

Frederic Robinson Ltd
General Conditions of sale – updated October 2014



1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Authorised Destruction Policy: the Brewery's policy for the destruction of Goods in force from time to time.

Business Day: a day (other than a Saturday, Sunday or public holiday in England) when UK clearing banks in the city of London are open for general business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 12.6.

Containers: includes all packaging of any nature, including, but not limited to kegs, bottles, casks, crates, pallets and cases.

Confirmed Order: a Proposed Order which has been accepted by the Brewery by the issue of an Order Confirmation.

Trade Agreement: the contract between the Brewery and You for the sale and purchase of the Goods in accordance with these Conditions.

You: means the person, firm or body corporate who enters into a Trade Agreement to purchase the Goods from the Brewery (and any reference to "Your" shall be construed accordingly).

Distributor: any distributor or logistics company (or their respective sub-contractors) who are appointed by the Brewery to distribute and/or deliver the Goods (or any part of them) to You.

Distributor Agreement: the contract between the Brewery and the Distributor pursuant to which the Distributor performs services and supplies the Goods to You on behalf of the Brewery.

Force Majeure Event: has the meaning given in clause 11

Goods: the goods (or any part of them) set out in the Confirmed Order.

Minor: any person under the age of 18 (eighteen) years.

Proposed Order: Your order for the Goods.

Requisite Licences: any licences and authorisation required pursuant to the Licensing Act 2003 or any other applicable legislation.

Returnable Containers: all Containers which are legally and beneficially owned by the Brewery (and for the avoidance of doubt are not leased from a third party) which You is required to return to the Brewery or (if applicable) the Distributor.

Shelf Life: the industry- acknowledged shelf life of the Goods or the period of time agreed by the parties as being the shelf life of the Goods as stated in the Order Confirmation.

Brewery: Frederic Robinson Limited (company number 00170679) whose registered office is at Unicorn Brewery, Lower Hillgate, Stockport, SK1 1JJ

Brewery's Order Form: the official order form of the Brewery, for placing written Proposed Orders.

1.2 Construction. In these Conditions, the following rules apply:

- (a) A reference to a **person** includes a natural person, a company, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing or written** includes faxes and e-mails.

2. BASIS OF CONTRACT

2.1 These Conditions apply to and shall be incorporated into the Trade Agreement to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Proposed Order constitutes an offer by You to purchase the Goods in accordance with these Conditions. You are responsible for ensuring that the Proposed Order is submitted using either:-

- (a) the Brewery's Order Form; or
- (b) the Brewery's dedicated telesales team

and that the terms of the Proposed Order submitted by You are complete and accurate.

2.3 The Proposed Order shall only be deemed to be accepted when:-

- (a) In the case of the use of the Brewery's Order Form the Brewery issues a written acceptance of the Proposed Order; or
- (b) In the case of the use of the Brewery's telesales team, you are provided with a proposed date for Delivery;

("Order Confirmation"), at which point an agreement for the sale and the purchase of the Goods set out in the Proposed Order shall come into existence, subject always to the availability of the Goods..

2.4 The Brewery shall be entitled to reject a Proposed Order for any reason, including but not limited to, where the Brewery has reason to believe that the person placing the order on behalf of You is a Minor or where You do not possess the Requisite Licences, or that the person has other contracted restrictions forbidding such a Proposed Order, or where You have a credit account with the Brewery, the account limit has been exceeded, or would be exceeded if the Proposed Order were to be accepted by the Brewery.

2.5 At anytime after the issue of the Order Confirmation and prior to Delivery, the Brewery may (without any liability) cancel any Confirmed Order where it has come to the Brewery's attention that:

- (a) the person who placed the Proposed Order on behalf of You was a Minor;
- (b) You did not at the time of the Proposed Order or at that time does not possess the Requisite Licences;
- (c) either party has other contracted restrictions forbidding such Confirmed Order;
- (d) if complying with the terms of the Proposed Order would be in breach of any relevant law, legislation or code of conduct applicable to either party; or
- (e) where You have a credit account with the Brewery, You have exceeded, or will exceed Your credit limit if the Confirmed Order were to be delivered.

2.6 Where any Proposed Order is placed using the Brewery's Order Form or the Brewery's dedicated telesales team, the Brewery shall assume that such person has been duly authorised by You to place the Proposed Order, and that the Proposed Order is valid and genuine. You shall indemnify and hold the Brewery harmless against all losses, costs and expenses incurred or suffered by the Brewery, including but not limited to transportation costs, destruction cost, and professional fees (plus VAT), and loss of profit, if it transpires that such person was not authorised to place the Proposed Order.

