

TERMS AND CONDITIONS FOR THE SUPPLY OF PRODUCTS

1. Our Details

We are WDV South Africa (Pty) Limited registered in South Africa with company number 2021 / 802561 / 07 (**WDV**). Your contract will be with WDV.

For orders and customer care our contact details are:

Telephone: +27 (0)21 023 3444

Email: sales@westsidedistillers.co.za

Address: Simondium Cellar, Watergat Road, Simondium, Western Cape 7670, South Africa

2. Your Details

You, the customer, (**you** or **Customer**) are the person or firm who purchases the Products from WDV and who will have opened a trading account with WDV. Your details will be those held by us. You should notify us of any changes to your address and contact details so that they are up to date at all times.

3. Opening Hours

Our Opening Hours are:

Monday to Thursday: 8am to 5pm

Friday: 8am to 4pm

All local time in South Africa (and, as appropriate, **Trading Days** and **Trading Hours**) but excluding public holidays in South Africa.

4. Basis of contract

- 4.1 These Conditions apply to all contracts (**Contract**) between WDV and the Customer for the sale and purchase of products set out in any Order (**Product(s)**) to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

5. Orders

- 5.1 An order for Products (**Order**) may be placed by email, telephone, WhatsApp or other messaging service acceptable to WDV and to which it subscribes. Orders made verbally or by other means may be confirmed by WDV sending you an Order form or Order confirmation. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 5.2 The Order is an offer by the Customer to purchase Products in accordance with these Conditions. The Order shall only be deemed to be accepted when WDV issues an Order form or Order confirmation, or (if earlier) when WDV notifies the Customer that the Products are ready for delivery or collection, at which point, the Contract shall come into existence.
- 5.3 WDV may, but is not obliged to, accept amendments to an Order after acceptance.

6. Products

- 6.1 The Products are those manufactured and/or supplied by WDV. Products manufactured by WDV are described in WDV's specification (**Specification**) of the relevant Product from time to time.
- 6.2 The Specification of a Product may comply with the laws and regulations of certain countries but not others and shall not therefore be for resale or for consumption in the relevant countries. The Customer should check before submitting an Order that the Specification is appropriate to the country in which the Products are intended to be consumed. WDV shall have no liability if the Customer fails to do so.
- 6.3 Any samples, drawings or advertising produced by WDV, and any descriptions or illustrations contained in WDV's catalogues, marketing materials, brochures, website or the website of any company in the same group of companies as WDV are produced for the sole purpose of giving an approximate idea of the Products referred to in them. They shall not form part of the Contract, shall not have any contractual force and shall not affect the Specification.
- 6.4 WDV reserves the right to amend the Specification in any manner or way from time to time and for whatever reason.

7. Delivery and Collection

- 7.1 Orders shall either be delivered to the relevant location (**Delivery Location**) in accordance with the applicable Incoterm or made available for collection from WDV's premises (**Collection Location**) depending upon the terms of the Order. Products which are to be delivered shall be dispatched in order to meet available trucking, shipping or other transportation requirements (**Transport**). Products which are to be collected must be collected from the Collection Location within five

Trading Days of WDV notifying the Customer that the Products are ready or at some other time agreed between WDV and the Customer. WDV may deliver the Products by instalments.

- 7.2 Delivery is completed on the completion of loading or unloading of the Products at the Delivery Location in accordance with the applicable Incoterm or on the loading of the Products at the Collection Location, whichever is appropriate.
- 7.3 Notwithstanding the terms of clause 7.1, if you have asked WDV to arrange Transport on your behalf, WDV shall be responsible only for arranging quotations for Transport as required by you, and for the co-ordination of logistics, but shall have no liability for the cost of such Transport, nor for any claims, costs or demands of or in relation to wasted expenditure or if you may have been able to obtain such shipping more cost effectively or by a different route and shall have no liability for any delays in delivery of the Products.
- 7.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence of the Contract. WDV and the Customer agree that delivery is subject to the availability of and unpredictability of Transport.

