



## PLATFORM 20/20: DILLON BASS' CONTRACTING PLATFORM

**Dillon Bass Limited** is a company incorporated in Northern Ireland with company number NI013022 ("**Dillon Bass**"). It is the Northern Irish premium alcoholic drinks division of the **Pernod Ricard spirits & wine group**. Dillon Bass produces, distributes, exports and markets some of the world's best known and highest quality premium whiskey, in addition to other alcoholic and spirit drinks.

'Platform 20/20' is the standard contracting platform used by Dillon Bass to govern its legal relationship with any individual, company, partnership or other form of business (a "**Supplier**") which offers to supply goods (the "**Goods**") and/or services (the "**Services**") to or for Dillon Bass. Platform 20/20 comprises Dillon Bass 'Core Terms' (and, for specific Goods and Services, Dillon Bass' applicable 'Supporting Terms') ("**Platform 20/20**").

## Platform 20/20

### Core Terms



### General Contract Matters

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## 1. SCOPE

### 1.1 Creating a contract: If the Supplier is appointed to supply any Goods and/or Services to Dillon Bass, then:

- 1.1.1 **Contract formation:** a binding legal contract governed by Platform 20/20 shall be formed on the date on which it is agreed that the Supplier shall supply such Goods/Services - or in absence of agreement, from the date on which the price (or price calculation arrangement) for those Goods/Services is agreed - or, if earlier, the date on which the Supplier commences work in accordance with Dillon Bass' instructions (the "**Contract**");
- 1.1.2 **Entire agreement:** the terms of Platform 20/20, any Orders and Work Plans entered into in accordance with these terms and, if applicable, any agreement into which the terms of Platform 20/20 are incorporated by reference shall form the entire agreement between the parties with respect to their subject matter (and shall apply in substitution for any other express terms, including any terms discussed or forming part of prior correspondence, proposals or other standard terms of either part) and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties;
- 1.1.3 **Inconsistent implied terms:** Platform 20/20 shall prevail over any inconsistent implied terms (whether implied by law or by trade, custom, practice or course of dealing); and
- 1.1.4 **Orders:** The Contract shall govern each order placed by Dillon Bass (if any) for any Goods/Services in accordance with Clause 3.1.2 (an "**Order**") regardless of whether the Contract or Platform 20/20 are referred to in those orders or not.
- 1.1.5 **Conflict/Inconsistency:** Unless expressly agreed otherwise, the terms of Platform 20/20 shall take precedence over any other part of the Contract, including any Orders and the terms of any agreement into which the terms of Platform 20/20 are incorporated by reference.

### 1.2 Legacy/future terms: Platform 20/20 does not apply to orders:

- 1.2.1 **Existing signed contracts:** for which alternative terms have been agreed in a contract which expressly applies to those orders and which has not expired or otherwise terminated (the alternative terms shall apply to those orders); or
- 1.2.2 **Updated terms:** whose price (or price calculation arrangement) is agreed after Dillon Bass has published (or provided the Supplier with) a new edition of or replacement for Platform 20/20 (the new edition / replacement shall govern those orders - unless otherwise agreed).

### 1.3 Special terms: The terms of the Contract may be amended or supplemented - but only if the alternative terms are agreed. Accordingly:

- **Conduct of the parties:** no other conduct by either party shall be deemed to constitute acceptance of any alternative terms; and
- **POs and other documents:** any alternative contract terms incorporated or referred to in any purchase order form, delivery note, invoice or other such documentation used by the parties shall not form part of the Contract or otherwise govern the associated Orders (unless otherwise agreed).

## 2. UNDERSTANDING THE CONTRACT

### 2.1 No foreign law: The Contract between Dillon Bass and the Supplier shall be governed by and interpreted in accordance with Northern Irish Law. (The parties acknowledge that Dillon Bass is a company incorporated in Northern Ireland and the majority of Dillon Bass' people, sites, equipment and operations are in Northern Ireland.)

### 2.2 Interpretation: In Platform 20/20:

- 2.2.1 **Plurality:** words in the singular shall include the plural (and in the plural shall include the singular);
- 2.2.2 **Negative obligations:** any obligation on a party not to do something includes an obligation not to allow that thing to be done;

- 2.2.3 **Examples:** any words following the terms "including", "include", "in particular", or any similar expression shall be construed as illustrative - and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 2.2.4 **Legislation:** references to legislation mean the latest version of that law (accounting for statutory amendments, extension, re-enactments, consolidation, transposition and replacement occurring at any time and including any orders, regulations, instruments or other subordinate legislation made under the relevant statute);
- 2.2.5 **European legislation:** unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in Northern Ireland from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after 11pm on 31 January 2020.
- 2.2.6 **Service output:** unless otherwise agreed, any advice and reports which the Supplier is required to provide in the course of performing Services constitute 'output of Services' (and shall not be treated as 'Goods') for the purposes of Platform 20/20; and
- 2.2.7 **Definitions:** terms defined have the same meaning throughout:

DEFINED TERM	DEFINITION	DEFINED TERM	DEFINITION
'agreed'	Clause 24.4	Laws	Clause 11
Bank	Clause 10	Order	Clause 1.1.4
Confidential Information	Clause 16	Platform 20/20	Top of this page
Contract	Clause 1.1.1	Policies	Clause 11
Deliverables	Clause 4.2	Programme	Clause 10
Discloser	Clause 16	Purpose	Clause 16
Goods	Top of this page	Recipient	Clause 16
Industry Standards	Clause 11	Services	Top of this page
IPR	Above clause 0	Sums Due	Clause 7
Dillon Bass	Top of this page	Supplier	Top of this page

### 2.3 Notices: Notices given in connection with the Contract are only valid if given in English (either by hand, email, courier or post) as follows:

METHOD	ADDRESSEE	DEEMED DELIVERY DATE (in absence of evidence to the contrary)
Hand delivery or email	any person with authority to agree pursuant to clause 24.4 (or any other agreed person/email address)	handover/transmission date
Courier or pre-paid post (Northern Irish domestic or airmail)	for Dillon Bass: Dillon Bass' registered office (marked 'FAO Dillon Bass Legal Team'); and for Supplier: The Supplier's registered office, principal Irish administrative office or other agreed postal address	date of delivery recorded by the delivery service - or, if none: <u>two Northern Irish business days (five Northern Irish business days for airmail)</u> after posting.

### 2.4 Unenforceable provisions: If any Contract term is, or is held by any competent authority to be, illegal, invalid or unenforceable, the remainder of that term (and the other terms) shall continue in full force and effect to the fullest extent possible.



### 3. ORDERS

- 3.1 Forecasting & ordering:** Unless otherwise agreed:
- 3.1.1 **Forecasts are not binding:** any forecasts provided by Dillon Bass shall be provided in good faith as a non-binding indication of Dillon Bass' estimated requirements; and
- 3.1.2 **Orders via PO only:** orders for Goods/Services may be placed only by Dillon Bass by issuing its standard *Purchase Order* form to the Supplier. No other form of order shall constitute an 'Order' for the purpose of this Contract.
- 3.2 Non-exclusive appointment:** Dillon Bass remains free to source equivalent Goods/Services from other suppliers – save to the extent otherwise agreed.
- 3.3 No minimum purchase:** Dillon Bass is not obliged to order any Goods/Services from the Supplier (nor to maintain any minimum volume of orders).
- 3.4 Site withdrawal:** Dillon Bass may at any time remove any of its sites from the scope of the Contract by giving notice to the Supplier (and, if an Order has already been issued in connection with that site, the Sums Due shall be reduced in accordance with clause 24.2).

### 4. STORAGE & GOODS DELIVERY

- 4.1 Storage:** For all Deliverables branded with any of Dillon Bass' trademarks or constructed to a bespoke design for Dillon Bass (and for all Dillon Bass materials, components and other assets belonging to Dillon Bass) which are held by the Supplier (or on the Supplier's behalf), the Supplier shall:
- 4.1.1 **Protected:** ensure that they are stored safely and securely to ensure that they are maintained in good condition and shall keep them insured against all relevant risks for their full price;
- 4.1.2 **Identifiable & confidential:** ensure that they are stored separately from all other goods at the storage location and are stored and labelled in such manner that they are readily identifiable as Dillon Bass' property (and in a manner which protects Dillon Bass' confidential information, where applicable);
- 4.1.3 **Insolvency notice:** notify Dillon Bass if the Supplier (or any relevant subcontractor) becomes or is reasonably likely to become insolvent;
- 4.1.4 **Access:** at Dillon Bass' request, deliver them to Dillon Bass (and if the Supplier fails to do so promptly, enable Dillon Bass' representative to promptly enter any premises where they are stored to recover them); and
- 4.1.5 **Information:** give Dillon Bass all information relating to them and their storage that Dillon Bass reasonably requests.
- 4.2 Delivery:** The Supplier shall deliver the "Deliverables" (being the Goods Ordered by Dillon Bass or, where applicable, the goods processed by the Supplier as part of the Services) or plans, creative materials, websites, applications, software, reports, work product, and other deliverables developed or produced by or on behalf of Supplier hereunder and provided by the Supplier as part of the Services) to the delivery location specified in Dillon Bass' *Purchase Order* (or to the site otherwise agreed) in accordance with the agreed timetable / lead-times.
- 4.3 Packaging:** The Supplier shall ensure that the Deliverables that it supplies are properly packed and secured so as to ensure that they reach their destination in good condition.
- 4.4 Failure to accept Goods:** If Dillon Bass fails to accept delivery of Goods it has Ordered then the Supplier shall store the Goods, notify Dillon Bass and redeliver them at Dillon Bass' request. The Supplier may charge Dillon Bass for the additional storage and redelivery costs it has reasonably incurred for those Goods (provided that Dillon Bass' failure to accept delivery was on the agreed delivery date and was not connected with any breach of the Contract by the Supplier).

### 5. PERFORMANCE OF SERVICES

- 5.1 Performance:** The Supplier shall perform the Services Ordered by Dillon Bass at the agreed location (if applicable) in accordance with the agreed timetable / lead-times (if any).
- 5.2 No partnership/agency:** The Supplier is an independent contractor and not authorised to act as 'agent' for Dillon Bass: it shall not act in Dillon Bass' name or otherwise be entitled to bind Dillon Bass in any way. Nothing in the Contract shall create or be deemed to create a partnership, joint venture, agency or relationship of employer and employee between Dillon Bass and the Supplier and the Supplier shall not hold itself out as having any such relationship with Dillon Bass.
- 5.3 Required equipment & materials:** Except to the extent otherwise agreed, the Supplier shall be responsible for providing any tools, materials or other assets required to perform its Services or produce its Goods and the Supplier shall ensure that those assets are fit for purpose and otherwise comply with health, safety and other applicable Laws.
- 5.4 Independent contractor status:** The Supplier warrants that none of the people which the Supplier arranges to perform Services in connection with the Contract (including workers provided to Dillon Bass under a Contract for labour supply), will, in connection with that performance, [be classified](#) by any relevant public authority (including HMRC or any court/employment tribunal) as an employee, worker or agent of Dillon Bass - and the Supplier shall indemnify Dillon Bass against any liabilities, costs, demands, charges, expenses, damages, fines and losses that Dillon Bass suffers or incurs in connection with such classification being made (including any applicable income tax).

### 6. OWNERSHIP & RISK

- 6.1 Dillon Bass asset ownership:** Title to any assets (including any documents, raw materials, goods to be processed and tools) provided to the Supplier by (or on behalf of) Dillon Bass in connection with any Contract shall remain with Dillon Bass.
- 6.2 Goods ownership:** Title to Goods shall pass to Dillon Bass upon the earlier of:
- **Delivery:** the date of delivery to the agreed delivery location (including any interim storage location); and
  - **Payment:** the date on which payment (or part-payment) relating to the Goods is made to the Supplier.
- 6.3 No encumbering Dillon Bass property:** The Supplier shall ensure that all assets referred to in clause 6.1 and all Goods belonging to Dillon Bass pursuant to clause 6.2 remain free from any encumbrance (including any lien or other security interest).
- 6.4 Transfer of risk:** Except to the extent otherwise agreed:
- 6.4.1 **Goods:** the Supplier shall supply Goods on an [Incoterms 2010 'Delivery Duty Paid'](#) basis to Dillon Bass' nominated final delivery destination ;
- 6.4.2 **Input materials:** to the extent that the Services require the Supplier to process goods (including any raw materials) provided by Dillon Bass (or by another Dillon Bass supplier), risk shall pass to the Supplier when those goods are made available to the Supplier (for collection or unloading, as applicable) and, on completion of the processing by the Supplier, supply of Goods shall be made on an [Incoterms 2010 'Delivery Duty Paid'](#) basis to Dillon Bass' nominated final delivery destination;
- 6.4.3 **Rejected Deliverables:** notwithstanding the foregoing, if Dillon Bass rejects any Deliverables in accordance with its rights under the Contract, risk (in relation to the rejected Deliverables) shall remain with the Supplier;
- 6.4.4 **Other Dillon Bass assets:** to the extent that any tools, materials or other tangible assets are provided to the Supplier in connection with the Contract, risk shall pass to the Supplier when those assets are made available to the Supplier and shall remain with the Supplier until those assets are returned to Dillon Bass' nominated site (or otherwise consumed in accordance with the Contract); and
- 6.4.5 **Supplier assets:** The Supplier shall remain responsible for keeping its own tools, materials and other assets used by the Supplier to perform the Services safe, secure and insured (whether those assets are at Dillon Bass' premises or otherwise).



## 7. AMOUNT PAYABLE

### i NO HIDDEN CHARGES

The only sums payable by Dillon Bass in connection with Goods/Services are the agreed price, any *Value Added Tax* due to be paid on that price for the supply (subject to receipt of a valid VAT invoice) and agreed expenses (if any) – each as determined by this clause 7 (the “**Sums Due**”). Any other costs associated with performance of the Supplier’s obligations shall be borne by the Supplier (*whether in relation to: proposals or tenders; design work, raw materials or labour; models, prototypes, tooling or moulds; buildings, equipment or machinery; manufacturing or assembly; storage, carriage, insurance, packaging or pallets; travel or accommodation; obtaining certification or licences; currency exchange rate fluctuation; taxes, customs duties or other government levies or fines; developing, increasing or decreasing the Supplier’s supply capability; cancelling any project or terminating any supply; training or other ancillary goods or services; or otherwise*) – except to the extent otherwise agreed.

- 7.1 Price:** The price payable by Dillon Bass for the Goods/Services that it Orders (if any) shall be the price that it has agreed with the Supplier, as stated in the applicable Order. (Where a price adjustment formula has been agreed, the price payable shall be the price calculated in accordance with that formula.) Dillon Bass is not obliged to pay for any Goods/Services before their prices are agreed.
- 7.2 Price changes:** Agreed prices (and any associated formulae) may only be changed to the extent agreed. In absence of an agreed formula/mechanism, pricing agreed for a fixed period shall otherwise continue to apply after expiry of that period until new pricing is agreed (subject to clause 22.1.3).
- 7.3 Expenses:** In addition to the agreed price of Goods/Services, expenses that are incurred by the Supplier shall also be payable by Dillon Bass - but only where each of the following conditions are met:
- **Authorised:** Dillon Bass agreed in advance to pay the specific expenses (and all associated approvals have been obtained) and, in respect of travel expenses, such expenses comply with Irish Distillers’ travel policy unless otherwise agreed;
  - **Necessary:** the expenses needed to be incurred by the Supplier to enable proper performance of its obligations under the Contract and are proportionate to Dillon Bass’ requirements;
  - **Not inflated:** the expenses are reasonable and calculated on a ‘pass-through’ basis (with the advantage of the discounts/rebates available to the Supplier and without any mark-up); and
  - **Transparent:** the expenses are supported by appropriate receipts or other reasonable proof (which the Supplier shall make available to Dillon Bass for inspection on request).
- 7.4 Set-off:** Dillon Bass shall be entitled to set off any sums due by the Supplier to Dillon Bass under the Contract or otherwise against any Sums Due.

