledgment of receipt by the LCBO's customer (on behalf of the LCBO) at the Ship to Location. 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. The Supplier will procure all necessary export permits or licenses at the Supplier's expense.
28. **FORCE MAJEURE:** "Force Majeure" means an unforeseen and extraordinary event beyond a party's reasonable control. An event is not considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Agreement would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, Force Majeure events include natural disasters and acts of war, epidemics and pandemics, insurrection and terrorism but do not include, 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. The Supplier shall immediately notify the LCBO of any Force Majeure event that prevents it from performing its obligations under the Agreement immediately upon discovering such event and shall use its best efforts to perform its obligations under the Agreement.
29. **ASSIGNMENT:** The Agreement and the rights and obligations thereunder may not be assigned, subcontracted, transferred or ceded by operation of law or otherwise without the express consent of the LCBO which may be withheld in its sole discretion. For wholesale orders, the Supplier may engage subcontractors for delivery of Products. The Supplier is responsible for all acts and omissions of its subcontractor(s). The use of a subcontractor does not relieve the Supplier from any liability or obligation under this Agreement. Nothing in this Agreement, or in such consent, creates a contractual relationship between any subcontractor and the LCBO. The Supplier agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors (the "Related Entities"). The Supplier shall advise its Related Entities of their obligations under this Agreement and shall ensure their compliance with the applicable terms of

this Agreement.

30. **WORKPLACE SAFETY:** If the Supplier is subject to the *Workplace Safety and Insurance Act* ("**WSIA**"), it shall submit a valid clearance certificate of WSIA coverage to the LCBO prior to the commencement date of this Agreement. In addition, the Supplier shall, from time to time at the request of the LCBO, provide additional WSIA clearance certificates. The Supplier covenants and agrees to pay when due, and to ensure that each of its subcontractors pays when due, all amounts required to be paid by it/its subcontractors, from time to time during the Term of this Agreement, under the WSIA, failing which the LCBO shall have the right, in addition to and not in substitution for any other right it may have pursuant to this Agreement or otherwise at law or in equity, to pay to the Workplace Safety and Insurance Board any amount due pursuant to the WSIA and unpaid by the Supplier or its subcontractors and to deduct such amount from any amount due and owing from time to time to the Supplier pursuant to this Agreement together with all costs incurred by the LCBO in connection therewith.
31. **NON-EXCLUSIVITY:** The LCBO makes no representation regarding the volume of Products required under this Agreement and reserves the right to contract with other parties for goods and services the same as or similar to the Products.
32. **CONFLICT OF INTEREST:** The Supplier shall (i) avoid any Conflict of Interest in the performance of its contractual obligations; (ii) disclose without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and (iii) comply with any requirements prescribed by the LCBO to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the LCBO may, at its sole and absolute discretion, immediately terminate this Agreement upon giving notice to the Supplier where (i) the Supplier fails to disclose an actual or potential Conflict of Interest; (ii) the Supplier fails to comply with any requirements prescribed by the LCBO to resolve a Conflict of Interest; or (iii) the Supplier's Conflict of Interest cannot be resolved. This clause survives termination or expiry of this Agreement. "**Conflict of Interest**" includes, but is not limited to, any situation or circumstance where: (a) the Supplier has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to, the Supplier's other commitments, relationships or financial interests that (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations.
33. **TIME OF ESSENCE:** Time shall be of the essence with respect to this Agreement.
34. **CONTRACT BINDING:** This Agreement enures to the benefit of and shall be binding on the successors and permitted assigns of the Supplier.
35. **AMENDMENTS:** Any changes to this Agreement shall only be made by written amendment signed by the LCBO and the Supplier. No changes shall be effective or shall be carried out in the absence of such an amendment.
36. **SEVERABILITY:** If any term or condition of the Agreement, or the application thereof to the parties or to any persons or circumstances, is to any extent held to be invalid or unenforceable, the remainder of the Agreement, and the application of such term or condition to the parties, persons or circumstances, other than those to which it is held invalid or unenforceable, shall not be affected thereby.
37. **APPLICABLE LAW:** The Agreement shall be governed by the laws of Ontario and Canada, excluding the United Nations Convention on Contracts for the International Sale of Goods. Any legal proceeding relating to the Agreement shall be submitted to the exclusive jurisdiction of the Courts of the Province of Ontario, Canada.
38. **REMEDIES CUMULATIVE:** The provisions of the Agreement, and the rights and remedies of the parties under the Agreement, are cumulative and are without prejudice and in addition to any rights or remedies a party may have at law or in equity; no exercise by a party of any one right or remedy under the Agreement, or at law or in equity, shall operate so as to hinder or prevent the exercise by it of any other right or remedy. No waiver of a breach of any provision herein shall constitute a waiver of any other breach of such provision.
39. **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.

