

These General Terms apply to the Off-Premise Trading Terms - NZ Agreement.

1. DEFINITIONS

In the Agreement, the following terms have the following meanings:

Applicable Laws means any relevant New Zealand laws, including but not limited to those for alcohol licensing and sales, privacy, data protection, anti-bribery, and human rights (including modern slavery).

Alcoholic Beverage means a beverage with more than 1.15% alcohol by volume, whether fermented, distilled, or chemically modified, and whether or not containing added fruit, vegetable juice, sugars, honey, or spices. Includes wine, cider, liqueur, spirits, and their derivatives.

Approved Wholesaler means a wholesaler authorised by Suntory to sell the Products.

Business Day means any day other than Saturday, Sunday, or a public holiday in Auckland, New Zealand.

Category means the beverage category of each Product detailed in Part 2 and / or the Trade Presenter.

Commencement Date means the date specified in Part 2.

Confidential Information means all proprietary or confidential information and materials disclosed by a party to the other, including details on employees, customers, operations, Intellectual Property, trade secrets, business opportunities and affairs, and any related analyses, records, or data. This includes the existence and terms of this Agreement.

Contract Year means each 12 month period of the Term, with the first period commencing on the Commencement Date.

Control has the meaning given by the *Companies Act 1993*, and / or where one entity has the capacity to determine the outcome of decisions about the second entity's financial and/or operating policies.

Customer or you or your means the Customer named in Part 1 - Parties and its employees, workers, contractors, subsidiaries and affiliates.

Customer Commitments means all of the Customer's obligations detailed in Part 2, Schedule 1 (Customer Commitments) and any other related applicable documents, including the Trade Presenter.

FBS means full strength bottled spirits.

GST refers to the Goods and Services Tax, or any comparable value-added tax imposed under the *Goods and Services Tax Act 1985*.

Integrated Outlets means a hospitality venue that permits on-premise consumption of Alcoholic Beverages that is connected to, or accessible by, the Outlet.

Intellectual Property encompasses any current or future intellectual property or other creative, branding, or innovative assets, whether registrable or registered. This includes, but is not limited to, trademarks, designs, copyright, business or manufacturing methods, confidential information, and rights akin to these (including applications, extensions, and renewals).

ISV means the invoiced sales value, exclusive of GST, fees, and any Rebates. References to "NIV" mean the same as ISV.

Non-Alcoholic Adult Beverages or **NARTD** refer to non-alcoholic drinks or ready-to-drink pre-mixed drinks;

- a) containing no alcohol or less than 0.5% alcohol by volume; and / or
- b) that are positioned as alternatives or substitutes for Alcoholic Beverages, including alcohol-free cocktails and stand-alone or neat beverages.

Off-Premise means the sale of Alcoholic Beverages designed or intended to be consumed away from an Outlet by the purchaser.

Outlet means a venue that operates an Off-Premise business and is acquired, established, operated, or managed by the Customer.

Products mean the beverage products sold by Suntory within New Zealand, including those specified in Part 2 and / or in the Trade Presenter.

Quarterly means a three month calendar period in each Contract Year, beginning on either 1 January, 1 April, 1 July or 1 October.

Rebate means a fixed percentage based on the ISV on all applicable Products as specified in Part 2.

RTD means ready-to-drink Alcoholic Beverages sold in prepared form, suitable for immediate consumption without further preparation, including but not limited to:

- a) Alcoholic Beverages (in any packaging or delivery form) that combine alcohol with non-alcoholic ingredients;
- b) Ready-to-drink Alcoholic Beverages, regardless of whether they contain spirits; and / or
- c) beverages liable for excise duty under the *Customs and Excise Act 2018*, except full-strength spirits like FBS.

Schedule means a schedule attached to this Agreement.

Suntory Codes means the Suntory Code of Conduct (available at

<https://www.suntory.com/softdrink/company/sustainability/governance/governance.html>) and the Suntory Responsible Marketing Code (available at <https://www.suntoryoceania.com/app/uploads/2024/12/SuntoryOceania-ResponsibleMarketingCode-December2024.pdf>), as amended periodically.

Term means the duration of this Agreement, as detailed in Part 2, Term.

Trade Presenter means the document setting out Product information, benefits offered by Suntory and detailed activities to be carried out by the Customer.