## 8. INVOICING

- 8.1 Invoicing arrangements:** The Supplier shall render invoices:
- 8.1.1 **Amount:** only for the Sums Due for the Goods/Services Ordered by Dillon Bass; and
- 8.1.2 **Timing:** promptly after supply of the Goods/Services Ordered or incurring the agreed expense (and not before – unless agreed): except to the extent otherwise agreed, the Supplier shall not be entitled to invoice Dillon Bass in relation to any Goods/Services more than six months after they have been delivered to Dillon Bass.
- 8.2 Invoice requirements:** Unless otherwise agreed, the Supplier shall ensure that each invoice:
- 8.2.1 **Address:** is issued by email to [accountspayable@pernod-ricard.com](mailto:accountspayable@pernod-ricard.com);
- 8.2.2 **VAT:** states any applicable *Value Added Tax* separately; and
- 8.2.3 **Verifiable:** contains sufficient information to enable Dillon Bass to readily verify the accuracy of the invoice (including the applicable *Purchase Order Number*, the quantities and type of Goods/Services to which the invoice relates; and any *service credits* and other deductions).

## 9. PAYMENT

- 9.1 Due date for payment (EOM+60):** Except to the extent otherwise agreed, Dillon Bass shall pay the Sums Due (less any credit notes) by the last day of the second month following the later of:
- **Invoicing:** the month in which Dillon Bass receives a compliant invoice for the correct amount; and
  - **Delivery:** the month of delivery of the Goods to the specified storage location or final delivery location (or, in the case of Services, the month by which the Services have been performed)
- (except where any Goods/Services/expenses to which the invoice relates are the subject of a bona fide dispute between Dillon Bass and the Supplier - in which case, unless alternative payment terms are imposed by a court of competent jurisdiction,

payment of the amount agreed or determined to be payable is due by the last day of the second month following the month in which that dispute is resolved between the parties).

- 9.2 Currency:** Except to the extent otherwise agreed, the Sums Due shall be invoiced and payable in Pounds Sterling or Euros.
- 9.3 Factors & local payment agents:** The Supplier may, if agreed by Dillon Bass (acting reasonably), appoint its own factor or a Irish-based member of its company group to (acting as the Supplier’s agent) invoice Dillon Bass for and/or accept payment of the Sums Due. Receipt of the Sums Due by the factor (or relevant member of the Supplier’s company group, where applicable) constitutes receipt of those sums by the Supplier for all purposes.

## 10. SUPPLY CHAIN FINANCE

### i REVERSE FACTORING

This clause 10 is intended to facilitate the operation of ‘reverse factoring programmes’ chosen by Dillon Bass (a “**Programme**”) that are operated by financial institutions chosen by Dillon Bass (a “**Bank**”) to help finance Dillon Bass eligible suppliers’ receivables.

- 10.1 Supply Chain Finance arrangements:** During any period in which Dillon Bass and the Supplier each contract with a Bank to participate in a Programme:
- 10.1.1 **Transferring the right to be paid:** to the extent required to enable the Supplier to participate in the Programme, Dillon Bass consents to the assignation by the Supplier to the Bank of the Supplier’s right to be paid the Sums Due by Dillon Bass (and the Supplier shall not otherwise transfer its right to be paid the Sums Due and shall not grant or permit to be retained any security interest over that right unless agreed in advance by Dillon Bass); and
- 10.1.2 **Effect of payment:** As between Dillon Bass and the Supplier, upon the earlier of:
- payment by Dillon Bass to the Supplier of the Sums Due;
  - assignation to the Bank of the Supplier’s right to receive the Sums Due (which shall take effect immediately upon payment by the Bank to the Supplier or to the Supplier’s local payment agent); and
  - payment by Dillon Bass to the Bank of the Sums Due in accordance with the Programme,
- Dillon Bass’ obligation to pay the Supplier the Sums Due shall immediately be discharged in full and Dillon Bass shall at that point, for all purposes (including, without limitation, transfer of title, where relevant), be deemed to have paid to the Supplier the Sums Due.
- 10.2 Preservation of remedies:** Payment to the Supplier by the Bank pursuant to the Programme shall in no way discharge the Supplier’s obligations to Dillon Bass, nor prevent Dillon Bass from exercising any right of set-off or other remedies available to it.

**Relationship with the Bank:** Dillon Bass is not a party to any contract between the Supplier and the Bank (and in no event will the Bank have any rights in relation to payment or to property which is to be provided by the Supplier to Dillon Bass). The Supplier shall, as soon as is reasonably practicable, notify Dillon Bass of the commencement and termination of the Supplier’s participation in the Programme.



## 11. COMPLIANCE

### **i** LAWFUL & RESPONSIBLE BUSINESS

Dillon Bass strives to conduct its business in a lawful, socially responsible & ethical manner. Clause 11 is intended to address compliance with:

- legal and regulatory requirements which apply in the [territories](#) in which the Goods (or the output of Services) are to be used or in which Services (including the manufacturing of Goods) are to be performed – including the intellectual property rights, data protection rights and other legal rights of others (“[Laws](#)”);
- generally accepted professional and industry recommendations and requirements, including the [United Nations Global Compact on human rights, labour, the environment and anti-corruption](#) and the [technical specifications](#) for products with a [Geographical Indication](#) (“[Industry Standards](#)”); and
- the latest version of applicable Dillon Bass’ or Pernod Ricard policies and [supplier standards](#) “[Policies](#)”)

in each case, including those concerning *traceability, food/drink, health & safety, human rights, labour, the environment, and anti-corruption/anti-bribery*.

#### 11.1 Laws & Industry Standards: The Supplier shall ensure that:

- **Performance:** its contractual obligations are performed in accordance with all applicable Laws and Industry Standards (and shall employ policies and procedures appropriate to ensure that compliance); and
- **Deliverables:** all Goods (and the output of Services) supplied by or on behalf of the Supplier comply with all applicable Laws and Industry Standards and their use for their intended purposes (in accordance with the Supplier’s reasonable instructions, if any) will not breach/infringe any current (or known future) Laws or Industry Standards

(except to the extent that non-compliance arises from the use of designs or other materials which were provided to the Supplier by Dillon Bass and which the Supplier both (i) was unaware would result in the breach/infringement and (ii) was not responsible for checking, whether pursuant to clause 13 or otherwise).

#### 11.2 Policies: The Supplier shall perform its obligations in accordance with all applicable Policies (except to the extent that the Policies are manifestly unreasonable). The Supplier acknowledges that:

- **Accessing policies:** copies of applicable Dillon Bass policies are available from Dillon Bass on request and the Supplier must ensure that, at all relevant times, it is aware of the latest version of the applicable policies by checking regularly with Dillon Bass; and
- **Anti-bribery:** Pernod Ricard’s Code of Ethics policy forms part of the applicable Policies (unless the Supplier complies with an alternative anti-bribery policy which has been agreed with Dillon Bass and which the Supplier warrants is adequate to ensure compliance with all applicable Laws).

## 12. CAPABILITY

#### 12.1 Required rights: The Supplier shall ensure that, at all relevant times, it has the licences, permissions, authorisations, consents and permits that it needs to carry out its contractual obligations.

#### 12.2 Insurance: In addition to any insurance required under clause 11.1, both during the Contract and for a period of one year afterwards, the Supplier shall maintain in force such insurance policies as may be required to cover any potential liability under the Contract, including the following insurance policies with reputable insurers (minimum [Standard & Poor’s rating](#) of A+), shall ensure that those policies contain an ‘*indemnity to principals clause*’ in Dillon Bass’ favour and shall do nothing to prejudice such entitlement or to invalidate those policies:

- **Employers Liability:** not less than £5,000,000 (in any one claim, unlimited in any one period of insurance)
- **Public Liability:** not less than £5,000,000 (in any one claim, unlimited in any one period of insurance);
- **Product Liability Insurance:** not less than £5,000,000 (in aggregate for all claims under the Contract); and
- **Professional indemnity insurance:** not less than £5,000,000 any one claim, unlimited in any one period of insurance (but only if design work or other professional services are being provided).

The Supplier shall ensure that each of its sub-contractors also maintain adequate insurance cover during those periods (having regard to the obligations under the Contract which they are contracted to fulfil).

The minimum level of insurance required to be maintained by the Supplier as provided for in clause 12.2 above shall be reviewed on an ongoing basis and the Dillon Bass reserves the right to require an increased minimum level of insurance to be maintained if reasonably required/In the event of any policy of insurance not being renewed or being cancelled, the Supplier shall immediately notify the Customer.

## 13. QUALITY

#### 13.1 Performance quality: The Supplier shall ensure that all of its obligations (including any Services Ordered) are performed:

- 13.1.1 **Timing:** promptly (time shall be of the essence in meeting dates and timeframes agreed, if any);
- 13.1.2 **Good industry practice:** using the skill and care which can reasonably be expected of a diligent, suitably qualified, well managed, trustworthy and experienced professional supplier to customers in the luxury alcoholic drinks sector;
- 13.1.3 **Resources:** using only appropriately skilled, experienced and qualified personnel and appropriate premises, equipment and facilities;
- 13.1.4 **Efficiency:** in an expeditious and economical manner (consistent with Dillon Bass’ best interests and the level of quality and performance required under the Contract);
- 13.1.5 **Instructions & agreed standards:** in accordance with Dillon Bass’ instructions and any agreed standards (provided that they are reasonable and consistent with the other Contract terms);
- 13.1.6 **Co-operation:** in a co-operative manner with Dillon Bass’ staff (and with any agencies, consultants, suppliers and other contractors appointed by Dillon Bass); and;
- 13.1.7 **Business & reputation:** with minimum disruption to Dillon Bass’ business and in a manner which does not cause any material damage to the good reputation or goodwill of Dillon Bass and the rest of the Pernod Ricard group (or their products, services or brands).

#### 13.2 Deliverables quality: The Supplier shall ensure that all Goods (and the output of all Services - including any Goods assembly, decoration and re-work Services) that it supplies shall, on delivery (whether to Dillon Bass’ premises or to any alternative final delivery location specified by Dillon Bass) be:

- **No defects:** free from defects in materials and in workmanship; and
- **Fit for purpose:** of a standard reasonably fit for use by a global leader in luxury alcoholic drinks for their intended purpose(s) (including in terms of functionality, integrity, robustness and overall ‘*look and feel*’)

(but excluding any non-conformance caused by defects in any materials supplied by or on behalf of Dillon Bass to the extent that those defects could not have been detected through reasonable inspection by the Supplier).

#### 13.3 Compliance with specification: The Supplier shall ensure that, on delivery, the Goods/Services that it supplies for Dillon Bass conform to their agreed specification(s), if any.

#### 13.4 No false claims: The Supplier shall ensure that all Goods and Services that it provides comply in all material respects with all quality, capability and compliance claims made by the Supplier in any associated proposal or tender submission made to Dillon Bass, if any (save to the extent that those claims conflict with any higher standard required by the Contract).

#### 13.5 Quality control: The Supplier:

- 13.5.1 **Quality system:** shall perform its obligations under the Contract in conformance with either [ISO 9001](#) or agreed alternative quality assurance systems suitable to ensure that the Goods/Services it supplies comply with the Contract; and
- 13.5.2 **Checking for defects:** acknowledges that responsibility for ensuring that the Goods/Services comply with the Contract rests with the Supplier, not with Dillon Bass (and, unless otherwise agreed, Dillon Bass shall not be obliged to inspect or otherwise check any Goods/Services that it receives, nor test any sample of Goods for quality or compliance).

#### 13.6 Responsible subcontracting: The Supplier may only appoint subcontractors which have been agreed in advance by Dillon Bass (Dillon Bass will not unreasonably refuse to grant that approval). Any act/omission of any of the Supplier’s subcontractors (or their staff) shall be deemed to be an act/omission of the Supplier for the purposes of the Contract.

#### 13.7 Approved samples: The Supplier shall ensure that, subject to the other requirements in the Contract, if the Supplier provided a sample of the Goods for approval, the relevant characteristics of those Goods (including any relevant look, feel, taste/smell and capabilities) are materially the same (and the Goods are of at least the same quality) as the sample approved by Dillon Bass.



## **i** INTELLECTUAL PROPERTY RIGHTS

The following provisions govern ownership and use of existing and future intellectual and industrial property rights across the world (including any copyright & related rights; design, trade mark and database rights; and patents) - in each case, whether registered or not and whether capable of registration or not and including registrations and applications for registration of any of these rights to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world ("IPR").

## 14. IPR LICENCES

**14.1 Licence from Dillon Bass:** Dillon Bass grants to the Supplier a non-exclusive, non-transferable, worldwide IPR licence (with the right to grant sub-licences to its permitted subcontractors, if any) to use, copy, amend, translate, redevelop and create other derivative works from materials provided to the Supplier by Dillon Bass in connection with the Contract:

- **Extent:** solely for the duration and to the extent required for the proper performance of the Supplier's obligations to Dillon Bass; and
- **Third party conditions:** subject to all applicable third-party licence terms that the Supplier has been given notice of (if any).

**14.2 Conditions:** The licence granted under clause 14.1 shall be subject to the following conditions:

- the Supplier shall use all reasonable endeavours to ensure that, in performing this Contract, it shall not do or omit to do anything which may cause a material adverse impact to the brand, goodwill, reputation and/or business of Dillon Bass or its IPR;
- all proprietary rights and goodwill in relation to Dillon Bass' IPR resulting from the use thereof by the Supplier shall inure to the benefit of Dillon Bass; and
- the Supplier shall at all times comply with Dillon Bass' branding guidelines, a copy of which is available from Dillon Bass on request and the Supplier must ensure that, at all relevant times, it is aware of the latest version of the applicable branding guidelines by checking regularly with Dillon Bass.

**14.3 Licence from the Supplier:** The Supplier grants (and shall ensure that each relevant third party grants) to Dillon Bass a permanent, worldwide, royalty-free, non-exclusive, transferable, irrevocable IPR licence (with an unrestricted right to grant sub-licences) to use and commercially exploit all Goods and all output of Services supplied to Dillon Bass by the Supplier (and in each case the Supplier shall ensure that any moral rights have been waived).

## 15. OWNERSHIP OF IPR

**15.1 Off-the-shelf products:** Nothing in the Contract is intended to prevent the Supplier from continuing to sell its pre-existing 'off-the-shelf' products to others.