8. Accepting Delivery

- 8.1 Transport shall be loaded in accordance with a dispatch note conforming to the Order which shall be verified by WDV's staff at the point of loading. WDV shall seal the truck or container containing the Products for delivery with an appropriate seal. The Customer shall unseal the truck or container at the Delivery Location or where that is not practical at the Customer's premises. The Customer will, as soon as practicable after delivery has occurred, provide WDV with a scanned copy of the dispatch note duly signed acknowledging receipt of the Products.
- 8.2 Shortfalls in the Order must be reported to WDV within 2 Trading Days of delivery. WDV shall not have any liability for a shortfall not reported in time in accordance with this clause and the Order shall be deemed to have been delivered in full and, subject thereto, WDV shall, at its option, replace the missing Products, or refund the price of the missing Products.
- 8.3 If WDV delivers less than the quantity of Products ordered the Customer may not reject them, but WDV shall make a pro rata adjustment to the invoice for the Products. If WDV delivers more than the quantity of Products ordered the Customer shall pay for those Products.

9. Defective products

- 9.1 On delivery the Products shall conform in all material respects with the Specification therefor, shall be of merchantable quality and, subject to clause 23.1, shall comply with any applicable statutory or regulatory requirements of the country in which the Products are intended to be consumed.

9.2 Any damaged or defective Products must be reported to WDV within 5 Trading Days of delivery except latent defects, which will be reported within 5 Trading Days of the latent defect having become apparent. WDV shall not have any liability for any damaged or defective products not reported in time in accordance with this clause and, subject thereto, WDV shall, at its option, replace the damaged or defective Products, or refund the price of the missing Products.

9.3 WDV shall not be liable for the Products' failure to comply with clause 9.1 if the Customer sells or otherwise makes use of such Products after delivery, if the defect arises because the Customer failed to follow WDV's oral or written instructions as to storage of the Products or (if there are none) good trade practice regarding the same or if the defect arises as a result of wilful damage, negligence, or abnormal storage conditions or if the Customer fails to follow a first in, first out process of stock depletion.

10. Return of Products

10.1 In no circumstances will WDV accept the return of products. Customers shall be responsible for disposing of any damaged or defective Products at their own cost.

11. Failure to collect products

11.1 If the Customer fails to collect the Products:

- (a) within the required time in accordance with clause 7.1 then WDV may store the Products until the Customer actually collects the Products and charge the Customer for all related costs and expenses (including insurance);
- (b) within an additional 5 Trading Days of the required time in accordance with clause 7.1, or if the Customer fails to take delivery of those Products which are to be delivered in accordance with clause 7.1, WDV may resell the Products and, after deducting storage, selling and transportation costs, charge the Customer for any shortfall below the price of the Products.

12. Offloading Delays

Deliveries to Customers are arranged to leave WDV's premises during WDV's Trading Hours. Where deliveries are to the Customer's premises, the Customer shall be responsible for offloading the truck or container within 2 hours of delivery, or, where the truck or container arrives on a

Saturday, by noon on the following Monday. Delays will incur additional costs which WDV may charge the Customer.

13. Customs and other documentation

- 13.1 Deliveries and collections will normally be from WDV's customs bonded store and deliveries to the Customer's customs bonded store. Each of the parties shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the storage of the Products in a customs bonded store, the removal therefrom and transfer of the Products to the Customer's customs bonded store including making or procuring that a customs declaration (SAD500) is lawfully made, all other required documents are executed and delivered as appropriate and all acts as may be required for such purpose are lawfully performed.
- 13.2 Where the Products are to be exported, in addition to the requirements of clause 13.1, the parties shall each provide such certificates of analysis, licences, acquittals and other documentation as shall be required to enable the exportation of the Products from South Africa and the importation of such Products to the country in which the Delivery Location is located.