**Section B.** Additional Terms and Conditions for Products purchased by the LCBO for sale through its retail channels (The terms and conditions in Section B below are in addition to the terms and conditions in Section A).

40. **PRICE ADJUSTMENTS (ESTIMATED RETAIL PRICE):** The LCBO has established the retail selling price (including applicable bottle 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 this time. If the actual LCBO retail selling price, calculated as of the date that the LCBO receives the Products at its warehouse in Ontario, 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.
41. **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 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) 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**”). Such rebate 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](http://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 (subject to any price adjustments required under the Price Adjustments (Estimated Retail Price) section) 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.
- (C.) Exception: Despite the foregoing, Section 41 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.
42. **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, (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](http://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.
43. **BULK ALCOHOL:** Shipments of bulk alcohol 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.

**Section C.** Additional Terms and Conditions for Products purchased by the LCBO for sale through its wholesale channels).



(The terms and conditions in Section C below are in addition to the terms and conditions in Section A).

44. **CONFIRMATION BY SUPPLIER.** Within one (1) Business Day of the Supplier's receipt of the Purchase Order, the Supplier shall provide the LCBO with confirmation of receipt and ability to supply and deliver the products specified in the Purchase Order, failing which the Supplier will be deemed to have confirmed and accepted the Purchase Order.
45. **DELIVERY TO LCBO CUSTOMER:** Where an LCBO customer and Ship to Location are set out in the Purchase Order, the Supplier shall deliver the Product(s) directly to such LCBO customer at such Ship to Location. Unless otherwise agreed to in writing by the LCBO, all delivery costs are included in the price of the Product(s). The Supplier shall deliver the Product(s) in accordance with the delivery instructions set out, provided that if no delivery date is provided, the Supplier shall deliver the Product(s) no later than fourteen (14) days from the date of this Purchase Order. Prior to any delivery to an LCBO customer, the Supplier must confirm the quantities and SKUs being delivered to the LCBO no later than twenty-four (24) hours prior to delivery. Deliveries made to LCBO customers without notice to the LCBO may be refused by LCBO customers. Where required by the LCBO, the Supplier shall provide the LCBO with the information reasonably requested by the LCBO to track such deliveries. Where an LCBO customer and Ship to Location is set out in the Purchase Order, the Supplier is solely responsible for the delivery of Products and the LCBO will not accept any costs, charge, surcharges, penalties or fines relating to the delivery of Products by the Supplier.
46. **FLOOR PRICE:** Where Product is made available for sale to licensed grocery stores, if the Supplier makes any adjustment to the Actual Retail Price of the Product which results in the Actual Retail Price of the Product falling below the amount specified at Section 89 of Ontario Regulation 746/21 made under the *Liquor Licence and Control Act, 2019* (as amended from time to time), the LCBO shall retrieve all affected Products from LCBO customer locations and return same to an LCBO warehouse, at the Supplier's sole risk and expense. Upon retrieving such Products, LCBO may, in its sole discretion and without the Supplier's approval: (A) sell the retrieved Product through its retail store channels; (B) if applicable, make the retrieved Products available for sale to wine boutiques (as such term is defined in Ontario Regulation 746/21 made under the *Liquor Licence and Control Act, 2019*); or (C) return all or any portion of the retrieved Product to the Supplier, at the Supplier's sole risk and expense. The Supplier shall fully indemnify the LCBO for all costs including, without limitation, the Landed Cost (as defined in Section 7 above) of the Product(s) and the freight expenses incurred in retrieving and/or returning the Product(s) or any portion thereof.
47. **ONTARIO WINE:** Where a Product is wine manufactured in the Province of Ontario and is made available for sale exclusively to licensed grocery stores and/or in wine boutiques (as such term is defined in Ontario Regulation 746/21 made under the *Liquor Licence and Control Act, 2019*); if the Product is not ordered by any of the LCBO's wholesale customers for a period of six (6) months from the time of receipt of the Product by the LCBO, the Product will be removed from the LCBO catalogue for wholesale customers and any Product remaining in the LCBO's warehouses will be returned to the Supplier at the Supplier's sole risk and expense. The Supplier shall fully indemnify the LCBO for all costs including, without limitation, the Landed Cost (as defined in Section 7 above) of the Product(s) and the freight expenses incurred in retrieving and/or returning the Product(s) or any portion thereof.
48. **WINE BOUTIQUES:** Where the Product(s) are made available for sale in wine boutiques (as such term is defined in Ontario Regulation 746/21 made under the *Liquor Licence and Control Act, 2019*), the Supplier agrees, upon receipt of notification from the LCBO, to provide the LCBO with a rebate equal to the Landed Cost (as defined in Section 7 above) of up to ten (10) bottles per SKU per wine boutique per year.