2. INTERPRETATION

In this Agreement, unless otherwise stated:

- 2.1. headings are for reference only and do not affect interpretation;
- 2.2. singular terms include the plural and vice versa;
- 2.3. ‘including’ and similar words are not limiting;
- 2.4. a person reference covers executors, administrators, successors, substitutes (including by novation), and permitted assignees;
- 2.5. document references apply to any variation, novation, ratification, or replacement;
- 2.6. references to a party, clause, schedule, part, attachment, or annexure relate to this Agreement;
- 2.7. references to statutes include related regulations and any future amendments or replacements;
- 2.8. ‘\$’ or ‘dollar’ means New Zealand currency;
- 2.9. if a payment or action falls on a non-Business Day, it must be made or done on the next Business Day;
- 2.10. if a party is made up of more than one entity, all are jointly and separately liable; and
- 2.11. this Agreement includes Part 1 (Parties and Execution), Part 2 (Term), Part 2 (Schedules), and Part 3 (General Terms). If terms conflict, the following order applies: Part 2 (Term), then Part 2 (Schedules), then Part 3 (General Terms).

3. CUSTOMER COMMITMENTS

- 3.1. In consideration of the Rebates and benefits offered by Suntory under this Agreement, the Customer agrees:
 - (a) that the Customer will comply with, or meet, the Customer Commitments;
 - (b) to comply with any Applicable Laws in relation to and in performance of this Agreement;
 - (c) to adhere to the Suntory Codes;

- (d) to ensure that it has all necessary permits, permissions, licences, approvals and accreditations required to lawfully sell the Products and meet its obligations specified in this Agreement; and

- (e) to use its best efforts to promote and solicit sales of the Products.

- 3.2. In the event that you fail to comply with this Agreement, including where you fail to meet the Customer Commitments, Suntory reserves the right to withhold payment of Rebates and / or terminate this Agreement upon written notice. Where Suntory terminates this Agreement under this clause 3.2, you will be liable to pay the full price for Products and you will no longer receive the Rebates and benefits offered by Suntory.

4. APPROVED WHOLESALERS

- 4.1. Only procurement of Products directly from Suntory and / or Approved Wholesalers will contribute towards the calculation of any Customer discounts, Rebates, volume achievements or volume targets. Procurement of Products (or purported Suntory products) from unauthorised sellers, including by procuring Products from overseas or by parallel importing, is excluded from such calculation.
- 4.2. Suntory does not set and is not responsible for the terms of supply or price of Products charged by Approved Wholesalers, or any change in those terms of supply or price of Products sold by Approved Wholesalers.
- 4.3. If the Customer buys Products from an Approved Wholesaler, Suntory is not responsible for supplying the Products or for any representations, acts or omissions of the Approved Wholesaler.
- 4.4. The Customer will notify Suntory immediately should the Customer choose to change their Approved Wholesaler.

5. PRODUCTS

- 5.1. Products may only be sold by the Customer and Outlet within New Zealand.
- 5.2. The Customer is prohibited from any parallel sale, importing, or similar activities, including, but not limited to, importing Suntory products from overseas or reselling Products (or purported Suntory products) outside New Zealand (**Parallel Sale Activity**), and must immediately notify Suntory of any actual or suspected Parallel Sale Activity. If Suntory finds that the Customer has engaged in such activity, it may terminate this Agreement immediately, without prejudice to other rights or remedies.

- 5.3. The Customer may only make claims or statements about the Products as specified in Suntory-approved marketing materials.

- 5.4. The Customer must not change or tamper with the packaging or labelling of the Products.

6. PROHIBITION ON SALES TO WHOLESALERS AND INTEGRATED OUTLETS

This Agreement is applicable only to the Customer. The on-sale of Products by the Customer or Outlet to Integrated Outlets, third party businesses, or distributors is strictly prohibited. Suntory, in its absolute discretion, reserves the right to immediately terminate this Agreement or to restrict or limit supply to the Customer and/or Outlet that it knows or reasonably suspects to have participated in such onselling. Rebates under this Agreement will be available solely to the Customer (including on behalf of the Outlet) and do not extend to Integrated Outlets.

7. INTELLECTUAL PROPERTY

- 7.1. Each party grants the other a revocable, non-exclusive, non-transferable, personal and royalty free licence for the Term to use the other party's approved logos and assets in pre-approved advertising and marketing materials during the Term.

- 7.2. Approval given under clause 7.1 must be forwarded to the other party's representative (as defined under Part 1, Parties).

- 7.3. Each party will own all rights, title and interest in their existing and arising Intellectual Property.

8. TERMINATION

- 8.1. Either party may terminate this Agreement for convenience upon six (6) months' prior written notice, with such notice to be effective no earlier than the day after the first Contract Year is completed.

- 8.2. Suntory may terminate this Agreement immediately by written notice if:

- (a) Suntory is entitled to terminate pursuant to clauses 3.2, 5.2 or 6;

- (b) the Customer breaches any term of the Agreement that is not capable of remedy or fails to remedy a breach within 14 Business Days after notice;

- (c) there is a change of Control of the Customer or any holding entity after the Commencement Date without Suntory's prior written consent; or

- (d) the Customer does anything that, in Suntory's opinion, brings or may bring Suntory into disrepute, including in respect

of sale of any beverages outside of New Zealand.