14. Pallets

- 14.1 Where delivery is to be made by truck and:
- (a) the Customer has a CHEP account, the Customer shall ensure that WDV is provided with pallets for an Order with the relevant agreement for transfer of pallets at least 5 Trading Days before the day which WDV notifies to the Customer that the Products will be available for loading and the parties will sign such documents as are required to transfer the pallets to the Customer's CHEP account upon delivery;
 - (b) the Customer does not have a CHEP account, WDV shall pack the Products on pallets which will either be returnable at the Customer's expense or non-returnable and in either case WDV will charge the Customer for the cost of provision of pallets at WDV's usual rate.
- 14.2 Deliveries by container will not be palletised.

15. Price, payment

- 15.1 The price of the Products shall be the price set out in the Order form or Order confirmation issued by WDV, or, if no price is quoted, the price set out in WDV's price list in relation to the Customer in force when the Order is confirmed.
- 15.2 The price of the Products excludes the following charges, where appropriate, which shall be invoiced to the Customer:

- (a) value added tax (**VAT**) on the price and other goods or services supplied to you;
- (b) amounts in respect of duties, customs and other bonds (including road bonds, where applicable), clearance charges, taxes, brokers' fees, inspection fees, product certification and analysis and other amounts payable in connection with the exportation and/or delivery of the Products; and
- (c) the costs and charges of packaging, insurance, pallets, provision of logistics services and transportation of the Products

each of which shall be invoiced to the Customer.

15.3 The Customer shall pay each invoice submitted by WDV in accordance with any credit terms agreed by WDV or if there shall be no credit terms at or prior to delivery, and in full and in cleared funds to a bank account nominated in writing by WDV, and time for payment shall be of the essence of the Contract. Credit terms may be withdrawn or varied at the discretion of WDV from time to time without assigning a reason therefor.

15.4 All amounts due by you to WDV shall be paid in full without any set-off, counterclaim, deduction or withholding.

16. Interest on late payment

16.1 If the Customer fails to make a payment due to WDV under the Contract by the due date, then, without limiting WDV's remedies, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment, at the prime commercial overdraft lending rate charged by FirstRand Bank Limited to its first-class corporate customers on an unsecured basis from time to time and shall accrue daily. The certificate of any manager or assistant manager of any branch of the said bank as to the rate applicable from time to time shall be prima facie proof of the applicable rate of interest.

17. Credit Terms

WDV shall assess the creditworthiness of the Customer when the Customer opens a trading account with WDV and will normally re-assess the Customer's creditworthiness annually or at such

other time as WDV shall require. The Customer shall supply such documents and information as WDV may require from time to time. WDV may withdraw credit at any time and for whatever reason.

18. Incentives

The price of the Products shall, where appropriate, exclude such trade or other incentives agreed between WDV and you from time to time, which shall be settled in the manner agreed between WDV and you.

19. Title, risk and insurance

19.1 Title to the Products shall pass to the Customer when the Products are transferred to the Customer in accordance with the relevant customs declaration.

19.2 Risk in the Products shall pass to the Customer in accordance with the relevant Incoterms® 2020 applicable to the Order. The liability for insurance of the Products until delivery is completed shall be as set out in the relevant Incoterms® 2020 applicable to the Order to the extent and for the amount specified in the relevant term. WDV shall be solely entitled to the proceeds of any insurances effected by it to the exclusion of any other person.

20. Limitation of liability

20.1 WDV shall not be liable for loss of profits, loss of sales or business, loss of agreements or contracts, loss of or damage to goodwill, and indirect or consequential loss and its total liability to the Customer shall not exceed the amount invoiced and paid in respect of any Order.

20.2 Except as provided in clause 9.2, WDV shall have no liability to the Customer in respect of the Products' failure to comply with clause 9.1.

20.3 Nothing in the Contract limits any liability that legally cannot be limited.

20.4 Terms implied by law or regulation as to the quality of goods are, to the fullest extent permitted by law, excluded from the Contract.

20.5 References to liability in this clause 20 include every kind of liability arising under or in connection with a Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

21. Termination and Suspension

21.1 In addition to the remedies provided in these terms and conditions and, without limiting its other rights or remedies, WDV may terminate a Contract, close the Customer's trading account, or

suspend provision of the Products under a Contract or any other contract between the Customer and WDV, or otherwise cease doing business with the Customer whether permanently or temporarily with immediate effect by giving written notice to the Customer if the Customer commits a material breach of any term of a Contract or fails to pay an invoice when due.