2.7 The Trade Agreement constitutes the entire agreement between the parties. You acknowledge that You have not relied on any statement, promise or representation made or given by or on behalf of the Brewery which is not set out in the Trade Agreement.

3. GOODS

3.1 The Goods are described in the Brewery's standard price list and/or the Order Confirmation.

3.2 You shall not actively sell or promote the sale of, or otherwise dispose or seek to dispose of the Goods to other outlets, including but not limited to pubs, bars, restaurants, or wholesalers, whether wholesale or otherwise.

4. DELIVERY

4.1 The Brewery shall delivery or shall procure that the relevant Distributor shall deliver the Goods in accordance with these Conditions. In the event that a Distributor is appointed by the Brewery shall notify You and You shall comply with any instructions given by the Distributor as though it were the Brewery.

4.2 Subject to the prior written agreement of the Brewery, the Brewery may permit You to collect the Goods from the Brewery. In such circumstances, delivery shall be deemed to take place at the Brewery, on the date notified by the Brewery to You that the Goods are available for collection, and the provisions of this clause 4 shall be construed accordingly

4.3 The Brewery shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order Confirmation, all relevant Brewery reference numbers, the type and quantity of the Goods including any information required under the Food Labelling Regulations 1996, special storage instructions (if any) details of Containers to be returned by You and, if the Confirmed Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.4 Subject to clause 4.2, the Brewery or (if applicable) the Distributor shall deliver the Goods to Your premises or such other location as the Brewery may agree ("**Delivery Location**") at any time after the Brewery or (if applicable) the Distributor, notifies You that the Goods are ready.

4.5 Delivery of the Goods shall be completed on the Goods arrival at the Delivery Location (or where clause 4.2 applies, the date when the Brewery notifies You that the Goods are available for collection) whether or not they are accepted by You ("**Delivery Date**"). The Goods may be left at the Delivery Location, or within any part of the curtilage of the premises (whether inside or outside), and whether or not You or a representative is present.

4.6 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Brewery shall not be liable for any delay or failure to deliver of the Goods that is caused by:

- (a) a Force Majeure Event; or
- (b) You failing to provide the Brewery or the Distributor with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods; or
- (c) any act or omission by You or any third party who is performing services for and acting on behalf of You ("**Customer Default**").

4.7 Where any delay in delivery or failure to deliver is caused by an act or omission by the Distributor or any third party who is acting on behalf of the Distributor, the Brewery's liability shall be limited to the amount for which the Distributor is liable to the Brewery for such delay in delivery of failure to deliver under the Distributor Agreement.

4.8 If You fail to accept delivery of the Goods at the Delivery Location on the Delivery Date or within two Business Days of the Brewery or the Distributor notifying You that the Goods are ready for collection, then, except where such failure or delay is caused by a Force Majeure Event or the Brewery's failure to comply with its obligations under these Condition:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the second Business Day after the day on which the Brewery or (if applicable) the Distributor notified You that the Goods were ready; and
- (b) the Brewery may store the Goods until delivery takes place, and/or at the Brewery's sole decision, the Brewery may attempt to deliver the Goods to the Delivery Location, and the Brewery shall charge You (and You shall pay) for all related costs and expenses (including insurance), the cost of re-delivery (if any) etc which shall be a minimum of £50 plus VAT.

4.9 If after two Business Days after the day on which the Brewery or (if applicable) the Distributor notified You that the Goods were ready for delivery (or in the case of clause 4.2, the Goods were ready for collection) and You have not accepted delivery of them (or collected them), the Brewery may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage costs, selling costs, and transportation and delivery costs (if applicable) and account to You for any excess over the price of the Goods or charge You for any shortfall below the price of the Goods.

- 4.10 The Brewery or (if applicable) the Distributor may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle You to cancel any other instalment.
- 4.11 The Brewery may require You or Your representative to sign a delivery note. It is agreed that the delivery note (whether or not signed by You or Your representative) shall be conclusive of the delivery of the items referred to therein (save in the case of manifest error or fraud).
- 4.12 You shall be solely responsible for the storage of the Goods at Your Premises and the Delivery Location. You shall store the Goods in accordance with the Brewery's written guidance from time or time, or where no guidance is available, in accordance with good industry practice in relation to the Goods.