**15.2 IPR transfer to Dillon Bass:** The Supplier acknowledges that all:

- **Derivative materials:** IPR in artwork, designs, specifications, graphics, documentation, models, Goods and other materials developed by or on behalf of the Supplier, to the extent that they are derived from materials supplied by or on behalf of Dillon Bass (or are otherwise developed through exercise of the licence granted under clause 14.1);
- **Commissioned work:** IPR in materials developed by or on behalf of the Supplier in performance of any Services for which Dillon Bass is charged any form of fee, whether payable to the Supplier as an independent charge or as part of the cost of Goods associated with that Service; and
- **Goodwill:** goodwill arising through use of any of the foregoing IPR (*derivative materials and commissioned work*) or through use of any IPR licensed to the Supplier pursuant to clause 14.1

belongs to Dillon Bass and the Supplier assigns (and shall ensure that each of its subcontractors and group companies shall assign) to Dillon Bass absolutely all such IPR and goodwill and any associated rights, including the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief in respect of any infringement, or any other cause of action arising from ownership, of such IPR and goodwill whether occurring before, on, or after their assignment, that they hold now or in the future.

**15.3 IPR transfer & enforcement:** At Dillon Bass' request, the Supplier shall (and shall ensure that each of its subcontractors and group companies shall):

- execute and deliver such documents (including standalone '*confirmatory assignments*' for IPR registration purposes); and
- take such other actions;

as may reasonably be required for the purposes of giving full effect to the transfer of IPR and goodwill required under the Contract and to enable Dillon Bass to enforce and defend that IPR.

**15.4 No IPR misuse:** The Supplier shall:

- 15.4.1 **No registration:** not attempt to register any IPR in connection with materials provided to the Supplier by (or on behalf of) Dillon Bass; and
- 15.4.2 **Safe post-termination disposal:** ensure that, following termination of the Contract, any associated tooling, unfinished and finished goods and other tangible assets in its possession or control which embody IPR belonging to Dillon Bass (and which the Supplier is not otherwise required to deliver to

Dillon Bass or retain pursuant to the Contract) are consumed or otherwise disposed of in a manner which:

- does not facilitate the creation of counterfeit goods;
- does not in any other way place Dillon Bass' IPR (nor the goodwill in their brands) at any risk; and
- complies with the terms of the Contract.

## 15.5 Ownership of Assigned Materials

15.5.1 Until such time as such IPR are effectively assigned to Dillon Bass in accordance with the clause 15.2, the Supplier shall hold all such IPR on trust for Dillon Bass and hereby grants to Irish Distillers an exclusive, perpetual, royalty-free, worldwide, irrevocable, sub-licensable licence to use such for any purpose.

15.5.2 The Supplier shall ensure that all moral rights described in Chapter 4 of the Copyright, Designs and Patent Act 1988 as amended are waived, to the fullest extent permitted by law. In the event that it is not possible for the Supplier to obtain a waiver of such moral rights in respect of any commissioned material and/or existing material, the Supplier will notify Dillon Bass in writing in advance of concluding the relevant commissioning contract or using the existing material and proceed as agreed with Dillon Bass.

15.5.3 The Supplier shall not, and shall procure that each of its employees/partners and any third party commissioned by it to produce any Deliverable shall not: (i) assign or purport to assign any of the IPR relating to that Deliverable to any third party; or (ii) permit any third party to use any of the IPR relating to that Deliverable.

## 15.6 Consents and Releases and Approvals

15.6.1 The Supplier shall ensure that it obtains for each Deliverable, prior to production of such Deliverable, and maintains thereafter, all necessary rights, consents, releases and approvals for Dillon Bass, members of the Pernod Ricard group and their respective licensees and assigns to use such Deliverable for the intended purpose.

15.6.2 The Supplier shall obtain such rights, consents, releases and approvals in writing before producing the relevant Deliverables and shall provide copies of the same to Dillon Bass on request.

## 15.7 Deliverables

15.7.1 Without prejudice to any of the foregoing provisions, the Supplier undertakes not to disclose, use or copy the look and feel of any Deliverable for any other purpose, including without limitation the design of any website or online application.

15.7.2 The parties agree that all use and all goodwill arising from use of the materials provided to the Supplier by Dillon Bass and/or the Deliverables shall inure to the benefit of Dillon Bass or its nominee.



## 16. KEEPING SECRETS



### CONFIDENTIAL INFORMATION

**"Confidential Information"** means all information, whether or not designated as confidential, (in whatever form, including in written, oral, visual or electronic form or via a sample or prototype) which is first disclosed by the Discloser (or by another person on behalf of the Discloser) to the Recipient (or to another person on behalf of the Recipient) under or in connection with the Contract and which ought reasonably be understood to be confidential, including:

- in the case of information disclosed by or on behalf of Dillon Bass:
  - **Business:** Dillon Bass or other members of the Pernod Ricard group (including strategic, financial, commercial, technical, operational, staff, supplier and customer) information; or
  - **Products:** Dillon Bass' products or services or those of other Pernod Ricard group members (including plans, strategies, pricing, concepts, designs, specifications, ingredients, processes, packaging and marketing) information; and
- in the case of information disclosed by or on behalf of the Supplier:
  - **Tech:** details of manufacturing equipment/techniques unique to the Supplier (save to the extent that their development was partly or wholly funded by Dillon Bass);
  - **Pricing:** The Supplier's prices for its Goods/Services (including details of fixed and variable costs and margins); or
  - **Capability:** The Supplier's operational capacity relating to the Goods/Services (including intended relevant capital investment); and
  - **Supply chain:** The identity of the raw materials suppliers used by the Supplier relating to the Goods/Services (but excluding the Supplier's subcontractors).

**"Discloser"** means a party to the Contract disclosing Confidential Information and **"Recipient"** means a party to the Contract receiving Confidential Information.

The Recipient may require access to Confidential Information to facilitate the supply and receipt of the Goods/Services that Dillon Bass or other Pernod Ricard group members require and otherwise perform its contractual obligations or exercise or enforce its contractual rights to the Discloser under the Contract (the **"Purpose"**).

- 16.1 Permitted use:** The Recipient shall, both during the Contract and thereafter:
- 16.1.1 **Proper use:** use Confidential Information solely for the Purpose (and shall promptly notify the Discloser upon discovery of any unauthorised use or disclosure of Confidential Information); and
  - 16.1.2 **Safe use:** keep all Confidential Information secret, safe and secure.
- 16.2 Permitted disclosures:** The Recipient shall not disclose Confidential Information to any other person, except to the extent that:
- 16.2.1 **Supplying Dillon Bass:** such disclosure is necessary for the Purpose (disclosure to any other member of the Pernod Ricard group or either party's directors, officers, employees, agents, service providers, insurers and professional advisors shall be deemed to meet that condition) and subject to the condition that the Recipient ensures that each person to whom it discloses Confidential Information is obliged to use and keep that information confidential on terms at least as onerous as those which apply to the Recipient under the Contract;
  - 16.2.2 **Law:** it must be disclosed pursuant to a legal or regulatory obligation placed upon the Recipient, provided that, to the extent permitted by law, the Recipient uses all reasonable endeavours to promptly notify the Discloser and give the Discloser the opportunity to protect the Confidential Information by protective order or other such means; or
  - 16.2.3 **Sourcing & rework recharging:** the disclosure relates to the Supplier's pricing, capability and/or supply chain but the disclosure is in an anonymised or aggregated form (such that the Supplier's specific pricing, capability or supply chain can't be readily discerned).
- 16.3 Copies and ownership:** The Recipient shall make only such copies of the Confidential Information as are necessary for the Purpose. Ownership of all complete and partial copies of the Confidential Information (including adaptations, translations and other reproductions) shall always remain with the Discloser. Upon the Discloser's written request, the Recipient shall promptly return or permanently erase or destroy (and ensure that any people to which it has disclosed the information also return or permanently erase or destroy) all copies of Confidential Information (save that copies may be retained to the extent required by law) and certify in writing its compliance with this requirement. This clause 16.3 does not apply to copies of Confidential Information held by third parties pursuant to clauses 16.2.2 or 16.2.3, nor does it apply to copies of the Contract (including any schedules).
- 16.4 Exceptions:** The Recipient's obligations under clauses 16.1 - 16.3 do not apply to information to the extent that:

- 16.4.1 **Public:** it is generally available to members of the public prior to commencement of the Contract or it subsequently becomes generally available to members of the public other than by breach of the Contract;
- 16.4.2 **Known:** it was demonstrably already known to the Recipient and at its free disposal prior to commencement of the Contract; or
- 16.4.3 **Other source:** it is lawfully received by the Recipient from a third party without breaching any obligation of confidence or non-use.

**16.5 Publicity:** The Supplier shall not make any announcement regarding its appointment by Dillon Bass save to the extent agreed in advance.

**16.6 Warranty:** The Discloser warrants to the Recipient that it has the right to disclose its Confidential Information in accordance with the foregoing.

## 17. TRANSPARENCY

**17.1 Keeping Dillon Bass informed:** The Supplier shall:

- 17.1.1 **Progress:** keep Dillon Bass informed of its progress in performance of its contractual obligations; and
- 17.1.2 **Warnings:** notify Dillon Bass upon becoming aware of any actual or anticipated breach of contract (including failure to adhere to required timescales) and any defects in components, materials or designs supplied by or on behalf of Dillon Bass which have come to the Supplier's attention.

**17.2 Information access:** For the purposes of helping Dillon Bass to ensure supply chain quality/resilience, product integrity/safety and brand security - and to otherwise help Dillon Bass to comply with its legal and ethical commitments, during the Contract (and for a period of five years afterwards), the Supplier shall (and ensure that each of its subcontractors shall), in compliance with its obligations under data protection law:

- 17.2.1 **Record disclosure:** maintain reasonable, adequate, accurate and systematic records regarding the Goods/Services that it supplies to Dillon Bass and the work it performs in connection with those Goods/Services and shall provide Dillon Bass with copies of those records on request (including copies of any computer files connected with bespoke designs and reasonable evidence of insurance policies in place and the rights required under clause 12.1);
- 17.2.2 **Consultation:** make its personnel (with the appropriate level of knowledge and authority) available to Dillon Bass to answer all reasonable enquiries and otherwise provide Dillon Bass with such information as it may reasonably require in connection with the Goods/Services, the associated supply chain (including any applicable process control plans) and the Contract; and
- 17.2.3 **Audit:** ensure that any representatives nominated by Dillon Bass are provided, during normal working hours, with access to (and are permitted to inspect) such parts of its (and its subcontractors') sites, documents, data and equipment as are used in connection with the manufacture, processing, storage or transportation of goods (or processing of personal data) for Dillon Bass (subject to Dillon Bass giving at least 24 hours prior notice and compliance by those representatives with any reasonable health, safety and security policies of which the Supplier has provided reasonable prior notice).



## 18. FIXING PROBLEMS

- 18.1 Delay:** If Goods/Services (including repaired or replacement Goods/Services) Ordered by Dillon Bass are not delivered on the due date (or by any deadline extension granted by Dillon Bass) and in accordance with the standards required by the Contract, Dillon Bass may, at its sole discretion do any of the following:
- **Cancel:** cancel the relevant Order (in whole or in part) and refuse to take any subsequent attempted delivery of those Goods/Services;
  - **Expedite delivery:** specify a revised due date for delivery of the Order (in whole or in part) and, in the case of Goods, require the Supplier to arrange for compliant Goods to be delivered at no additional cost to Dillon Bass, to the original or an alternative delivery location specified by Dillon Bass by air freight (or by any other accelerated method reasonably requested by Dillon Bass); or
  - **Substitute:** if the Supplier fails to meet any revised due date (or indicates that it cannot or will not comply with it), Dillon Bass may order substitute Goods/Services from an alternative supplier and require the Supplier to repay to Dillon Bass the reasonable additional costs Dillon Bass consequently incurs.
- 18.2 Defective Goods:** Irrespective of any payment made, opportunity to inspect Goods (or samples) or any documentation concerning 'acceptance', if the Supplier supplies any Goods (including repaired or replacement Goods) that do not meet the standards required pursuant to the Contract (or any batch containing such defective Goods) then the Supplier shall, at Dillon Bass' request, do any or all of the following (as specified by Dillon Bass), either in relation to the whole batch or any part of the batch (as specified by Dillon Bass):
- **Help resolve:** provide such help and support (without additional cost to Dillon Bass) as Dillon Bass may reasonably request to identify the defect, its cause and the Goods affected by it (including by refunding to Dillon Bass all costs reasonably incurred by Dillon Bass in connection with the identification, inspection, testing and processing of Goods/batches which Dillon Bass reasonably determines may be affected by the defect);
  - **Repair, replace or substitute:** repair or replace the Goods at no additional cost to Dillon Bass within a timescale reasonably requested by Dillon Bass (and, if the Supplier fails to do so, Dillon Bass may appoint another supplier to rework or replace the Goods and require the Supplier to reimburse Dillon Bass for the reasonable additional costs that it incurs in doing so);
  - **Finance rework:** reimburse Dillon Bass for any additional costs reasonably incurred by Dillon Bass in reworking the Dillon Bass products affected by the defective Goods (including the cost of removing the defective Goods from those products and replacing them with the compliant Goods);
  - **Dispose of defective Goods:** collect or take acceptance of the Goods/batch and refund to Dillon Bass any costs reasonably incurred by Dillon Bass in connection with that return (including transport costs); and/or
  - **Refund:** provide a 'credit' to Dillon Bass in the next invoice in an amount equal to the sums paid by Dillon Bass for the Goods – or, at Dillon Bass' option, refund the sums paid by Dillon Bass in respect of all the Goods (provided, in each case, that those Goods are not properly repaired/replaced at the Supplier's expense).
- 18.3 Cost of making up for lost time:** The Supplier shall, at Dillon Bass' request, reimburse Dillon Bass for any costs reasonably incurred by Dillon Bass in Dillon Bass endeavouring to compensate for (and/or mitigate the consequences of) the Supplier's failure to deliver compliant Goods/Services on the original due date (whether via: expedited delivery of Dillon Bass products via air freight, use of overtime, weekend-working, extra staff, alternative manufacturing/assembly arrangements, rework - or otherwise).
- 18.4 Breach of confidence:** The parties agree that damages may not be an adequate remedy for any breach of clause 16 and accordingly the Discloser shall, in addition to any other rights or remedies which it may have, be entitled, without proof of damage, to commence legal proceedings seeking relief (including injunctive relief) for any threatened or actual breach of clause 16.

