



TERMS AND CONDITIONS & SECURITY AGREEMENT

Lion-Beer, Spirits & Wine ABN 13 008 596 370
Postal Address Locked Bag 58,
Silverwater, NSW 1811
E-mail newaccounts@lionco.com
Application Facsimile 612 8244 4600
Beer/ Cider Accounts Telephone 13 15 13 (option 3)

Definitions

1. In these Terms, the words below have the following meanings:

Claim means any action, claim or demand, whether arising in contract, tort (including negligence), under statute, at common law or otherwise.

Equipment means any equipment we provide to you (pursuant to these Terms or any other arrangement) to assist you in dispensing Products or involved in the delivery of Products, including kegs, gas cylinders, pallets, beer system equipment and signage.

Place of Sales means premises licensed by us under relevant legislation in respect of a sale of Products:

- In respect of New South Wales and Western Australia, Level 3, 5 Murray Rose Avenue, Sydney Olympic Park New South Wales;
- In respect of Victoria, 1183 Toorak Rd, Camberwell Victoria and
- In respect of Queensland, 185 Milton Road, Milton, Queensland

Product means beer, cider, wine, spirits and ready-to-drink products manufactured or distributed by us.

Product Price means the purchase price payable for the sale of the Product excluding any applicable Service Fee.

We, us or our, means Lion-Beer, Spirits & Wine Pty Ltd (ABN 13 008 596 370), Separate Service Contract see clause 4.

Service Fee means a separate fee which you agree to pay us under a Separate Service Contract for providing, on your behalf, freight, handling, delivery and insurance, including any charges referred to in clause 6.

you means the Customer specified on this invoice, and if more than one person, each of them jointly and severally.

Buying the Product

- Unless otherwise agreed in writing, you request that we supply the Product specified in this invoice on these Terms.
- We may accept or decline any order for the Product in whole or in part. On acceptance, these Terms apply (unless we have made a separate written agreement with you about supply of the Product).
- You warrant that :-
 - that you hold a valid and current liquor licence in the State of Territory in which the Product has been ordered or is to be delivered to, or
 - that you are authorised to purchase the Product on behalf of the holder of such licence (the "licensee"); and
 - that the information contained within the Customer's Application for a Trading Account is true and correct.

Delivery

- Unless otherwise agreed in writing, and as a separate and independent contract from the contract relating to the Product, you agree to contract with us to deliver, on your behalf the Product you order to you at the place specified in this invoice and we will insure, on your behalf, the Product against loss or damage while it is being delivered to you ("Separate Service Contract"). A Separate Service Contract is optional and you may choose other arrangements for these services.
- The Product is deemed to be delivered when the Product arrives at your nominated delivery point, which delivery point must be safe and fully accessible by our carriers.
- You cannot cancel an order once we have accepted it and you cannot refuse to accept delivery.
- We are entitled to charge you additional fees to cover any delay or storage needed if we attempt to deliver the Product to you, but cannot for any reason.
- Where you choose to collect the Product, or make arrangements for its collection, you will need to give us advance notice so we can let you know when, how and where you, or your agent, can collect the Product from us.