5. CONTAINERS

- 5.1 Unless the Brewery notifies You in writing to the contrary, You are required to return all of the Containers. You shall promptly notify the Brewery or (if applicable) the Distributor once the relevant Containers are empty and return them to or make them available for collection by the Brewery or (if applicable) the Distributor, at Your cost. In the absence of such notification, the Brewery and/ or the Distributor shall be entitled to request the return of the Containers within 15 days of the Delivery Date, even where the Containers have not been tapped and/or are not empty. The Brewery reserves the right to charge You the cost of collecting the Containers (including Containers which have not been tapped and/or are empty), and the cost of replacing any damaged or lost Containers.
- 5.2 The provisions of this clause 5 shall survive termination of the Trade Agreement.

6. QUALITY/SHORT DELIVERIES/DAMAGES

- 6.1 You shall ensure that the Goods are inspected for any short deliveries, damages or losses in transport as soon as possible and within 24 hours of Delivery, and any alleged short deliveries, damages or losses must be notified to the Customer Services team by phone as soon as possible, within 24 hours of delivery. Subject to You complying with this clause 6.1, the Brewery may, at its sole option, replace the short, damaged, or lost Goods, or refund the price of the said Goods.

- 6.2 The Brewery warrants that on the Delivery Date, and for the duration of the Shelf Life of the Goods ("**Warranty Period**") the Goods shall:

- (a) conform in all material respects with their description;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

- 6.3 Subject to clause 6.4, if:

- (a) You give notice to the Brewery's Customer Services team during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.2;
- (b) the Brewery is given a reasonable opportunity of inspecting and/or testing such Goods; and
- (c) You (if asked to do so by the Brewery) returns such Goods to the Brewery's place of business at Your cost,

the Brewery shall, at its option, replace the defective Goods, or refund the price of the defective Goods in full.

- 6.4 The Brewery shall not be liable for Goods' failure to comply with the Warranty set out in clause 6.2 in any of the following events:

- (a) You makes any further use of or continue to sell such Goods after giving notice in accordance with clause 6.3;
- (b) the defect arises because You failed to follow the Brewery's oral or written instructions as to the storage and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) You alters or tamper with such Goods without the written consent of the Brewery;
- (d) the defect arises as a result of wilful damage, negligence, or abnormal or storage conditions; or
- (e) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

- 6.5 Except as provided in this clause 6, the Brewery shall have no liability to You in respect of the Goods' failure to comply with the warranty set out in clause 6.2.

- 6.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Trade Agreement.

- 6.7 These Conditions shall apply to any replacement Goods supplied by the Brewery.

- 6.8 You must not destroy any Goods without the prior consent of the Brewery's Tech Team, and only in accordance with the Brewery's Authorised Destruction Policy in force at that time. If You breach the provisions of this clause 6.8, You shall be liable to indemnify and hold harmless the Brewery against all losses (including loss of profit), costs, claims, damages, penalties awards, and professional fees (including VAT) suffered or incurred by the Brewery as a result of Your breach of this clause 6.8

7. TITLE AND RISK

- 7.1 The risk in the Goods shall pass to You on Delivery.

- 7.2 Title to the Goods shall not pass to You until the Brewery has received payment in full (in cash or cleared funds) for the Goods.

- 7.3 For the avoidance of doubt, title to the Containers shall not pass to You or any third party and shall remain at all times with the Brewery.

- 7.4 Until title to the Goods has passed to You, You shall:

- (a) Be permitted to sell the Goods in the ordinary course of business (provided always that You are legally able to sell the Goods) provided that all sums due or received by You from the sale shall be held on trust by You for the Brewery, and You shall account to the Brewery for such sums in accordance with Your Trade Agreement.
- (b) hold the Goods and any Containers on a fiduciary basis as the Brewery's bailee;
- (c) store the Goods and the Containers separately from all other goods held by You so that they remain readily identifiable as the Brewery's property;
- (d) store and sell the Goods only by means of suitable equipment and in appropriate conditions, in accordance with best industry practice;
- (e) not remove, deface or obscure any identifying mark on the Containers or any other packaging relating to the Goods;

- (f) maintain the Goods and any Containers in satisfactory condition and in accordance with all applicable rules and regulation whether statutory or otherwise and keep them insured against all risks for their full price from the Delivery Date; and
- (g) notify the Brewery immediately if You become subject to any of the events listed in clause 9.2,

7.5 If before title to the Goods passes to You, You become subject to any of the events listed in clause 9.2, or the Brewery reasonably believes that any such event is about to happen and notifies You accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Brewery may have, the Brewery may at any time require You to deliver up the Goods and any Containers and, if You fail to do so promptly, enter into Your premises or of any third party where the Goods and Containers are stored in order to recover them.