- 8.3. Either party may terminate this Agreement immediately if the other party:

- (a) enters insolvency, bankruptcy, receivership, liquidation, or any arrangement for creditors' benefit;

- (b) fails to maintain required registrations or licences, including any alcohol licence; or

- (c) ceases business related to supplying Alcoholic Beverages.

- 8.4. Termination does not affect any rights or remedies accrued before termination and provisions intended to continue after termination. Upon termination or expiration, Suntory will only provide Rebates for volume sold before the termination date, paid to the Customer's nominated account, subject to this Agreement and any claims Suntory may have against the Customer. The Customer remains liable for obligations accrued prior to termination.

9. WARRANTIES

- 9.1. The Customer warrants that it:

- (a) has authority to commit to the Agreement;

- (b) has not, is not, and will not engage in conduct that damages Suntory's name or reputation or brings its brands into disrepute, contempt, scandal, or ridicule; and

- (c) holds and will maintain all required licences for selling alcohol, providing proof on request.

10. INDEMNITY AND LIABILITY

- 10.1. To the extent permitted by law, each party agrees to indemnify and keep indemnified the other party against any loss, damage, claim or otherwise in connection with a breach or non-compliance of this Agreement, non-performance of any obligations under this Agreement, breach of intellectual property rights, loss or damage to property, death or personal injury to any person and must pay to the other party on demand an amount incurred as a direct or indirect result of that breach.

- 10.2. Neither party shall be liable for any loss, damage, claim or otherwise whether indirect, incidental, special, consequential or otherwise related to loss of profits or anticipated profits, reputational loss, loss of revenue, loss of savings, loss of business opportunity.

- 10.3. Suntory's maximum liability under this Agreement is limited to the sum paid by

Suntory to the Customer in the 12 month period immediately preceding a notice of claim.

10.4. Nothing in this clause excludes any rights a party may have at law.

11. CONFIDENTIALITY

Each party must keep all Confidential Information secret and not disclose or use it except with consent, to related entities, or as required by law. These obligations continue after this Agreement ends.

12. INSURANCE

The Customer must have public liability insurance for an amount of no less than \$5,000,000 per claim, held with a reputable insurance company at its cost, and provide evidence of this upon request.

13. GST

All amounts payable under this Agreement are exclusive of GST (unless expressed to be GST inclusive). If GST is payable in respect of any supply made by Suntory under this Agreement, you must pay to Suntory an amount equal to the GST payable on the supply, as specified in a tax invoice issued by Suntory to you.

14. ANY PARTY AS TRUSTEE

If any party (**Trustee**) enters into this Agreement in the capacity as Trustee of any trust (**Trust**) under any Trust deed, deed of settlement or other instrument, and whether or not the other parties have notice of the Trust, then that party and/or the Trustee enters into this Agreement both in its personal capacity and as Trustee of the Trust.

15. NOTICES

All notices under this Agreement must be in writing and delivered in person, by post, or by email to the address specified in part 1. Notices are deemed received when delivered, three Business Days after posting, or upon email delivery, except if received after 5pm or on a non-Business Day, in which case receipt is the next Business Day at 9am.

16. ASSIGNMENT

Neither party may assign, novate or transfer its rights under this Agreement without the other's prior written consent.

17. COSTS

Each party must pay its own costs and expenses in connection with entering into and performing its obligations under this document.

18. ENTIRE AGREEMENT

This Agreement and the Trade Presenter is the entire agreement between the parties about its

subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when signed will be deemed to be an original, and such counterparts together will constitute one and the same instrument.

20. ELECTRONIC EXECUTION

Each party consents to the signing of this Agreement by electronic means. By signing this Agreement, the Customer acknowledges that it has also received a copy of the Trade Presenter.

21. VARIATION

21.1. Subject to clause 21.2, this Agreement can only be varied by a written variation signed by each party.

21.2. Suntory may amend this Agreement upon no less than 30 days' prior written notice after which the changes will be deemed effective (**Change Effective Date**). If the Customer can demonstrate prior to the Change Effective Date that the proposed change would reasonably and detrimentally impact the Customer, then Customer may terminate this Agreement with 5 Business Days' written notice to Suntory unless such changes are required under applicable laws. This clause, including the Customer's right to terminate, does not apply where Suntory makes changes to Product unit pricing or the Trade Presenter, which Suntory may do in its sole discretion.

22. WAIVER

If a party delays or chooses not to exercise any right under this Agreement, it does not waive that right unless agreed in writing.

23. SEVERABILITY

If any provision of this Agreement is or becomes illegal, invalid, or unenforceable, the balance of provisions remain valid and enforceable.

24. GOVERNING LAW

This Agreement is governed by New Zealand law, and each party submits to its courts' non-exclusive jurisdiction.