Charges and Payment

- The Product Price is specified in our standard Price List (as provided to you and updated from time to time) or as specified in this invoice.
- The Service Fee payable under any Separate Service Contract will be as specified in our standard Price List (as provided to you and updated from time to time), as agreed in a separate contract or as listed in this invoice. You are liable to pay all freight charges shown on our invoice.
- The charges specified in our standard Price List do not include GST. Wholesale prices in our standard Price List do not include Wine Equalisation Tax unless specifically stated. Product related final invoice prices (and prices specified in this invoice) do include Wine Equalisation Tax or excise tax, as applicable, and GST.
- The Product Price is separate and distinct from any applicable Service Fee. Even though the amounts may be listed in one invoice they are not a single lump sum consideration but represent separate consideration for each independent contract.
- You must pay all charges listed in an invoice (including any GST and other taxes payable in connection with the supply or under these Terms) without set-off by the due date specified in the invoice.
- If you pay by cheque, payment is not made until cleared funds are credited to our account. If you pay by credit card, we may charge you an additional amount to cover any service fee.
- We may charge you interest on any late payments at the Reserve Bank Interbank Overnight Cash Rate + 2%, calculated daily and compounding monthly, until you pay the overdue amounts.
- We are entitled to apply any payments we receive from you against any invoice or liability you have to us (including interest payments). This provision revokes any different or contrary direction given by you to us.
- If you do not pay any amounts payable under these Terms by their due date or you become bankrupt, insolvent or have a receiver, manager or liquidator appointed to you, then all monies for all Product and Equipment delivered to you become immediately due and payable (regardless of any agreed credit terms) and we are entitled to suspend all further delivery of Product and Equipment under this or any other arrangement and all further performance of any other contract between you and us, until you pay all amounts due.
- You indemnify us for all costs we incur because of any overdue payment, including dishonour fees, collection or legal fees.
- If any payment you make is voided or conceded to be void or voidable, then that payment does not discharge your debt to us, and we remain the owner of the Product.

Ownership & Return of Equipment

- We remain the owner of the Product specified in this invoice until you have paid all money you owe us for the Product and for any other Product we have supplied to you (excluding any applicable Service Fee), or until you sell the Product to a third party at arm's length on market terms.
- We remain the owner of any Equipment at all times. You must not part with possession or control of the Equipment at any time, or attempt to sell it.
- After we deliver the Product or Equipment to you and while we still own it, you hold it for us as our Bailee, which carries certain legal obligations including a duty to take care of the Product or Equipment. You promise to fulfil all your legal obligations as Bailee.
- You must store or keep the Product and Equipment so that it is clearly identifiable as our property while we still own it. If you sell the Product while we still own it, we have the right to trace any proceeds of sale.
- Until you have paid us the charges in full for all monies payable to us, we may repossess the Product and Equipment which we own and you authorise us or our nominees to enter any premises they believe the Product and Equipment are located to repossess the Product and Equipment and to inspect your records.

We may resell Product and Equipment which we repossess on any terms and as we see fit. We may apply the proceeds to repay any debt you owe us.

- We are not liable for any damage caused to the premises during any repossession. You indemnify us against any Claim for the damage made by another person.
- You will return to us, at your cost, any Equipment provided to you when it has served its purpose or if we request its return. If you don't do this, then clauses 24 to 26 will apply. You agree to pay us the replacement cost of any Equipment lost, damaged, destroyed or not returned to us.
- If we have agreed to provide maintenance and repair services for the Equipment, you must allow us access to the Equipment to carry out those services and pay us the agreed service fee (plus GST). Otherwise, you must maintain the Equipment and keep it in working order.
- If these Terms (or a transaction in connection with it) is or contains a security interest for the purposes of the Personal Property Securities Act 2009 ("PPSA"), you must upon request do anything which we consider necessary for the purposes of ensuring that the security interest is enforceable, perfected and otherwise effective, and to enable us to apply for any registration, give any notification, and to exercise any rights in connection with the security interest.
- We are not obliged, before exercising a right under these Terms or conferred by law, to give you any notice or demand, or allow a lapse of time, that is required by law unless the notice, demand or lapse of time cannot be excluded. To the extent permitted by law, you expressly waive any rights it may have under the PPSA (including without limitation s. 157) to be given any such notices or demands.

Risk and insurance

- Risk in the Product and any Equipment passes to you as soon as it leaves our premises (even if we are delivering it to you). Where we deliver the Product under a Separate Service Contract, we will insure the Product and any Equipment.
- In all other cases you must take out insurance covering the Product (and also insure any Equipment that is on your premises) against loss or damage and note our interest in them. You must pay us any insurance payout you receive.
- You must show us evidence on request that you have taken out all required insurances.