8. PRICE AND PAYMENT

8.1 The price for the Goods shall be the price set out in the Order Confirmation or delivery note or, if no price is quoted, the price set out in the Brewery's price list in force as at the Delivery Date.

8.2 The Brewery may, by giving notice to You at any time up to 5 days before Delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond the Brewery's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by You, and/or on behalf of You, to change the delivery date(s), quantities or types of Goods ordered; or
- (c) any delay caused by any instructions by You or failure of You to give the Brewery or (if applicable) the Distributor adequate or accurate information or instructions.

8.3 The price of the Goods is exclusive of amounts in respect of value added tax ("VAT"). The Customer shall, on receipt of a valid VAT invoice from the Brewery, pay to the Brewery such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

8.4 The Brewery may invoice You for the Goods:

- (a) upon sending the Order Confirmation to you;
- (b) on dispatch of the Goods;
- (c) on or after the Delivery Date; or
- (d) at any other time.

8.5 You shall pay the invoice in full and in cleared funds in accordance with the terms set out in the Trade Agreement at that time (as may be varied by the Brewery from time to time by notice to You). Time of payment is of the essence.

8.6 Notwithstanding the provisions of clause 8.5, where the Brewery has notified You that You have a credit account with the Brewery, and provided that such credit account is still valid, and You have not reached or exceeded the credit limited set by the Brewery, the Brewery shall debit the invoice for the Goods against Your credit account. You shall discharge Your credit account in accordance with the terms set out in the Trade Agreement at that time (as may be varied by the Brewery from time to time). Time of payment is of the essence.

8.7 If You fail to make any payment due to the Brewery by the due date for payment ("due date"), then You shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.

8.8 You shall pay all amounts due under these Conditions, and Your Trade Agreement in full without any deduction, set off, or withholding except as required by law and You shall not be entitled to assert any credit, set-off or counterclaim against the Brewery in order to justify withholding payment of any such amount in whole or in part. The Brewery may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by You against any amount payable by the Brewery to You.

9. CUSTOMER'S INSOLVENCY OR INCAPACITY AND TERMINATION

9.1 If You become subject to any of the events listed in clause 9.2, or the Brewery reasonably believes that You are about to become subject to any of them (and notifies You accordingly), then, without limiting any other right or remedy available to the Brewery, the Brewery may:-

- (a) cancel or suspend all further deliveries under the Trade Agreement and/or under any other contract between You and the Brewery (whether or not a Delivery Confirmation has been given); and/or
- (b) cancel any credit account You may have with the Brewery (if any) (such cancellation requiring the immediately repayment of the balance owed by You to the Brewery) and/or
- (c) terminate the Trade Agreement;

without incurring any liability to You and/or any third party, and all outstanding sums in respect of Goods delivered to the You shall become immediately due and payable.

9.2 For the purposes of clause 9.1, the relevant events are:

- (a) You have failed to return or make available for collection any Containers within a reasonable amount of time, following a request for their return pursuant to clause 5.1.
- (b) You suspends, or threaten to suspend, payment of your debts, or You are unable to pay Your debts as they fall due or You admit your inability to pay Your debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (where You are an individual) You are deemed either unable to pay Your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) You commence negotiations with all or any class of Your creditors with a view to rescheduling any of Your debts, or makes a proposal for or enters into any compromise or arrangement with Your creditors other than (where You are a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of You with one or more other companies or the solvent reconstruction of the You;

- (d) (Where You are a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of You, other than for the sole purpose of a scheme for a solvent amalgamation of You with one or more other companies or the solvent reconstruction of You;
- (e) (being an individual) You are the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of You attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of Your assets and such attachment or process is not discharged within 14 days;
- (g) (where You are a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over You;
- (h) (Where You are a company) a floating charge holder over the Your assets has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over Your assets or a receiver is appointed over Your assets;
- (j) any event occurs, or proceeding is taken, with respect to You in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2 (b) to clause 9.2(i) (inclusive);
- (k) You suspend, threaten to suspend, cease or threaten to cease to carry on all or substantially the whole of Your business;
- (l) Your financial position deteriorates to such an extent that in the Brewery's opinion Your capability to adequately fulfil its obligations under the Trade Agreement has been placed in jeopardy;
- (m) (where You are an individual) You die or, by reason of illness or incapacity (whether mental or physical), You are incapable of managing Your own affairs or becomes a patient under any mental health legislation;
- (n) You fail to permit the Brewery, and/or the Brewery's representatives, on giving reasonable notice, to inspect the Goods and/or any location where the Goods are stored;
- (o) You are in breach of these Conditions and/or the Trade Agreement, and where such breach is capable of remedy, You fail to remedy that breach to the reasonable satisfaction of the Brewery within 15 Business Days of being required to do so by the Brewery in writing.

