

SUPPLIERS

Terms of supply of SERVICES to Constellation Brands New Zealand Ltd

1. Services to be Supplied

- 1.1 By supplying the services described in the Purchase Order (the "**Services**") to Constellation Brands New Zealand Limited or its related companies in Australia or New Zealand ("**Constellation**") the Supplier is deemed to accept these Terms. For the avoidance of doubt, any Purchase Order for the Services forms part of the Terms.
- 1.2 The Services include all goods that may be supplied and attendances including those incidental to or necessary or desirable to supply the Services.

2. Payment

- 2.1 Within five (5) business days of the delivery of the Services the Supplier will send Constellation a tax invoice for the price payable for the Services. Constellation will pay the valid tax invoice net 60 days following the delivery of the Services and receipt of invoice.
- 2.2 The price is the total amount that Constellation is obliged to pay the Supplier in respect of the Services (including travel time or any other disbursements).
- 2.3 If at any time Constellation disputes the amount of invoice or the Services to which the invoice relates do not meet the standards required under these Terms, Constellation does not have to pay the disputed invoice until the dispute is resolved, provided that Constellation will pay that amount of the invoice that is not in dispute.
- 2.4 Failure by Constellation to dispute any invoice prior to payment will not prejudice Constellation's rights to subsequently dispute the correctness of such invoice.

3. Performance Standards

- 3.1 The Supplier represents and warrants that:
 - (a) the Supplier shall comply with all of Constellation's rules and policies of which the Supplier has been made aware, in its provision of Services, including Constellation's Global Supplier Code of Conduct, as amended from time to time and available at <http://www.cbrands.com/node/1221>.
 - (b) the Services will meet or better any performance standards set out in this Purchase Order; and
 - (c) the Services will be performed by persons with appropriate training and expertise, the results of which will be of merchantable quality and fit for their intended purpose;
 - (d) the Services will conform as to any quality, sample or description specified by the parties.
- 3.2 In supplying the Services the Supplier will ensure that all practicable steps are taken to ensure the health and safety of its and Constellation's employees, contractors and the general public.
- 3.3 The warranties set out in the Terms are additional to any other warranties and guarantees given by the Supplier or implied by law.

4. Risk and Property and Delivery

- 4.1 Risk of loss or damage to any goods supplied with the Services from any cause will remain with the Supplier until completion of the Services to Constellation. Except where title already remains with Constellation (for example, with stored goods), property and title to the goods will pass to Constellation on delivery.
- 4.2 The Supplier is not granted nor entitled to any lien, charge or other security interest (as that term is defined in the Personal Property Securities Act 1999) in respect of the supply of goods to Constellation in relation to this agreement or any other encumbrances.
- 4.3 Delivery of the goods to Constellation, unless otherwise stated, will be deemed to occur when the goods are unloaded at the delivery point specified by Constellation.
- 4.4 The Supplier will arrange for goods to be delivered to Constellation on the dates and at the places specified by Constellation.
- 4.5 The cost of return freight (if applicable) is payable by the Supplier.
- 4.6 The signing of a delivery note by a Constellation representative will not be taken as acceptance of either the quality or quantity of the goods or Services. Acceptance by Constellation of the Services will be subject to subsequent inspection by a Constellation representative or the use of Services.

5. Intellectual Property

The Supplier warrants to Constellation that the supply of the products or services or use of them by Constellation will not infringe the intellectual property of a third party and the Supplier hereby indemnifies Constellation for any claim, expense, loss, damage or cost (including legal costs incurred in defending any such claim on a full indemnity basis) arising from a breach of this warranty.

6. Rejection of Services

- 6.1 Constellation may reject any Services, which do not meet the specifications in the Purchase Order or the warranties in clause 3.
- 6.2 All goods are shipped subject to Constellation's inspection and acceptance upon arrival and Constellation reserves the right to cancel this order or part thereof if delivery is not completed within the time specified, and notwithstanding any prior payment made by Constellation. Any money paid by Constellation to the Supplier for the rejected Services will be refunded immediately.
- 6.3 Any money paid by Constellation to the Supplier for rejected Services, or Services which do not comply with the warranties in clause 3, will be refunded immediately.

7. Confidentiality

Constellation and the Supplier will keep confidential the Terms of the Purchase Order and any information they learn about the other or the other's business in the course of carrying out the Purchase Order unless the other party gives prior written consent or unless disclosure is required by law or the requirements of any stock exchange.

8. Termination

- 8.1 Constellation may cancel the Purchase Order with immediate effect by giving the Supplier notice in writing if Constellation does not receive the Services on the delivery date specified in the Purchase Order.
- 8.2 On termination or expiry of the Purchase Order the Supplier will immediately return to Constellation any documents or records held by the Supplier in relation to the Services.
- 8.3 On cancellation under either clause 8.1 or 8.2, the Supplier will be liable to reimburse Constellation for all costs, expenses, losses and damages (including the cost of locating an alternative Supplier) incurred by Constellation as a result of the termination.
- 8.4 Termination of these Terms will not operate as a waiver of any breach of these Terms and will be without prejudice to any rights, liabilities or obligations of either party, which have accrued up to the date of termination. This clause 8.4 together with any other provisions, which expressly or by implication are intended to survive termination or expiry, will continue in force notwithstanding termination or expiry.

9. Disputes

- 9.1 If there is a dispute between Constellation and the Supplier in relation to these Terms including these Terms of Trade or any matter arising from them, either the Supplier or Constellation may notify the other in writing specifying the matter in dispute. Following receipt of such notice the Supplier and Constellation will in good faith in the first instance use best endeavours to resolve the dispute between themselves.
- 9.2 If the dispute cannot be resolved by the Supplier and Constellation, the Supplier and Constellation must explore whether the dispute can be resolved by use of mediation or any alternative resolution method.

10. General

- 10.1 These Terms form the entire agreement between the parties relating to the Services and replaces all earlier negotiations, representations, warranties, understandings and agreements between them (whether oral or written) relating to the Services.
- 10.2 Any Services supplied by the Supplier to Constellation will be supplied on these Terms, unless a variation, expressly stated as being a variation of these Terms, is agreed by the Supplier and Constellation. Nothing in any sales or delivery docket or other document furnished by the Supplier will apply to the purchase of Services by Constellation.
- 10.3 The Supplier may not assign or subcontract the benefit or burden of this Purchase Order without first obtaining the written consent of Constellation.
- 10.4 Each term in the Purchase Order is separately binding. If for any reason either party cannot rely on any term then all the other Terms remain binding.
- 10.5 None of these Terms will be considered to be waived by either party except when such waiver is given in writing.
- 10.6 Failure or omission by a party at any time to enforce or require strict or timely compliance with any provision of these Terms will not affect or impair that provision in any way or the rights of that party to avail itself of the remedies it may have in respect of any breach of that provision or any other provision.
- 10.7 Nothing in these Terms should be interpreted as constituting either party an agent, partner or employee of the other and neither party may pledge the credit of the other nor represent to anyone that:
 - (a) it is the other party or is an agent, partner or employee of the other party; or
 - (b) it has any power or authority to incur any obligation of any nature on behalf of the other party.
- 10.8 These Terms are governed by and construed in accordance with New Zealand law, and the parties hereby submit to the non-exclusive jurisdiction of the courts of New Zealand.