Restrictions

- You must not do anything (including failing to act) that we believe is likely to adversely affect our reputation, sales or brands.
- Products supplied to you for consumption or dispensing on licensed premises must not be mixed with other liquids or substances, except as expressly requested by a patron, and must only be dispensed from taps and other devices bearing our product name or logo for the Product.
- Unless we otherwise agree, Equipment supplied to you is only for use in relation to the dispensing or sale of our Products.
- You must exercise your own judgment and skill in the use of any Equipment (including kegs and gas cylinders), rather than relying on any advice we may give you about its use. You must seek any independent advice or instruction you need.
- You must notify us within 7 days of any change in your ownership, shareholders, directors, registered office or business address.

Disputes and Claims

- You must inspect the Product and any Equipment within 24 hours of it being delivered to you.
- You must raise any Claims or dispute relating to the Product, the Equipment, an invoice or payment within 24 hours of the Product/Equipment being delivered to you. Otherwise, you waive and give up all Claims you have against us.

Liability

- To the maximum extent permitted by law (including Part 3-2 of the Australian Consumer Law), we limit our liability to you in respect of any Claim relating to the Product, the Equipment or any services we provide to you in connection with them to our choice of supplying equivalent Product or Equipment, or resupplying the services, or giving you a credit for any price paid or payable for the Product, Equipment or services.
- Except for those statutory guarantees that apply under the Australian Consumer Law, we exclude all express or implied warranties or representations about the Products, Equipment or services we provide to you in connection with them.
- Except as provided in clause 41 and 41, we are not liable to you for any Claim in relation to lost profits or savings or any indirect or consequential losses.
- Neither we nor you are liable to the other for any failure to perform an obligation under these Terms (other than the payment of money) where we are prevented from performing because of an act of God, natural disaster, terrorism, war or any other occurrence beyond the relevant party's reasonable control.

Group losses

- You acknowledge that one or more of our Related Bodies Corporate (as defined in the Corporations Act 2001(CTH)) may supply the Product and Equipment to you. You indemnify each of our Related Bodies Corporate against any loss or damage they suffer as a result of your breach of these Terms or any act or omission by you under or in connection with these Terms. We accept the benefit of this indemnity as agent for each of our Related Bodies Corporate.

Indemnity

- You indemnify us against any Claims for injury to any person or loss or damage to any property relating to the Products, Equipment or the services we provide you in connection with them. Your liability under or in connection with this indemnity will be reduced to the extent our breach of contract, negligence or other wrongful act caused the injury, loss or damage that is the subject matter of the indemnity.

Privacy and Spam

- You can access the personal information we hold about you in the manner set out in our privacy policy, available at <http://lionco.com>. You may request a copy by contacting us.
- We (and our Related Bodies Corporate) may use your personal information to obtain and process credit reports about you, to manage and enforce our rights under these Terms, to meet our legal obligations and for direct marketing and promotional purposes, and you consent to such use.
- We may disclose your personal information to our contractors or agents on strictly confidential terms, and you consent to such disclosure.
- You consent to receiving commercial electronic messages from us and not to withdraw your consent. You agree that we therefore do not need to include an unsubscribe function on those messages.

General

- These Terms (including any details included on the invoice) constitute the whole agreement between you and us and may only be varied by us in writing.
- These are our standard terms of supply and we may change them from time to time. When you order Product from us, you are offering to acquire them on the most up-to-date version of these Terms as printed on the relevant invoice or otherwise notified to you.
- Any leniency, indulgence or extension of time we grant you does not affect our rights in any way and does not constitute a waiver of those rights or of any of these Terms.
- Any remedies in these Terms do not limit or affect any remedies available to us in law or equity.
- The invalidity or unenforceability of any provision of these Terms does not affect the validity or enforceability of the remaining provisions.
- You must pay any stamp duty payable on any registration under these Terms.
- These Terms are governed by the laws of State in which the Product/Equipment is delivered to you. You and we accept the non-exclusive jurisdiction of those courts and courts of appeal from them in connection with these Terms.