9.3 Termination of the Trade Agreement, however arising, shall not affect the Brewery's rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Trade Agreement and these Conditions shall continue in full force and effect.

10. LIMITATION OF LIABILITY

10.1 Nothing in these Conditions shall limit or exclude the Brewery's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987.

10.2 Subject to clause 10.1:

- (a) the Brewery shall under no circumstances whatever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:
 - (i) loss of profit; or
 - (ii) any indirect or consequential loss arising under or in connection with the Trade Agreement; and
- (b) subject to clause 10.2(c), the Brewery's total liability to You in respect of all other losses arising under or in connection with the Trade Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the lower of:
 - (i) £5 million pounds or;
 - (ii) three times the price of the Goods to which the liability relates.
- (c) where You has sustained losses as a result of an act or omission of the Distributor, arising under or in connection with the Trade Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, the Brewery's total liability to You shall in no circumstances exceed the lower of:
 - (i) £5 million pounds; or
 - (ii) three times the price of the Goods to which the liability relates; or
 - (iii) the amount for which the Distributor is liable to the Brewery in respect of the losses incurred by You under the Trade Agreement

11. FORCE MAJEURE

11.1 The Brewery, provided that it has complied with the provisions of clause 11.2, shall not be in breach of these Conditions nor liable for any failure or delay in performance of any obligations under these Conditions (and, subject to clause 11.3, the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (**Force Majeure Event**), including but not limited to any of the following:

- (a) Acts of God, flood, earthquake, windstorm or other natural disaster;
- (b) epidemic or pandemic;
- (c) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
- (d) terrorist attack, civil war, civil commotion or riots;

- (e) nuclear, chemical or biological contamination or sonic boom;
- (f) any law or government order, rule, regulation or direction, or any action taken by a government or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary licence or consent;
- (g) fire, explosion (other than in each case one caused by a breach of contract by, or assistance of, the party seeking to rely on this clause or companies in the same group as such party) or accidental damage;
- (h) loss at sea;
- (i) extreme adverse weather conditions;
- (j) interruption or failure of utility service, including but not limited to electric power, gas or water;
- (k) any labour dispute, including but not limited to strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as such party);
- (l) non-performance by Brewery's subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
- (m) collapse of building structures, failure of plant machinery, machinery, computers or vehicles.

11.2 If the Brewery is subject to a Force Majeure Event it shall not be in breach of these Conditions provided that:

- (a) it notifies You in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance within five Business Days of its awareness of the existence of the Force Majeure Event; and
- (b) it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under these Conditions in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

11.3 If the Force Majeure Event prevails the Brewery for a continuous period of more than 1 calendar month, The Brewery may terminate the Trade Agreement by giving 14 days' written notice to You. On the expiry of this notice period, the Trade Agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of these Conditions occurring prior to such termination.

12. GENERAL

12.1 Assignment and subcontracting.

- (a) The Brewery may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Trade Agreement.
- (b) You may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Trade Agreement without the prior written consent of the Brewery.

12.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Trade Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid second class post, recorded delivery, commercial courier, or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid second class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.3 Severance.

- (a) If any court or competent authority finds
 - (i) that any provision of the these Conditions and/or the Trade Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these Conditions and the Trade Agreement shall not be affected.
 - (ii) If any invalid, unenforceable or illegal provision of these Conditions and/or the Trade Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.4 **Waiver.** A waiver of any right or remedy under the Trade Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Trade Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

12.5 **Third party rights.** A person who is not a party to the Trade Agreement shall not have any rights under or in connection with it, and the Contracts (Rights of Third Parties) Act 1999 shall not apply.

12.6 **Variation.** Except as set out in these Conditions, any variation to the Trade Agreement, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Brewery.

12.7 **Governing law and jurisdiction.** These Conditions and the Trade Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.