- 21.2 Without limiting its other rights or remedies either party may close the Customer's trading account or otherwise cease doing business with the other party by giving at least one month's written notice to the other party.
- 21.3 Termination of a Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

22. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.

23. Lawful Trading

- 23.1 Where the Specification of Products supplied to the Customer does not conform with the laws and regulations of a particular country the Customer shall not resell such Products, and shall ensure that such Products are not resold, for consumption in such country. If the Products are resold in breach of this clause 23.1, the Customer shall indemnify WDV against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by WDV arising out of or in connection with any such breach.
- 23.2 The Customer will comply with all laws and regulations in relation to the resale of the Products. The Customer shall indemnify WDV against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs and all and other professional costs and expenses) suffered or incurred by WDV arising out of or in connection with any claim made against WDV arising out of or in connection with the supply or use of the Products in breach of any such laws and regulations.
- 23.3 The Customer will comply with all laws and regulations in relation to the storage and transportation of the Products including the Customs and Excise Act, 1964, as amended or replaced from time to

time, and all rules and regulations made thereunder or under any other legislation relating to the storage and transportation of goods held in duty suspension. The Customer shall indemnify WDV against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs and all and other professional costs and expenses) suffered or incurred by WDV arising out of or in connection with any claim made against WDV arising out of or in connection with the removal of Products from its' warehouse(s) in breach of any such laws and regulations.

- 23.4 In addition to any other remedy available to WDV, WDV may terminate any Contract or refuse to supply the Customer where it is in breach of clauses 23.1, 23.2 or 23.3.

24. Disputes

- 24.1 If a dispute arises out of or in connection with our contract with you or the performance, validity or enforceability of it (**Dispute**), the Dispute shall be determined in Cape Town in accordance with the Commercial Rules of Arbitration of the Arbitration Foundation of Southern Africa ("**AFSA**"), and the arbitration shall be administered by AFSA.
- 24.2 Nothing contained in these terms and conditions shall be deemed to prevent or prohibit a party to the arbitration from applying to the appropriate court for urgent relief or for judgement in relation to a liquidated claim.

25. Data Protection

The Protection of Personal Information Act 4 of 2013 (**POPIA**) and any regulations made thereunder applies to the information that WDV holds in relation to the Customer. By placing an Order you confirm that you agree to the terms of our Privacy Policy which sets out how we process information supplied by you. WDV's Privacy Policy is available at www.westsidedistillers.co.za.

26. General

- 26.1 WDV may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 26.2 The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of WDV.
- 26.3 The Contract constitutes the entire agreement between the parties.

- 26.4 Each party acknowledges that in entering into a Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 26.5 WDV may amend these terms and conditions from time to time. Any such change shall be effective and be enforceable as regards the Customer from the time at which it is published on WDV's website which is located at www.westsidedistillers.co.za or at such other address or in such other manner as WDV shall see fit. No variation of these terms and conditions shall constitute a variation of an existing Contract.
- 26.6 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 26.7 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 26.8 Any notice given to a party under or in connection with a Contract shall be in writing and shall be delivered by hand or by next working day delivery service at its registered office (if a company) or its principal place of business (in any other case), or sent by email to the following address:
- WDV: sales@westsidedistillers.co.za.
- Customer: to the address specified in the Customer's trading account with WDV or, in the absence thereof, the address from which the Order has been sent or the address that the Customer normally uses in relation to Orders.
- 26.9 Any notice shall be deemed to have been received, if delivered by hand, at the time the notice is left at the proper address, if sent by next working day delivery service, at 9.00 am on the second weekday after posting, or if sent by email, at the time of transmission, or, if this time falls outside trading hours in the place of receipt, when trading hours resume.
- 26.10 Clauses 26.8 and 26.9 do not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 26.11 Unless it expressly states otherwise, no person who is not a party to the Contract shall be entitled to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

- 26.12 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of South Africa.