## 19. DEALING WITH DISASTER

- 19.1 Catastrophic Supplier failure:** To the extent arising from defective performance (or non-performance) by the Supplier of its obligations, the Supplier shall indemnify Dillon Bass and all other members of the Pernod Ricard group against the liabilities, costs, demands, charges, expenses, damages, fines and losses that they suffer or incur in connection with:
- **Product recall:** recalling Dillon Bass products which Dillon Bass reasonably determines to be unsafe for use by consumers for their intended purpose, to be legally infringing/non-compliant or to contain defects damaging to their associated brand(s);
  - **IPR breach claims:** any claim(s) or allegation(s) regarding infringement of IPR;
  - **Harm claims:** any claim(s) or allegation(s) that Dillon Bass products are unsafe for use by consumers for their intended purpose or any other claim(s) for death, personal injury or damage to property; and
  - **Legal non-compliance claims:** any or allegation(s) claim(s) regarding breach of Laws in the territory in which the Goods/Services are supplied (or Laws in [the market\(s\)](#) in which relevant Dillon Bass products (if any) are supplied to consumers).
- 19.2 Management of third-party claims:** Dillon Bass shall:

- 19.2.1 Co-operate:** notify the Supplier of defects in relevant Goods/Services which are reasonably likely to give rise to a claim under clause 19.1 promptly after becoming aware of them and consult and otherwise work with the Supplier to mitigate the loss which Dillon Bass (and other members of the Pernod Ricard group) may suffer as a result of the associated product recall / third party claims; and
- 19.2.2 Make no admission:** not make any admission of liability in relation to any third party claim to which clause 19.1 applies without obtaining prior consent from the Supplier (provided that consent is not unreasonably conditioned, withheld or delayed) – except to settle a claim if Dillon Bass reasonably determines that failure to settle the claim would be prejudicial to Dillon Bass (or to any other member of the Pernod Ricard group) in any material respect.

## 20. LIMITS OF RESPONSIBILITY

- 20.1 Decentralised group structure:** If the Supplier breaches the Contract, the direct loss suffered by Dillon Bass shall be deemed to include direct loss suffered by the other members of the Pernod Ricard group (for the purposes of calculating damages) – subject to the liability caps and exclusions under the Contract.
- 20.2 Consequential loss exclusion:** Neither party shall be liable (whether under the Contract or in tort) for any form of indirect loss.
- 20.3 Caps on Dillon Bass' liability:** Dillon Bass' liability arising in relation to the Contract shall be limited:
- **Non-payment:** for non-payment of invoices, to the unpaid Sums Due, and interest on the overdue sum from the due date until payment of the overdue sum. Interest will accrue each day at 2% a year above the Bank of England's base rate from time to time which shall carry from the due date for payment of Sums Due until the date when payment of Sums Due is actually made to the Supplier (or its successor under Northern Irish law); and
  - **Other failure:** to £1,000,000 Pounds Sterling (for all other claims in aggregate).
- 20.4 Caps on Supplier's liability:** The Supplier's liability arising in relation to the Contract shall be limited as follows:
- **Recall & property damage:** for the indemnity under clause 19.1 concerning 'recall' and for damage to tangible property, to £10,000,000 Pounds Sterling for the claim(s) (arising from the same cause/source); and
  - **Other indemnities:** for all other indemnities under the Contract (including clauses 5.4 and 19.1), no limits shall apply; and
  - **Other failure:** to £5,000,000 Pounds Sterling for any other claims(s) (arising from the same cause/source).
- 20.5 Exceptions:** Notwithstanding any other clause, nothing in the Contract excludes or limits either party's liability for death or personal injury arising from its negligence or from its breach of duty; for fraud, theft [or wilful default]; or for any other liability that cannot be limited under Northern Irish law.
- 20.6 Dispute resolution:** Any rights or remedies for Dillon Bass provided for in the Contract are cumulative and are without prejudice to any other rights or remedies that Dillon Bass has under the Contract or under applicable law. The Northern Irish Courts have exclusive jurisdiction to deal with any disputes related to the Contract.



21. CONTRACT DURATION

- 21.1 **Order acceptance:** The Supplier shall accept Orders for Goods/Services at any time between commencement and termination of the Contract.
- 21.2 **Contract expiry:** If a fixed duration has been agreed for the Contract, the Contract shall automatically terminate on expiry of the agreed duration.
- 21.3 **Termination at will:** Dillon Bass may terminate the Contract by giving the Supplier notice at least 3 months in advance of the termination date.

22. EARLY TERMINATION (WITH CAUSE)

- 22.1 **Termination by the Supplier:** The Supplier may terminate the Contract on giving notice to Dillon Bass if:
  - 22.1.1 **Non-payment:** Dillon Bass fails to pay any undisputed amount due under the Contract on the due date for payment and remains in default for not less than 45 days after Dillon Bass is given notice (addressed to Dillon Bass’ Chief Financial Officer) to the effect that Dillon Bass is in arrears to the relevant extent and that the Supplier intends to terminate the Contract if payment has not been made within 45 days;
  - 22.1.2 **Insolvency:** Dillon Bass is unable to pay its debts as they fall due or admits inability (or is deemed by law to be unable) to pay its debts or is, in the Supplier’s reasonable opinion, likely to become insolvent; or
  - 22.1.3 **No agreed price:** the prices payable under the Contract were agreed to apply for a specific period only (without an agreed price adjustment formula/mechanism), that period has expired, no new pricing has been agreed and Dillon Bass has been given notice 30 days prior to termination expressing the Supplier’s intention to terminate if no new pricing is agreed.
- 22.2 **Termination by Dillon Bass:** Dillon Bass may terminate the Contract (and cancel any outstanding Orders without charge) on giving notice to the Supplier if:
  - 22.2.1 **Material breach:** The Supplier commits a material or persistent breach of any of its obligations or duties (which, if capable of remedy, has not been permanently remedied within 30 days of Dillon Bass issuing notice identifying the breach and requiring its remedy). Material breach includes a breach or breaches which:
    - has, in Dillon Bass’ reasonable opinion, a material adverse impact on Dillon Bass’ use of (or intended benefit from) the Goods/Services;
    - has, in Dillon Bass’ reasonable opinion, a material adverse impact on Dillon Bass’ business, operations, supply chain, property, financial standing, legal compliance, brands or reputation (or that of any other member of the Pernod Ricard group); or
    - causes any financial loss to Dillon Bass (or to any other Pernod Ricard group member) which cannot be recovered under the Contract;
  - 22.2.2 **Change of control:** at any time following appointment, the Supplier is subject to a ‘change of control’ (being where a person or entity directly or indirectly gains control either through the majority of the voting rights in the Supplier or attains the ability, whether through voting rights, contractual means or otherwise, to direct the affairs of the Supplier) – unless Dillon Bass agreed to the change of control;
  - 22.2.3 **IPR dispute:** The Supplier breaches/infringes the IPR of any Pernod Ricard group member or challenges the validity or ownership or opposes the grant of any IPR of any Pernod Ricard group member;
  - 22.2.4 **Bribery & slavery:** the Supplier or any person performing the Supplier’s obligations to Dillon Bass on the Supplier’s behalf (or any officer or agent of that person or of the Supplier) is charged with or investigated in relation to or engages in any conduct that may constitute an offence under The Bribery Act 2010 or the UK Modern Slavery Act 2015 or breaches the terms of its applicable anti-bribery policy or Dillon Bass’ anti-slavery policy (the Slavery and Human Trafficking Policy); or
  - 22.2.5 **Insolvency / ceasing to trade:** the Supplier is unable to pay its debts as they fall due or admits inability (or is deemed by law to be unable) to pay its debts or is, in Dillon Bass’ reasonable opinion, likely to become insolvent; or suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

IPR), 16 (keeping secrets) and 17.2 (information access – [for five years]); the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and application of Platform 20/20 to future appointments (please see clause 1).

24. CHANGE MANAGEMENT

- 24.1 **Transfer within Pernod Ricard permitted:** Dillon Bass can assign its rights and obligations under the Contract to any other member of the Pernod Ricard group by giving the Supplier prior notice. (The Supplier may only transfer its rights and obligations under the Contract if agreed).
- 24.2 **Order flexibility:** Dillon Bass may at any time amend or cancel any Order(s) by notifying the Supplier and:
  - **Supplier breach/cause:** where the amendment or cancellation results from the Supplier’s failure to comply with its obligations to Dillon Bass (or otherwise results from termination pursuant to clause 22.2), Dillon Bass shall have no liability to the Supplier in respect of the cancellation or reduction; and
  - **Commercial requirement:** otherwise Dillon Bass’ liability to the Supplier shall be limited to payment to the Supplier of the direct costs reasonably incurred by the Supplier prior to receipt of the notice in fulfilling the Order (which shall not exceed the agreed price otherwise payable for fulfilling the Order).
- 24.3 **Waiving rights/remedies:** Failure or delay by any person to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy:
  - **Express written waiver only:** a waiver of any right or remedy in connection with the Contract is only effective if agreed (and it shall apply only to the circumstances for which it is given and shall not be deemed a waiver of any subsequent breach or default); and
  - **Partial exercise:** partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 24.4 **Authority to agree:** Throughout Platform 20/20, the word “agreed” means expressly agreed in writing (whether via physical documentation using a ‘wet ink signature’, email exchange or electronic documentation using a ‘digital signature’ – but accepting that each party has a right to be provided, on request, with a confirmatory ‘wet ink signature’ version of any agreement reached via electronic means) between Dillon Bass and the Supplier via:

PARTY	AUTHORISED PEOPLE
For the Supplier	any one of the following people: <ul style="list-style-type: none"> <li>• any company director or company secretary of the Supplier (or by any other authorised signatory); and</li> </ul>
For Dillon Bass	any one of the following people: <ul style="list-style-type: none"> <li>• any company director of Dillon Bass or company secretary of Dillon Bass (or by any other authorised signatory).</li> <li>• any representative expressly authorised by a board director of Dillon Bass (but only in relation to the corresponding subject matter/clauses specified by one of Dillon Bass’ board directors); or</li> <li>• any other Dillon Bass director or manager – but only to implement Platform 20/20 as the basis for contracting (without any changes or additions to the default Platform 20/20 terms).]</li> </ul>

23. POST-TERMINATION ARRANGEMENTS

- 23.1 **Pre-termination Orders:** The Supplier shall cease accepting Orders on the termination date – but shall complete all outstanding Orders received prior to termination in accordance with the terms of the Contract (unless the Contract was terminated early on any of the grounds listed in clause 22) - subject to Order cancellation in accordance with clause 24.2.
- 23.2 **Dillon Bass assets:** On termination of the Contract, the Supplier shall, subject to clause 23.1, return to Dillon Bass’ nominated site all tools, materials and other tangible assets that were provided by or on behalf of Dillon Bass in connection with the Contract (and repay to Dillon Bass any advance payment paid for Goods/Services which were not supplied prior to termination).
- 23.3 **Surviving rights & obligations:** On termination of the Contract, any provision of that Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect, including: all indemnities; clauses 14.3 (licence from the Supplier), 15 (ownership of



## Applicable to: Customised Packaging Supply

C

### i SUPPLYING CUSTOMISED PACKAGING FOR DILLON BASS' PRODUCTS

The provisions on this page apply only in relation to Goods which are to be made to a *Bespoke Design* (as defined in clause D2.1) or to a design supplied by (or on behalf of) Dillon Bass and which are intended to be used as part of packaging for Dillon Bass' products (including bottles, closures, corks, labels/stickers, boxes, shipping cases, etc.).

## C1. PLACING PACKAGING ORDERS

**C1.1 Business allocation:** If Dillon Bass agrees to purchase a certain percentage of its annual requirement for Goods from the Supplier:

- C1.1.1 **Actual requirements only:** Dillon Bass' commitment shall be measured against Dillon Bass' actual annual requirements for the relevant products (excluding any restage of those products) – which might differ from Dillon Bass' forecast and might cease altogether;
- C1.1.2 **Conditions:** Dillon Bass' commitment is subject to the Supplier meeting Dillon Bass' reasonable quality, capacity, timescale, pricing, value-engineering improvement, technical capability/support and legal/contractual compliance requirements - and subject to the Supplier otherwise complying with the Contract; and
- C1.1.3 **Sole remedy:** if Dillon Bass fails to purchase the agreed allocation then the Supplier's sole remedy shall be to terminate the **Contract** in relation to the relevant Goods by providing notice six months prior to termination. That termination right is subject to clause 23.1 (*pre-termination orders*) and may only be exercised in the event that the Supplier has met each of Dillon Bass' requirements referred to in clause C1.1.2 and Dillon Bass' purchasing failure is material (being a shortfall equal to more than five percent of Dillon Bass' actual annual requirements for the relevant products).

**C1.2 Binding forecasts:** The Supplier shall comply with the latest edition of Dillon Bass' forecasting and ordering process. Forecasts (if any) shall only be binding to the extent specified by that process. The Supplier shall review Dillon Bass' forecast promptly after it is made available and act accordingly where appropriate to achieve Dillon Bass' order requirements. If a forecast '*crystallisation period*' is agreed, Dillon Bass may place Orders for Goods via any of the following three methods:

- C1.2.1 **Ad hoc PO:** by submitting a purchase order to the Supplier;
- C1.2.2 **Forecast call-off:** by submission via Dillon Bass' *Manufacturing Team* of a call-off against Dillon Bass' forecast demand for the relevant quantity of Goods manufactured within the relevant forecast '*crystallisation period*' (calculated in accordance with Dillon Bass' forecasting and ordering process); or
- C1.2.3 **Paid stock:** by confirmation via Dillon Bass' Procurement Team that the Supplier has manufactured the relevant quantity of Goods within the relevant forecast crystallisation period (converting the forecast into a binding commitment to purchase) but instructing the Supplier to treat the Goods as '*paid stock*':
  - The Supplier may invoice for paid stock after holding it for a period of six months - or such alternative period as may be agreed (the "**Initial Holding Period**") (or after delivering it in accordance with Dillon Bass' instructions).
  - On expiry of the Initial Holding Period, paid stock which Dillon Bass has not instructed to be delivered is, solely for invoicing purposes, deemed to have been delivered.
  - The Supplier may also charge an agreed storage charge to Dillon Bass for holding paid stock for Dillon Bass after the Initial Holding Period (and shall thereafter deliver or dispose of that stock if instructed by Dillon Bass).

## C2. QUALITY REQUIRED FOR CUSTOM PACKAGING

**C2.1 Specifications:** The Supplier shall ensure that all Goods that it supplies for Dillon Bass, on delivery (whether to Dillon Bass or to any alternative final delivery location specified by Dillon Bass) shall:

- C2.1.1 **Detailed specification:** conform to (and have been **manufactured**, stored, tested, packaged and delivered in compliance with) the latest:
  - agreed '*Component Specification*' (the Supplier is deemed to have automatically agreed to that specification when it is appointed to provide '*contingency supply*' or otherwise manufacture to a design provided by Dillon Bass); and
  - Dillon Bass' '*General Specification*' for goods of the category Ordered by Dillon Bass (except to the extent that it requires a lower level of quality than the agreed *Component Specification* – and subject to any derogations proposed by the Supplier and agreed by Dillon Bass); and
- C2.1.2 **Production specification:** subject to clause C1.1.1, conform in all material respects to the '*production specification*' approved by Dillon

Bass (including approved plans, drawings, diagrams, samples and prototypes), if any; and

- C2.1.3 **Packing specification:** subject to clause C1.1.1, be packed in accordance with the agreed packing **specification** (if any).

## C3. CUSTOM TOOLING & IPR USE

**C3.1 Custom Tooling:** Where required to produce Goods to a Bespoke Design (or to a design supplied by or on behalf of Dillon Bass) or to perform associated Services, the Supplier shall arrange for the production of bespoke tooling, including any required bespoke moulds and bespoke replacement parts (the "**Custom Tooling**") and the following terms shall apply:

- C3.1.1 **Copying:** The Supplier shall not make (or allow to be made) more sets of **Custom Tooling** than is reasonably required to meet Dillon Bass' projected requirements for the relevant Goods/Services;
- C3.1.2 **Use:** the Supplier shall use the Custom Tooling only for the purpose of producing Goods for (or supplying Services to) Dillon Bass and shall ensure that it is not misused, is stored securely, is protected from loss and damage (**including** by providing appropriate environmental conditions for the Custom Tooling's use and storage) and is otherwise treated with the same standard of care as a reasonable manufacturer would employ for its own equipment (the Supplier shall repair or replace all Custom Tooling lost or damaged through its breach);
- C3.1.3 **Ownership:** regardless of how the cost of Custom Tooling is **funded**, the Custom Tooling (and IPR in the Custom Tooling, to the extent that the tooling has been customised for Dillon Bass) shall always be the property of Dillon Bass (and the Supplier shall ensure that the Custom Tooling is at all times labelled as the property of Dillon Bass); and
- C3.1.4 **Post-termination:** unless otherwise agreed, the Supplier shall **deliver** the applicable Custom Tooling to Dillon Bass on termination of the Contract (or, if instructed by Dillon Bass, arrange for its safe destruction and disposal).

**C3.2 Licence from the Supplier:** Save to the extent that the relevant IPR has already been transferred to Dillon Bass, the Supplier grants (and shall ensure that each relevant third party grants) to Dillon Bass a permanent worldwide, royalty-free, non-exclusive, transferable, irrevocable IPR licence (with an unrestricted right to grant sub-licences):

- C3.2.1 **Commercial use:** to use and commercially exploit all Goods (and **Custom Tooling**, if any) supplied to Dillon Bass by the Supplier or manufactured in accordance with the licence in clause C3.2.2 (and in each case the Supplier shall ensure that any moral rights have been waived); and
- C3.2.2 **Supply chain risk / contingency supply:** to manufacture Goods (for use with any Dillon Bass or other Pernod Ricard products) with the same (or similar) "**Aesthetic Elements**" (being the external shape, the colourways and the overall trade dress) as those applicable to any Goods supplied by the Supplier to Dillon Bass (including use of the production processes and techniques necessary to achieve that) and to use, copy, develop and share all associated design materials for that purpose.



### i DESIGNING PACKAGING & PROMOTIONAL GOODS FOR DILLON BASS

The provisions on this page apply only in relation to design work performed for customised packaging or customised promotional Goods for Dillon Bass. The external shape, the colourways and the overall trade dress (“**Aesthetic Elements**”) of those Goods form a critical extension of Pernod Ricard’s brands.

## D1. ORINATION & DEVELOPMENT

**D1.1 Design requirements:** The Supplier shall ensure that its completed design is fit for the purpose of manufacturing Goods which:

- D1.1.1 **Quality & legal compliance:** conform to the agreed standards in terms of quality and compliance;
- D1.1.2 **Compatibility:** work (and can be combined by a competent manufacturer) efficiently and effectively with the other goods that Dillon Bass intends to use for its end product (to the extent that the Supplier is provided with information about those other goods);
- D1.1.3 **Commercial production:** can be readily produced on the scale required by Dillon Bass (to the extent that the Supplier is provided with information about Dillon Bass’ intentions);
- D1.1.4 **Instructions:** conform to the design changes and other instructions from Dillon Bass specified during the design development process, including any changes for feasibility or commercial production optimisation; and
- D1.1.5 **Design brief:** are as aesthetically and functionally proximate to the ‘design brief’ (which may take the form of artwork, models or other materials - if any) supplied by Dillon Bass or its authorised agents as is reasonably practicable, accounting for the requirements above regarding quality & legal compliance, compatibility and commercial production.

**D1.2 Design tasks:** If performing any design work for Dillon Bass, the Supplier shall:

- D1.2.1 **Feasibility study:** advise Dillon Bass promptly of all essential changes to its design brief (if any) which are necessary to achieve the design requirements specified in clause D1.1;
- D1.2.2 **Disclose:** frequently throughout the design development process, provide Dillon Bass with complete and accurate copies of the latest version of the design (including all associated drawings and other relevant information relating to the design or to production of Goods to the design);
- D1.2.3 **Test:** carry out such testing as Dillon Bass may reasonably require and report the result (and any proposed design changes) to Dillon Bass;
- D1.2.4 **Help test:** provide Dillon Bass and its agents with all reasonable assistance requested by Dillon Bass to test whether Goods manufactured to the design meet Dillon Bass’ requirements (including by supplying Goods prototypes and samples for testing with Dillon Bass’ product assembly processes or for proofing purposes); and
- D1.2.5 **Third party materials:** not use any third-party materials (other than those supplied by Dillon Bass or otherwise agreed) in the design if their use could restrict Dillon Bass’ right to use or redevelop the design (or Goods made to the design) – and otherwise inform Dillon Bass of third party materials use.

**D1.3 Design advice:** If requested by Dillon Bass, the Supplier shall provide advice to Dillon Bass on the material commercial and practical issues associated with commercial production of Goods to designs being developed by the Supplier for Dillon Bass (or which have been developed for Dillon Bass), including:

- D1.3.1 **Price:** the projected cost of those Goods;
- D1.3.2 **Risks:** significant commercial and production risks associated with those Goods (including any significant dependencies);
- D1.3.3 **Changes:** deviations from the design brief (if any) recommended to optimise the design for efficient and economic commercial production of Goods which meet Dillon Bass’ requirements;
- D1.3.4 **Capacity:** the Supplier’s capacity for production of those Goods (and any new machinery or other changes required to meet Dillon Bass’ estimated volume requirements; the cost of those changes; and the time required to implement them); and
- D1.3.5 **Other information:** any other information concerning the design that is reasonably required by Dillon Bass.

## D2. BRAND-RELATED IPR

**D2.1 IPR transfer to Dillon Bass:** The Supplier acknowledges that all:

- **Customised appearance:** IPR in the Aesthetic Elements of each “**Bespoke Design**” (being a new design for Goods or customisation/development of an existing design for Goods intended to be used in connection with a Dillon Bass product or other Pernod Ricard product), including IPR in the Aesthetic Elements of Goods manufactured to those designs;
- **Derivative materials:** IPR in artwork, designs, specifications, graphics, documentation, models, Goods and other materials developed by or on behalf of the Supplier in connection with any Bespoke Design to the extent that they

are derived from materials supplied by or on behalf of Dillon Bass (or are otherwise developed through exercise of the licence granted by Dillon Bass in connection with its materials); and

- **Commissioned work:** IPR in materials developed by or on behalf of the Supplier in performance of any design services for which Dillon Bass is charged any form of fee, whether payable to the Supplier as an independent charge or as part of the cost of Goods associated with that Service (including IPR in the resultant Bespoke Design, IPR in any associated materials created during its development and IPR in Goods manufactured using the Bespoke Design)

belongs to Dillon Bass and the Supplier assigns (and shall ensure that each of its subcontractors and group companies shall assign) to Dillon Bass all such IPR that they hold now or in the future.

**D2.2 Further assurances re transfer & enforcement:** The Supplier irrevocably appoints Dillon Bass as its lawful attorney to:

- **Sign IPR documents:** execute such documents in the Supplier’s name as are necessary or desirable to give full effect to the transfer of IPR under clause D2.1 and to enable Dillon Bass to enforce and defend that IPR; and
- **Take IPR actions:** take any other action in the Supplier’s name which the Supplier is obliged to take pursuant to clause D2.1

(all acts done and documents executed by Dillon Bass in good faith in the exercise of the power conferred under this clause shall for all purposes be valid and binding as if done or executed by the Supplier and the Supplier shall formally ratify them on request).

**D2.3 Bespoke Design licence back:** To the extent that the Supplier has been appointed to supply Dillon Bass with Goods to be manufactured using a Bespoke Design, Dillon Bass grants back to the Supplier a non-exclusive, non-transferable, worldwide licence of the IPR transferred to Dillon Bass pursuant to clause D2.1 (with the right to grant sub-licences to its permitted subcontractors, if any) solely for the duration and to the extent required for the proper performance of the Supplier’s obligations to Dillon Bass.

**D2.4 No unfair competition:** The Supplier shall not directly or indirectly supply any Goods which are confusingly similar to Goods produced to any Bespoke Design (except to members of the Pernod Ricard group) and shall not register any IPR in relation to such Goods.

**D2.5 Production licence:** If the Supplier is appointed to supply (or further develop) a design for Goods which are intended to be produced by another Dillon Bass supplier, then, save to the extent that the relevant IPR has already been transferred to Dillon Bass, the Supplier grants (and shall ensure that each relevant third party grants) to Dillon Bass a permanent, worldwide, royalty-free, non-exclusive, transferable, irrevocable IPR licence (with an unrestricted right to grant sub-licences) to use, copy and further develop the design to manufacture Goods for use with any Dillon Bass or other Pernod Ricard products (and the Supplier shall ensure that any moral rights have been waived).



## PEOPLE SERVICES

The provisions on this page apply only to the extent that the Supplier employs or engages people (including employees, temporary/agency workers and subcontractor staff) in the provision of the Services to Dillon Bass, whether such persons require access to any Dillon Bass site in connection with the Contract or otherwise ("**Supplier Staff**").

### TUPE

The provisions also deal with the application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 and Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 as amended (collectively known as "**TUPE**") on commencement and termination of this agreement.

### Definitions

For the purposes of this Appendix 'O', the following definitions shall apply: "**Data Protection Law**", means as defined in section 'W', Working with 'Personal Data';

"**Effective Date**" means the date of the commencement of the Contract;

"**Exit**" means the expiry or termination of some or all of the Services;

"**Exit Date**" means the date on which an Exit takes effect;

"**Exit Transfer Date**" means the date on which the Replacement Services (or any part of the Replacement Services), for whatever reason, transfer from the Supplier to Dillon Bass or any Replacement Supplier or both;

"**Existing Supplier**" means a third party responsible for the provision of the Services in the period prior to the Effective Date;

"**Invitation to Tender**" means a request for proposal/tender or other information issued by Dillon Bass in anticipation of the Services;

"**Replacement Services**" means any services which are identical or substantially similar to any part of or all of the Services and which Dillon Bass receives in substitution for any part of or all of the Services following the termination, variation or expiry of this Agreement, whether those services, or part thereof, are provided by Dillon Bass internally or by any Replacement Supplier or both;

"**Replacement Supplier**" means a proposed or actual third party provider (including its servants, agents or sub-contractors) appointed or identified by Dillon Bass to carry out some or all of the Services on a Service Transfer (and, to the extent that Dillon Bass provides the Services or part thereof in respect of which there is a Service Transfer after the relevant Exit Transfer Date, Dillon Bass itself);

"**Subcontractor**" means a third party engaged by the Service Provider to carry out some or all of the Services;

"**Staffing Information**" means in relation to all persons detailed on the Supplier's Provisional Staff List, such information as Dillon Bass may reasonably request (subject to the Data Protection Law), but including in an anonymised format:

- their ages, dates of commencement of employment or engagement and gender;
- details of whether they are employees, self-employed, contractors or consultants, agency workers or otherwise;
- the identity of their employer or relevant contracting party;
- their relevant notice periods and any other terms relating to termination of employment or engagement, including any redundancy procedures and contractual redundancy payment schemes;
- the current wages, salaries, profit sharing, incentive and bonus arrangements applicable to them;
- details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and Dillon Bass car schemes applicable to them;
- any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- details of any such individuals on long-term sickness absence, maternity or other statutory leave or otherwise absent from work;
- copies of all relevant documents and materials relating to such information including copies of relevant contracts of employment or engagement (or relevant standard contracts if applied generally in respect of such individuals).

"**Supplier's Final Staff List**" means the list of all the Supplier's Personnel engaged in or wholly or mainly assigned to the provision of the Services or any part of the Services at the Exit Transfer Date; and

"**Supplier's Provisional Staff List**" means a list prepared and updated by the Supplier of all the Supplier's Personnel engaged in, or wholly or mainly

assigned to, the provision of the Services or any part of the Services at the date of preparation of the list; and

"**Transferring Employees**" means those employees (i) who on commencement of this agreement will transfer under TUPE to the Supplier from the Existing Supplier or any of its affiliates, service providers, agents or Subcontractors and (ii) whose contract of employment will be transferred to Dillon Bass or a Replacement Supplier pursuant to TUPE on variation, expiry or termination of this agreement.

## 01. WORKING AT DILLON BASS' SITES

**01.1 Site access:** The Supplier shall ensure that the Supplier Staff:

**01.1.1 Permitted areas:** only access such parts of Dillon Bass' premises as are reasonably necessary for provision of the Services to Dillon Bass; and

**01.1.2 Dillon Bass instructions:** comply with Dillon Bass' reasonable instructions regarding that access, including designated routes and security arrangements (Dillon Bass shall have sole discretion over what security arrangements are employed at its premises – and, in accordance with those arrangements, Dillon Bass may refuse to admit access to any the Supplier Staff or require any member of the Supplier Staff to leave Dillon Bass' premises immediately upon request).

**01.2 Policy compliance:** The Supplier acknowledges that, pursuant to clause 11.2, it shall ensure that Supplier Staff comply with Dillon Bass' policies in connection with performing work at any Dillon Bass sites.

**01.3 Defective behaviour:** The Supplier shall:

**01.3.1 Take responsibility:** ensure that the Supplier Staff act only in accordance with the Contract (actions/omissions of the Supplier Staff are deemed to be actions/omissions of the Supplier for the purposes of the Contract); and

**01.3.2 Remedy problems:** take such action, in the event of any non-compliant behaviour by the Supplier Staff, as is reasonably necessary to ensure that the non-compliance does not reoccur (whether by way of re-training, replacement by a suitably qualified and skilled substitute, taking disciplinary action or otherwise).

## 02. WORKFORCE MANAGEMENT

### 02.1 General Staffing Provisions

**02.1.1 Key Personnel:** Each party shall appoint persons as the individuals who shall be responsible for certain stipulated matters under this agreement as key personnel. The key personnel shall be those people who are identified in writing by each party to the other as being key to the success of the implementation and/or operation of the Services and who shall be retained on the implementation and/or operation of the Services for such time as it is required for such person to perform the role which has been allocated to them as applicable key personnel. The key personnel shall have the authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.

The Supplier shall not remove or replace any of the key personnel unless:

- requested to do so by Dillon Bass;
- the person is on long-term sick leave;
- the element of the Services in respect of which the individual was engaged has been completed to Dillon Bass' satisfaction;
- the person resigns from their employment with the Supplier; or
- the Supplier obtains the prior written consent of Dillon Bass.

The Supplier shall inform Dillon Bass of the identity and background of any replacements for any of the key personnel as soon as a suitable replacement has been identified. Dillon Bass shall be entitled to interview any such person and may object to any such proposed appointment within 10 working days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.

Each party shall ensure that the role of each of its key personnel is not vacant (in terms of a permanent representative) for more than 10 working days. Any replacement shall be as, or more, qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the key personnel whom he or she has replaced. A temporary replacement shall be identified with immediate effect from the Supplier or Dillon Bass becoming aware of the role becoming vacant.

Dillon Bass may require the Supplier to remove, or procure the removal of, any of its key personnel whom it considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on such person's responsibilities.

If the Supplier replaces the key personnel as a consequence of this clause, the cost of effecting such replacement shall be borne by the Supplier.

**02.2 Dillon Bass is not the employer:** The Supplier shall:

**02.2.1 Employment responsibility:** remain, as between it and Dillon Bass, solely responsible for employment obligations connected with the Supplier Staff – including pay, training and workplace safety (the Supplier Staff shall in no sense be regarded as employees of Dillon Bass);

O2.2.2 **Service continuity:** remain responsible for fulfilment of the Contract during any Supplier Staff absences (whether due to sickness, annual leave or otherwise) – and the Supplier shall accordingly ensure that appropriate substitute staff are provided where necessary;

O2.2.3 **Authorisation procedure:** Ensure that only those people who are authorised by the Supplier (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and

O2.2.4 **Personnel Records:** maintain up-to-date personnel records on the Supplier's Personnel engaged in the provision of the Services and, on request, provide reasonable information to Dillon Bass on the Supplier's Personnel. The Supplier shall ensure at all times that it has the right to provide these records under Data Protection Law.

### O2.3 Employment Entry Provisions

O2.3.1 The parties agree and acknowledge that TUPE shall apply at the Effective Date and that it is the Supplier's duty and responsibility to establish the individuals who are within scope for consultation for transfer and actual transfer under TUPE from the Existing Supplier or any of its affiliates, service providers, agents or Subcontractors.

O2.3.2 Dillon Bass and the Supplier believe that, pursuant to TUPE, at the Effective Date, the Supplier will become the employer of the Transferring Employees.

O2.3.3 **Supplier Indemnity for Compliance with TUPE Obligations:** The Supplier shall indemnify Dillon Bass in full for and against all claims, costs expenses or liabilities whatsoever and howsoever arising, incurred or suffered by Dillon Bass including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to:

- any failure by the Supplier to comply with its obligations pursuant to TUPE; and
- anything done or omitted to be done by the Supplier in respect of any of the Transferring Employees whether before or after the Effective Date.

O2.3.4 During the term of the Contract, the Supplier shall provide to Dillon Bass any information Dillon Bass may reasonably require relating to any individual employed, assigned or engaged in providing the services under the Contract (subject to the Data Protection Law).

### O2.4 Employment Exit Provisions

O2.4.1 This Contract envisages that subsequent to the commencement of the Contract, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this agreement, or part, or otherwise) resulting in a transfer of the Services to a new Service Provider or a return of the Services in-house to Dillon Bass in whole or in part ("**Service Provision Change**"). The Parties acknowledge that a Service Provision Change will constitute a "transfer" for the purposes of TUPE.

O2.4.2 The Supplier agrees that, subject to compliance with the Data Protection Law:

- within 20 days of the earliest of:
- receipt of a notification from Dillon Bass of a Service Provision Change or intended Service Provision Change;
- receipt of the giving of notice of early termination of the Contract or any part thereof; or
- the date which is 12 months before the expiry of the initial term or any renewal term,

O2.4.3 and, in any event, on receipt of a written request of Dillon Bass at any time, it (and shall procure that any Sub-Contractors shall) shall provide the Supplier's Provisional Staff List and the Staffing Information to Dillon Bass or, at the direction of Dillon Bass, to a Replacement Supplier and the Supplier shall be deemed to have warranted (and shall procure that each Sub-Contractor shall similarly be deemed to have warranted) the accuracy and completeness of such information, and shall promptly notify (and shall procure that each Subcontractor shall promptly notify) Dillon Bass as soon as it (or they) become aware of any changes to such information or when reasonably requested to do so by Dillon Bass or any Replacement Supplier.

O2.4.4 Dillon Bass shall be permitted to use and disclose the Supplier's Provisional Staff List, the Supplier's Final Staff List and the Staffing Information for informing any tenderer or other prospective Replacement Supplier for any Replacement Services; and

O2.4.5 on reasonable request by Dillon Bass, the Supplier shall provide Dillon Bass or at the request of Dillon Bass, the Replacement Supplier, with access (on reasonable notice and during normal working hours) to such employment records (and provide copies) as Dillon Bass reasonably requests.

O2.4.6 From the date of the earliest event referred to in paragraph O2.4.2, the Supplier agrees that it shall not without the prior written consent of Dillon Bass, assign any person to the provision of the Services (or the relevant part) which is the subject of a Service Provision Change who is not listed in the Supplier's Provisional Staff List and shall not without the prior written consent of Dillon Bass (such consent not to be unreasonably withheld or delayed):

- increase the total number of employees listed on the Supplier's Provisional Staff List save for fulfilling assignments and projects previously scheduled and agreed with Dillon Bass;
- make, propose or permit any changes to the terms and conditions of employment of any employees listed on the Supplier's Provisional Staff List;
- increase the proportion of working time spent on the Services (or the relevant part) by any of the Supplier's Personnel save for fulfilling assignments and projects previously scheduled and agreed with Dillon Bass;

- introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Staff List; and
- replace any of the Supplier's Personnel listed on the Supplier's Provisional Staff List or deploy any other person to perform the Services (or the relevant part) or increase the number of employees or terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Staff List.

O2.4.7 The Supplier will promptly notify Dillon Bass or, at the direction of Dillon Bass, the Replacement Supplier of any notice to terminate employment received from any persons listed on the Supplier's Provisional Staff List regardless of when such notice takes effect.

O2.4.8 If any Supplier Staff or any representative of Supplier Staff claims at any time that the employment of any such Supplier Staff, or any liability in relation to such employment, has transferred or should transfer from the Supplier, or any of its affiliates, service providers, agents or Subcontractors, to Dillon Bass or any of its affiliates, service providers, agents or Subcontractors including, without limitation, any Replacement Supplier as a result of the operation of TUPE on a Service Provision Change, the Supplier agrees and undertakes to indemnify and hold Dillon Bass (for itself and on behalf of each of the other members of Pernod Ricard group) harmless and shall, at the written direction of Dillon Bass, indemnify and hold harmless from and against any and all Employment Costs (as defined below) suffered or incurred by any of them in relation to such claim including, without limitation:

- any employment emoluments arising out of the on-going employment of such Supplier Staff by Dillon Bass, as the case may be; and
- all liabilities arising out of the termination by Dillon Bass of any such Supplier Staff that Dillon Bass incurs as result of Dillon Bass as a result of the operation of TUPE.

For the purposes of this clause O2.4.8, "Employment Costs" means all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or actually suffered, including without limitation all legal expenses and other professional fees (together with any VAT thereon), in relation to:

- any payments in respect of salaries, including holiday pay, tax and pay related National Insurance contributions relating to any and all Supplier Staff who make(s) a "claim" as referred to in this clause O2.4.8 up to and including the date of termination of employment of such Supplier Staff;
- the statutory redundancy pay, contractual redundancy pay, notice pay, and payment in lieu of any accrued but untaken holiday associated with the termination of contracts of employment of any such Supplier Staff;
- all liabilities arising from any statutory, regulatory, contractual, common law or other rights or obligation arising from or relating to the employment, or termination of employment, of any such Supplier Staff, including those resulting from an award of reinstatement or reengagement;
- all liabilities arising out of or in connection with any failure to inform or consult with such Supplier Staff or their representatives regarding a "transfer" in accordance with Regulation 13 of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

O2.4.9 In the event of a Service Provision Change to which TUPE does not apply, the following provisions shall apply:

- Dillon Bass can, at its discretion, make to any of the employees listed on the Supplier's Provisional Staff List or any Supplier's Personnel assigned to the Services an offer, in writing, to employ that employee or engage that person, under a new contract of employment or contract for services, as the case may be, to take effect at the earliest reasonable opportunity;
- when the offer has been made by Dillon Bass and accepted by any employee or other person, the Supplier shall permit the employee or other person to leave his or her employment or engagement, as soon as practicable depending on the business needs of the Supplier which could be without the employee or other person having worked his full notice period, if applicable, if the employee or other person so requests and where operational obligations allow;
- if the employee or other person does not accept an offer of employment or engagement made by Dillon Bass, the employee or other person shall remain employed or engaged by the Supplier and all claims in relation to the employee or other person shall remain with the Supplier; and
- if Dillon Bass does not make an offer to any employee or other person on the Supplier's Provisional Staff List or any Supplier's Personnel, then that employee or other person and all claims in relation to that employee or other person remains with the Supplier.

**PROMOTIONAL GOODS**

The provisions on this page apply only to the extent that Dillon Bass Orders promotional goods from the Supplier (including 'point of sale' materials and promotional merchandise, such as drinking glasses, drinks trays, ice buckets, coasters for drinks, barware, drinks 'glorifiers', distillery visitor centre promotional merchandise, etc.).

**P1. CONSUMER USE**

**P1.1 Contact with liquid:** To the extent that the Supplier supplies Goods for Dillon Bass which are intended to have contact with any alcoholic beverage (or any mixers or other drinks addition – such as 'ice' or 'water'), the Supplier shall:

- P1.1.1 Food safe:** ensure that, on delivery (whether to Dillon Bass or to any alternative final delivery location specified by Dillon Bass), those Goods are *food safe* for use with alcoholic beverages; and
- P1.1.2 Information & evidence:** on request, provide Dillon Bass with:
- a comprehensive breakdown of those parts of the Goods which will have the contact (including adhesives);
  - reasonable evidence of testing which demonstrates that those parts of the Goods which will have the contact are *food safe* for use with alcoholic beverages (or ice alone, if applicable); and
  - copies of all required *food safe* and other necessary certification.

**P2. CUSTOM TOOLING & IPR**

**P2.1 Custom Tooling:** Where required to produce Goods to a "**Bespoke Design**" (being a new design for Goods or customisation/development of an existing design for Goods intended to be used in connection with a Dillon Bass product or other Pernod Ricard product) or to a design supplied by or on behalf of Dillon Bass (or to perform associated Services), the Supplier shall arrange for the production of bespoke tooling, including any required bespoke moulds and bespoke replacement parts (the "**Custom Tooling**") and the following terms shall apply:

- P2.1.1 Copying:** the Supplier shall not make (or allow to be made) more sets of Custom Tooling than is reasonably required to meet Dillon Bass' projected requirements for the relevant Goods/Services;
- P2.1.2 Use:** the Supplier shall use the Custom Tooling only for the purpose of producing Goods for (or supplying Services to) Dillon Bass and shall ensure that it is not misused, is stored securely, is protected from loss and damage (including by providing appropriate environmental conditions for the Custom Tooling's use and storage) and is otherwise treated with the same standard of care as a reasonable manufacturer would employ for its own equipment (the Supplier shall repair or replace all Custom Tooling lost or damaged through its breach);
- P2.1.3 Ownership:** regardless of how the cost of Custom Tooling is funded, the Custom Tooling (and IPR in the Custom Tooling, to the extent that the tooling has been customised for Dillon Bass) shall always be the property of Dillon Bass (and the Supplier shall ensure that the Custom Tooling is at all times labelled as the property of Dillon Bass); and
- P2.1.4 Post-termination:** unless otherwise agreed, the Supplier shall deliver the applicable Custom Tooling to Dillon Bass on termination of the Contract (or, if instructed by Dillon Bass, arrange for its safe destruction and disposal).

**P2.2 Licence from the Supplier:** Save to the extent that the relevant IPR has already been transferred to Dillon Bass, the Supplier grants (and shall ensure that each relevant third party grants) to Dillon Bass a permanent worldwide, royalty-free, non-exclusive, transferable, irrevocable IPR licence (with an unrestricted right to grant sub-licences) to use and commercially exploit all Goods (and Custom Tooling, if any) supplied to Dillon Bass by the Supplier (and the Supplier shall ensure that any moral rights have been waived).



## Applicable to: Transport Services

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### **i** – PROVIDING TRANSPORT SERVICES IN RESPECT OF DILLON BASS' PRODUCTS

- The provisions on this page apply only in relation to transport services provided to Dillon Bass, including to or from third parties or locations on the instructions of Dillon Bass.
- When providing Transport Services, the Supplier must comply with all applicable laws and legislation including but not limited to:
  - o the European Agreement Concerning the International Carriage of Dangerous Goods by Road (the “ADR”) and the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations, 2011 to 2018 (the “**Dangerous Goods Regulations**”) (the Dangerous Goods Regulations and the ADR are together referred to as the “**ADR Legislation**”) and.
  - o Insofar as they are applicable: the Waste Management Regulations (Northern Ireland) 2006 (the “**Waste Management Regulations**”), the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2014, Hazardous Waste Regulations 2005 and the Hazardous Waste (Amendment) Regulations (Northern Ireland) 2015 (the “**Hazardous Waste Regulations**”), the Trans frontier Shipment of Waste Regulations 2007, Trans frontier Shipment of Waste (Amendment) Regulations 2008, Trans frontier Shipment of Waste (Amendment) Regulations 2014 and EU Regulation 1013/2006 (the “**Transboundary Shipment of Waste Regulations**”) and the Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2018 (“**Brokers and Dealers Regulations**”) (the “**Waste Legislation**”) and, where Dangerous Goods, including hazardous waste, are transported by Sea, the International Maritime Dangerous Goods Code (the “**IMDG**”).
- Dangerous Goods are defined as “those substances and articles the transport by road of which is prohibited, or authorised only in certain circumstances by the ADR and includes wastes (being any dangerous goods and solutions or mixture of dangerous goods for which no direct use is envisaged but which is or are transported for reprocessing, dumping, elimination by incineration or other methods of disposal)”.

## T1. TRANSPORT SERVICES

**T1.1 Standards:** The Supplier shall provide services, including the transport by road of finished or unfinished goods (including hazardous materials) (the “**Cargo**”) (the “**Transport Services**”) in accordance with this Contract. The following terms shall apply to the Transport Services:

- T1.1.1 **Policies and Instructions:** When on Dillon Bass premises, the Supplier must comply at all times with all Dillon Bass policies, including any site rules or health and safety regulations, and any instructions given by Dillon Bass.
- T1.1.2 **Service Levels and KPIs:** The Supplier shall provide the Transport Services in accordance with any service levels and key performance indicators specified in the Contract (“**Service Levels**” and “**KPIs**”, respectively).
- T1.1.3 **Service Credits:** In the event of any failure by the Supplier to meet the Service Levels or the KPIs, then without prejudice to any other rights or remedies which may be available to Dillon Bass under this Contract or otherwise, the service credits shall apply as specified in the Master Services Agreement (the “**Services Credits**”). It is acknowledged by the parties that any Service Credits are a price adjustment to reflect the actual quality of the Transport Services provided to Dillon Bass in the relevant period and do not represent a penalty or an agreed estimate of the loss or damage that may be suffered by Dillon Bass in respect of a breach of the Service Levels or KPIs respectively. The parties agree that if a court of competent jurisdiction determines that any Service Credits constitute a penalty, those Service Credits shall reduce to such amounts which do not, in the view of the court, constitute a penalty.

## T2. ARRANGEMENTS FOR TRANSPORT SERVICES

**T2.1 Arrangements:** The Supplier shall comply with the following provisions in providing the Transport Services:

- T2.1.1 **Bookings:** Bookings shall be made via the medium and process set out in the Master Services Agreement. Such process will set out the booking information generally required (e.g. required despatch date, name of consignee, materials to be transported, etc.). The Supplier shall confirm the booking within the timeframe specified in the Contract and provide the booking reference, routing and transit time.
- T2.1.2 **Transport Confirmation:** Positioning times for equipment at Dillon Bass sites shall be confirmed to the Supplier by the Dillon Bass contact specified in the Master Services Agreement (the “**Dillon Bass Contact**”).

Where possible such information shall be provided at least forty-eight (48) hours in advance, however, this may not be possible in some instances, e.g. due to late production, urgent orders etc. The Supplier will use best endeavours to accede to such requests and will, in any event, confirm whether the requirements can be met or not.

- T2.1.3 **Availability:** Vehicles will be available and in position at the appropriate location within the relevant site in sufficient time for loading to commence at the pre-advised time.
- T2.1.4 **Returns:** Where a Cargo has to be returned to an Dillon Bass site or another site nominated by Dillon Bass to comply with applicable law, only the Dillon Bass Contact can give an instruction to move the Cargo, after confirmation that the requirements of applicable law have been satisfied. Under no circumstances can the Cargo be moved without written authorisation from the Dillon Bass Contact.
- T2.1.5 **Communication:** The Dillon Bass Contact (or such other contact as is nominated by the Dillon Bass Contact) shall be the first point of contact for day to day communications and any major service issues, including advance notification of delays in delivery, timely advice on any damage or loss to the Cargo or any other circumstances that may impact the Transport Services. In addition, the Supplier shall provide any reports or information requested by Dillon Bass.
- T2.1.6 **Service/Performance Review Meetings:** The Supplier shall participate in service/performance review meetings to discuss the Supplier’s performance of the Transport Services (including the Service Levels, KPIs and any other service/performance issues, trade updates and support statistics etc.) and potential improvements to the Transport Services (including cost reduction measures) and any other matters requested by Dillon Bass.

## T3. SECURITY AND DRIVER CONDUCT

**T3.1 Vehicles:** The Supplier shall comply with the following requirements:

- T3.1.1 **Vehicle Security:** Loaded vehicles must never be left unlocked or unattended and secure parking areas must be used at all times.
- T3.1.2 **Trans-shipping:** Trans-shipping of loads is forbidden unless required by exceptional circumstances, e.g. damage, shift in transit, etc. and is subject to prior written approval by Dillon Bass.
- T3.1.3 **Security Protocols:** The Supplier must submit a copy of its transit security protocols for validation and agreement by Dillon Bass. All vehicles entering a Dillon Bass site will be required to be verified and listed as a ‘licensed vehicle’ before entering by the Supplier. Dillon Bass reserves the right to refuse entry if a vehicle is not verified/listed, with no cost incurred.

**T3.2 Carriage of Dangerous Goods:** The Supplier shall and will ensure that any sub-contractors shall, comply with the ADR Legislation. In relation to vehicle security and driver conduct, the Supplier and any sub-contractors shall:

- T3.2.1 **Vehicle Maintenance:** Ensure that the vehicle and Cargo have no obvious defects, cracks, leakages or missing equipment, etc., that the vehicles are not overloaded and that the next test for tank vehicles, demountable tanks, portable tanks etc. has not expired.
- T3.2.2 **Vehicle Marking and Consignment procedures:** Ensure that the relevant placarding, markings and labels are affixed to the exterior surfaces of vehicles, containers, bulk containers, portable tanks, etc. in accordance with Chapter 5.2 and 5.3 of the ADR and that all applicable provisions of Chapter 5 of the ADR are adhered to.
- T3.2.3 **Requirements for Transport Crew and Equipment:** Ensure that the requirements for vehicle crews, equipment, operation and documentation are in accordance with Part 8 of the ADR, in particular, but not limited to, ensuring that drivers are adequately trained and records of such training are kept, all drivers hold an ADR Training Certificate, firefighting equipment is kept on board the vehicle, supervision of vehicles and the relevant ADR documentation is carried on the transport vehicle.
- T3.2.4 **Instructions in Writing:** Provide the vehicle crew instructions in writing in the form specified in Chapter 5.4.3.4 of the ADR and these instructions shall be carried by the vehicles crew and shall be readily available.

## T4. COMPLIANCE WITH LEGAL REQUIREMENTS

**T4.1 Accreditation:** The Supplier must hold any accreditations specified in the Contract and must maintain such accreditation (or any updated or superseding accreditations) for the duration of the Transport Services. If at any time an accreditation is required by applicable law or Dillon Bass’ policies, the Supplier will obtain and maintain such accreditation at its own expense.

**T4.2** In providing the Transport Services, the Supplier must comply with all applicable laws and regulations, codes and standards requirements, including:

- T4.2.1 **Health and Safety;**
- T4.2.2 **National Standards;** and

T4.2.3 **Road Safety:** all relevant laws or regulations that relate, whether directly or indirectly, to road safety, road transport, road traffic or the protection of the environment.

**T4.3 ADR Legislation:** In providing the Transport Services, the Supplier shall and will ensure that any sub-contractors shall, comply with all applicable codes, standards, requirements, laws and regulations relating to the carriage of Dangerous Goods, including all relevant requirements under the ADR Legislation, in particular, and not limited to, for the purpose of this section, the Supplier and its sub-contractors shall:

T4.3.1 **Documentation:** Retain all Dangerous Goods transport documentation and additional information and documentation as specified in the ADR and ensure that all required documentation is on board the vehicle, or, if electronic data is used, that data is available during provision of the Transport Services in a manner at least equivalent to that of paper documentation.

T4.3.2 **Authorisation:** Ascertain that the Dangerous Goods to be transported are authorised for carriage in accordance with the ADR.

T4.3.3 **Safety Advisor:** Appoint a safety advisor for the carriage of Dangerous Goods in accordance with Chapter 1.8.3 of the ADR.

T4.3.4 **Loading and handling:** Strictly subject to compliance with clause T1.1.1, adhere to the obligations under Part 7 of the ADR relating to loading, handling and storage of Dangerous Goods.

T4.3.5 **Infringement:** If an infringement in a requirement of ADR Legislation is observed, refuse to forward the Cargo until it has been rectified.

T4.3.6 **Safety:** If during the provision of the Transport Services, an infringement which could jeopardize the safety of the operation is observed, the Cargo shall be halted as soon as possible, bearing in mind traffic and public safety. The provision of the Transport Services can only continue once the Cargo applies with the applicable legislation.

T4.3.7 **Notification:** Immediately notify emergency services when there is an immediate risk that public safety may be jeopardised and make available all information they require to take action.

T4.3.8 **Delivery:** Ensure that all Dangerous Goods are delivered in accordance with the agreed timelines and if there is any change to any such time for unforeseen circumstances notify Dillon Bass immediately and ensure compliance with supervision requirements of vehicles in accordance with Chapter 8.4 of the ADR.

T4.3.9 **General:** Take appropriate measures according to the nature and to the extent of the foreseeable dangers so as to avoid damage or injury in the provision of Transport Services for Dangerous Goods and have adequate plans and procedures in place in the event of an emergency or serious and imminent danger.

T4.3.10 **Transport by Sea / Air:** If Dangerous Goods are transported by sea the Supplier must comply with the IMDG (which requires additional transport documentation).

**T4.4 Waste Management:** In providing the Transport Services, the Supplier shall and will ensure that any sub-contractors shall, comply with all applicable codes, standards, requirements, laws and regulations relating to Waste, including all relevant requirements under the Waste Legislation, in particular, and not limited to, for the purpose of this section, the Supplier and its sub-contractors shall:

T4.4.1 **Waste Collection:**

- Ensure that it holds a valid waste collection permit in accordance with the Waste Management Regulations and ensure that it has complied with, and continues to comply with, all conditions attached to the waste collection permit, including any insurance or financial security required thereunder.
- Ensure that it notifies Dillon Bass in the event that a waste collection permit is no longer valid or has expired.

T4.4.2 **Hazardous Waste Handling:**

- Ensure that the carrier is registered on the waste regulation management system and accurately completes the waste transfer form when collecting and delivering hazardous waste.
- Ensure that the hazardous waste collected is not mixed, either with other categories of hazardous waste or with other waste substances or materials, including the dilution of hazardous substances.
- Ensure that, without delay, the local authority and the Department of Agriculture, Environment and Rural Affairs, are informed of any loss, spillage, accident or other development concerning that waste which causes, or is likely to cause, environmental pollution.

T4.4.3 **Exporting Waste:**

- If waste is exported abroad, ensure that it complies with the Shipment of Waste Regulations and Brokers and Dealer Regulations.
- If waste is transported by sea, ensure that it complies with the IMDG (which requires additional transport documentation).

T4.4.4 **Waste Disposal / Waste Recovery:**

- Ensure that all waste collected (whether from Dillon Bass or from any alternative collection location specified by Dillon Bass) is transported to an authorised waste management facility for recovery or disposal.
- Ensure that the authorised waste management facility where the waste is sent is operating under a valid industrial emissions licence, waste licence, waste facility permit or certificate of registration, as applicable.

T4.4.5 **General:** Ensure that any information required to be held or maintained under the Waste Legislation is retained for the appropriate period

required and that it is made available to the competent authorities on request.

## T5. INDEMNITY, LIABILITY AND RISK

**T5.1 Indemnity:** The Supplier shall indemnify, keep indemnified and hold Dillon Bass harmless against any and all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising from or incurred by reason of failure by the Supplier to comply with the requirements of any applicable law.

**T5.2 Risk:** The Supplier bears all risks of, and shall be liable for:

T5.2.1 **Loss or Damage:** loss or stealing of, or damage to, the Cargo from the time that the Supplier takes custody of the Cargo, until the Cargo has been delivered to the site nominated by Dillon Bass in accordance with the requirements set out in the Master Services Agreement; and

T5.2.2 **Delay:** any delay in the delivery of the Cargo arising from any breach of the Contract or the negligence of the Supplier.

**T5.3 Packaging, Labelling and Addressing:** The Supplier shall not be liable for insufficient or improper packaging, labelling or addressing of the Cargo unless the Supplier is specifically required to provide such services under the Contract.

## T6. LOST, STOLEN OR DAMAGED CARGO

**T6.1 Lost, Stolen or Damaged Cargo Claims:** The Supplier shall report any lost, stolen or damaged Cargo to Dillon Bass in writing as soon as possible after the occurrence of the relevant incident, in accordance with the process set out in the Contract.

**T6.2 Disposal of Damaged Cargo:** The Supplier must at the Supplier's cost, deliver any Cargo damaged while in the Supplier's custody back to Dillon Bass' nominated site.

## T7. TITLE

**T7.1 Retention of Title:** Title to the Cargo remains with Dillon Bass at all times and does not pass to the Supplier.

**T7.2 Location of the Cargo:** The Supplier must, on request by Dillon Bass, provide up to date information on the whereabouts and quantities of all the Cargo and other property of Dillon Bass under the Supplier's control.

**T7.3 Right of Entry:** The Supplier must permit representatives of Dillon Bass to enter any premises under the control of the Supplier where the Cargo is held, for the purpose of:

T7.3.1 **Inspection:** inspecting the premises and the Cargo to check that the Supplier is complying with its obligations under this Contract; or

T7.3.2 **Retaking Possession:** in circumstances covered by clause T7.4, to retake possession of any relevant Cargo.

**T7.4 Retaking Possession:** Dillon Bass may retake possession of any Cargo in the possession or under the control of the Supplier, if:

T7.4.1 **Event of Insolvency:** the Supplier becomes or, in the reasonable opinion of the Dillon Bass, is likely to become unable to pay its debts as they fall due, insolvent or bankrupt;

T7.4.2 **Risk of Loss or Damage:** the Cargo is, in the reasonable opinion of the Dillon Bass, at risk of loss or damage; or

T7.4.3 **Default:** the Supplier is in default of its obligations under this Contract.

## T8. INVOICES

**T8.1 Invoices:** Invoices will be provided in accordance with clause 8 of the Core Terms (Invoices). In addition, the following terms will apply to invoices provided in respect of Transport Services:

T8.1.1 **Minimum Information:** Invoices will contain the Dillon Bass Load ID, weight reference, destination and container number for reconciliation purposes.

T8.1.2 **Additional Services:** Charges for additional services such as multiple site pick-up, demurrage, wasted journeys, etc. must be: (i) notified by the Supplier to Dillon Bass in writing by email at the time when the charge is incurred; and (ii) invoiced separately in a combined invoice on a monthly basis, including date, Dillon Bass Load ID, destination, description or charger etc. Failure to provide Dillon Bass with such notification may lead to delay in acceptance (until each charge is verified retrospectively) or rejection of invoices (where charges cannot be verified retrospectively). Where an invoice is rejected in accordance with this clause T8.1.2, the reason for rejection shall be communicated to the Supplier on request.

T8.1.3 **Services Credits:** Unless otherwise determined by Dillon Bass, the Supplier shall apply any Service Credits which may be due as a deduction or credit in the next invoice payable by Dillon Bass under this Contract such that the invoice will be the amount which would otherwise be invoiced less or plus the amount of the Service Credits. In the event that the Supplier is no longer entitled (for whatever reason) to invoice Dillon Bass under this Contract for parts of the Transport Services to which the Service Credits are to be applied, Dillon Bass shall notify the Supplier of the amount of the Service Credits so payable by the Supplier and the said amount, unless validly disputed in accordance with this Contract, shall become due and payable by the Supplier on the day which is thirty (30) days after the date of deemed delivery of such notice.

## **T9. MISCELLANEOUS**

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**T9.1 Confidential Information:** Information relating to the Transport Services, including volume rates and shipment information shall be considered 'Confidential Information' for the purposes of clause 16.

**T9.2 Insurance:** Any specific requirements in respect of insurance (in addition to those set out in clause 12.2), such as goods in transit insurance, shall be set out in the Contract.



### **i** WORKING WITH 'PERSONAL DATA' FOR DILLON BASS

The provisions on this page apply only to the extent that any *personal data* is collected or received by the Supplier (or the Supplier otherwise processes *personal data* on Dillon Bass' behalf) in connection with the Contract ("**Relevant Data**"). Terms defined in [Article 4 of the EU's General Data Protection Regulation \(Regulation \(EU\) 2016/679\)](#) (the "GDPR") shall have the same meaning in these provisions.

"**Data Protection Law**" means all applicable data protection law, including the GDPR and The Data Protection Act 2018.

"**Personal Data Breach**" shall have the meaning set out in the GDPR.

## W1. LEGALLY COMPLIANT PERSONAL DATA PROCESSING

**W1.1 GDPR contract mandatorys:** The Supplier shall during the Contract:

- W1.1.1 Specification:** ensure that the Master Services Agreement or Goods or Services specification which it provides to Dillon Bass includes details of the associated processing of Relevant Data it will need to perform on Dillon Bass' behalf, the type of personal data involved, the categories of data subject and the duration of processing (if different from the Contract duration);
- W1.1.2 Purposes:** process Relevant Data only:
- to fulfil the Supplier's obligations under the Contract and only in accordance with Dillon Bass' documented instructions (including instructions incorporated in any Goods or Services specification agreed under the Contract); or
  - to the extent otherwise required pursuant to [EU law](#) or the law of any [EU Member State](#) (in which case the Supplier shall, to the extent legally permitted, inform Dillon Bass of that legal requirement before processing the Relevant Data);
- W1.1.3 Transfers:** not transfer Relevant Data to any territory outside the European Economic Area not recognised by the EU Commission as providing an adequate level of protection for personal data unless:
- Dillon Bass has agreed in advance to Relevant Data being transferred to that territory; and
  - the Relevant Data is protected by an appropriate mechanism compliant with Data Protection Law, including Chapter V of the GDPR (such as via implementation of the [European Commission's Standard Contractual Clauses](#));
- W1.1.4 Confidentiality:** treat Relevant Data as Dillon Bass' Confidential Information in accordance with clause 16, including by limiting access to those of its staff who:
- have been informed of the confidential nature of the Relevant Data;
  - have a need to access it to enable the Supplier to fulfil its obligations under the Contract; and
  - are bound by appropriate contractual confidentiality obligations in respect of the Relevant Data;
- W1.1.5 Security:** implement appropriate technical and organisational measures (including staff training) to ensure a level of security proportionate to the risks posed to the rights and freedoms of data subjects by processing the Relevant Data and by data breaches (including measures appropriate to protect the Relevant Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure, access, or processing);
- W1.1.6 Sub-processing:** not engage another processor to process Relevant Data unless agreed in advance by Dillon Bass. If such appointment is agreed by Dillon Bass, the Supplier shall remain fully liable to the Dillon Bass for the performance of the sub-processor's obligations. The Supplier shall ensure that the sub-processor:
- is reputable and has been selected diligently;
  - processes the Relevant Data in compliance with written contractual terms which are equivalent to the Supplier's data protection obligations under the Contract; and
  - ceases to process the Relevant Data on termination of the Contract;
- W1.1.7 Co-operation:** provide such reasonable assistance as Dillon Bass requests, including:
- to enable Dillon Bass to respond appropriately to inquiries from regulatory authorities;
  - by implementing appropriate technical and organisational measures, to enable Dillon Bass to comply with the rights of data subjects; and
  - to enable Dillon Bass to comply with its legal obligations relating to data security, data breach notification and communication with data subjects, data protection impact assessments and related prior consultation procedures (taking into account the nature of the processing and the information available to the Supplier);
- W1.1.8 Access request:** the Supplier shall inform Dillon Bass promptly in the event of receiving a request from a data subject to exercise their rights under Data

Protection Law and provide such co-operation and assistance as may be required to enable Dillon Bass to deal with such request in accordance with the provisions of Data Protection Law;

- W1.1.9 Deletion & return:** when the Supplier ceases to provide services relating to data processing and if requested by Dillon Bass, permanently delete/securely destroy or return/copy to Dillon Bass (at Dillon Bass' option) all Relevant Data in the Supplier's possession or control – save that copies may be retained to the extent required by EU or Member State law;
- W1.1.10 Evidence:** make available to Dillon Bass all information necessary to demonstrate the Supplier's compliance with this clause W1.1, including a written statement of the measures implemented pursuant to clause W1.1.5 (and allow Dillon Bass and Dillon Bass' nominated representatives to audit and inspect the Supplier's compliance with this clause W1.1); and
- W1.1.11 Instructions:** immediately inform Dillon Bass if, in its opinion, an instruction infringes Data Protection Law.

**W1.2 No infringement:** The Supplier shall not, in connection with the Contract, do (nor omit to do) anything that will (or is reasonably likely to) place Dillon Bass (or any other member of the Pernod Ricard group) in breach of Data Protection Law.

## W2. MANAGING PERSONAL DATA PROBLEMS

**W2.1 Data breaches:** The Supplier shall:

- W2.1.1 Notification:** promptly provide Dillon Bass with all material details upon on becoming aware of any:
- Personal Data Breach (including details of the categories and number of affected data subjects/records, the likely consequences of the breach and any steps being taken to address the breach);
  - complaint made to the Supplier relating to Relevant Data; or
  - approach by any regulator investigating compliance by Dillon Bass, the Supplier or any of the Supplier's subcontractors/sub-processors with Data Protection Law (to the extent permitted by law); and
- W2.1.2 Mitigation:** take steps to mitigate the effects of and to minimise any damage resulting from any Personal Data breach and comply with any reasonable instructions provided by Dillon Bass in relation to the Personal Data Breach.

**W2.2 Direct data processor responsibilities:** Nothing within the Contract is intended to relieve the Supplier of its own direct responsibilities under Data Protection Law.



### **i** PROVIDING MARKETING AGENCY SERVICES FOR DILLON BASS

The provisions of these Supporting Terms M apply only in relation to marketing agency services provided to Dillon Bass.

Dillon Bass may enter into a work plan for Services and/or Deliverables with the Supplier substantially in the form set out in the Appendix to these provisions (“**Work Plan**”). Once a Work Plan is agreed and/or signed by Dillon Bass and the Supplier, the terms of the Contract will apply to that Work Plan and any Order issued by Dillon Bass. Dillon Bass shall not be obliged to pay any invoice issued by the Supplier unless the Supplier has received a valid purchase order from Dillon Bass in respect of the Services and deliverables which are the subject of the relevant invoice.

“**Authorised Person**” means any board director of Dillon Bass, Dillon Bass’ company secretary or any employee authorised to provide approvals as identified in the Work Plan.

“**Written Approval**” means approval signified by: (i) any fax, letter or purchase order on Dillon Bass’ notepaper bearing the signature of an Authorised Person, or any other person nominated in writing by an Authorised Person for the purposes of giving Written Approval; (ii) email emanating from the personal email address of an Authorised Person, or of any other person nominated in writing by an Authorised Person for the purposes of giving Written Approval; or (iii) oral approval given by an Authorised Person, or any other person nominated in writing by an Authorised Person for the purposes of giving Written Approval, provided this is in circumstances where time does not permit Written Approval and the said oral approval is confirmed in writing within one Irish business day.

## **M1. APPOINTMENT TO ACT AS AGENCY**

- M1.1** Dillon Bass appoints the Supplier on a non-exclusive basis to carry out, and the Supplier agrees to provide the Services and/or Deliverables in accordance with the Work Plan and the terms of the Contract.
- M1.2** Each obligation of the Supplier shall be interpreted, unless the context requires otherwise, as an obligation on the Supplier to perform or to procure the performance of the said obligation or the relevant Services by a member of the Supplier’s group. The Supplier shall ensure that it and any member of the Supplier’s group providing Services has capabilities to provide those Services and the Supplier shall remain liable for all acts and omissions of each member of the Supplier’s group as if such acts and omissions were its own.
- M1.3** **Publicity:** The Supplier may not, without the prior written consent of Dillon Bass in each instance, issue any press release, speak to the press, submit work to award shows, or make any public announcement or statement with respect to Dillon Bass or its products, the Contract, any of the Services, or any of its activities hereunder. For clarity, unless otherwise instructed in writing by Dillon Bass, should the Supplier receive any press inquiries regarding Dillon Bass, it shall direct all such inquiries to Dillon Bass’ Representative set out in the Contract.
- M1.3.1** The Supplier shall not use Dillon Bass’ name or any Dillon Bass’ IPR on or in connection with the endorsement, promotion, advertising, or publicity of the Supplier, its services, or any third party, without Dillon Bass’ prior written approval in each instance (which approval Dillon Bass can grant or withhold in its sole discretion).
- M1.4** **Review Meetings:** The Supplier must attend reviews with Dillon Bass at dates and times agreed to discuss topics raised by Dillon Bass.
- M1.5** **Agency Affiliates.** Dillon Bass shall have the right to engage directly any member of the Supplier’s group to provide Services pursuant to the Contract if, in which case the relevant member of the Supplier’s group will be directly responsible for its obligations for the relevant Services and be bound by the terms and Supplier obligations of the Contract.

## **M2. AGENCY SERVICES**

- M2.1** Time is of the essence in the Supplier’s provision of the Services and the Supplier shall provide the Services in accordance with the timetables set forth in the Work Plan or otherwise provided by Dillon Bass from time to time during the Contract.
- M2.2** The Supplier shall keep Dillon Bass fully and promptly informed in respect of the provision of Services and shall provide Dillon Bass with such updates and information in respect of the Services as may reasonably be required from time to time.
- M2.3** The Services may be amended, from time to time, by Written Approval of Dillon Bass. Such modifications may be undertaken either to revise the Work Plan for an existing project or to add a new project to the Services performed by the Supplier for Dillon Bass. Any such written amendments and/or

modifications shall become incorporated into the Contract and subject to the terms and conditions set out herein.

- M2.4** In performing the Services, the Supplier must at all times comply with the [Pernod Ricard Code for Commercial Communications](#) which may be amended or updated from time to time and the Supplier shall ensure that, at all relevant times and in accordance with clause 11.2, it is aware of the latest version of the Pernod Ricard Code of Commercial Communications.
- M2.5** The Supplier must ensure that its employees, agents and sub-contractors and members of the Supplier’s group that are engaged directly by Dillon Bass comply with the terms of the Contract as if they were the Supplier.
- M2.6** The Supplier must comply with all special conditions listed in the Work Plan. If there is any inconsistency with the Work Plan and the terms of the Contract the Work Plan shall prevail to the extent of the inconsistency.
- M2.7** The Supplier acts in all its contracts as a principal at law unless it is given Written Approval to act as Dillon Bass’ agent.
- M2.8** The Supplier will procure that the key individuals noted in the Work Plan or otherwise advised from time to time by Dillon Bass during the Contract (“**Key Individuals**”) are actively involved in the provision of the Services. Should any Key Individual leave the Supplier or cease to be actively involved in the provision of the Services, the Supplier will appoint a suitable replacement, having obtained Written Approval from Dillon Bass.
- M2.9** If the Supplier intends to engage any member of the Screen Actors Guild – American Federation of Television and Radio Artists (or similar or equivalent membership associations or guilds that require exclusive or enhanced use of their members) in relation to any Work Plan or Deliverable, then prior to such engagement the Supplier shall provide Dillon Bass with details of all associated costs and expenses and shall obtain Dillon Bass’ prior Written Approval. If the Supplier fails to obtain such Written Approval, or if the associated costs and expenses exceed the amount under the Written Approval then the Supplier shall be responsible for any such costs and expenses associated with such an engagement.

## **M3. FEES, COSTS AND PAYMENT**

- M3.1** Dillon Bass will have the right to audit the Supplier’s costs in accordance with clause 17.2 of the Core Terms. All costs referred to in this clause must be charged on a cost basis and without mark-up.
- M3.2** **Third party costs:** In obtaining goods and services from third parties in connection with the Contract, the Supplier shall:
- negotiate the most advantageous rates, prices terms, and conditions available for the applicable good/service;
  - exercise due care in the selection of third parties to obtain such goods and services and contract only with sound and reputable companies and individuals; and
  - upon Dillon Bass’ request, provide a copy of the agreement with each third party to enable Dillon Bass to review and comment upon the agreement prior to finalisation; provided that the Supplier is not responsible for delays to the extent resulting from same; Dillon Bass reserves the right to deal directly with sub-contractors in connection with all authorised Services or otherwise, and nothing in the Contract shall limit or restrict Dillon Bass’ right to do so. For the avoidance of doubt, the terms of this clause shall apply to all sub-contractors, even sub-contractors engaged by the Supplier as agent for Dillon Bass.
- M3.3** **Discounts:** The Supplier shall obtain and take advantage of, and pass on once received to Dillon Bass (provided Dillon Bass is up to date with respect to payments due to the Supplier pertaining to the cost to which the discount, rebate and/or allowance applies), all discounts, rebates, and allowances of any kind that are available specifically for Dillon Bass’ account in connection with the Services.
- If a particular discount, rebate and/or allowance is generally obtained by the Supplier, then the Supplier shall pass on to Dillon Bass its pro rata share of such discount, rebate and/or allowance.
  - Notwithstanding anything to the contrary contained herein, whenever a discount, rebate, or other allowance is available, the Supplier shall notify Dillon Bass in writing of the availability of such discount, rebate, or other allowance and the payment deadlines and other applicable terms with which Dillon Bass must comply in order to receive such discount, rebate, or other allowance, and, the Supplier shall invoice Dillon Bass sufficiently in advance for the applicable costs so that Dillon Bass can provide the Supplier with funds in time to take full advantage of such discount, rebate, or other allowance. The Supplier will give Dillon Bass prompt, complete, and written disclosure of all discounts, rebates, and other allowances obtained by the Supplier.

## **M4. APPROVALS**

- M4.1** To the extent the following is not specified in the description of the Services, the Supplier shall, after obtaining Dillon Bass’ general Written Approval of the

Supplier's project plans, submit to Dillon Bass for its specific Written Approval as applicable:

- copy, layouts, artwork, storyboards and scripts; and
- estimates and quotations of the costs covered by this Contract.

## M5. WARRANTIES

- M5.1** The Supplier warrants that the Deliverables are original and that, to the best of its knowledge and belief after having performed the requisite due diligence customary for a first-class agency to perform, the Deliverables will not infringe any IPR of any third party, will comply with all applicable advertising regulations, and will not contain anything obscene, blasphemous, libellous or that is contrary to applicable law, other than as contained in any legal or other advice provided to the Supplier and communicated to Dillon Bass in accordance with clause M9 below.
- M5.2** The Supplier warrants it shall allocate sufficient personnel to perform the Services and that its personnel working on the Services are and shall be competent and suitable in every respect, whether as to skills, qualifications, experience, seniority or otherwise, to perform the Services.
- M5.3** The Supplier warrants and undertakes to Dillon Bass that none of the Deliverables shall at any time: (i) contain any viruses or other computer programming routines that are intended to or may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; (ii) subject to clauses 16.2 and 16.4 of the Core Terms, be disclosed or published in any manner without prior Written Approval; or (iii) reasonably be considered to bring or to be likely to bring Dillon Bass or any Pernod Ricard group company into disrepute.

## M6. INDEMNITIES

- M6.1** The Supplier shall defend, indemnify and hold harmless, Dillon Bass (and each member of the Pernod Ricard group) from any Claims and Losses suffered by Dillon Bass or arising out of any third-party claims, suits proceedings for any reasons whatsoever arising wholly or in part from:
- a material breach of the Contract;
  - an act or omission of the Supplier or its employees, agents or sub-contractors;
  - libel, slander, defamation;
  - non-compliance with, or breach of, any applicable law or regulation (including but not limited to the Consumer Rights Act 2015 and/or the European Communities (Misleading and Comparative Marketing Communications) Regulations 2007) or any industry codes of practice or guidelines or the Pernod Ricard Code for Commercial Communications;
  - any infringement of any third party IPR;
  - piracy, plagiarism or unfair competition or idea misappropriation;
  - unauthorised use of any image of any person or invasion of privacy; or
  - any promotion in connection with the Services in a jurisdiction being illegal or any fraud committed by any director, officer, or employee of the Supplier.
- M6.2** For the purposes of this clause M6, "Claims and Losses" means all costs; liabilities, losses; damages, penalties, demands, or expenses (including without limitation all legal and other professional fees and expenses) or claims for such costs; liabilities, losses; damages, penalties, demands, or expenses (including all legal and other professional fees and expenses).

## M7. TERMINATION

- M7.1** Upon the termination of this Contract, and by no later than 90 days from the termination date or expiration date (as applicable) of the Contract the Supplier will arrange for the transfer, subject to the approval of third parties where required, of all reservations, contracts and arrangements in connection with the Services and all rights and claims thereto to Dillon Bass.
- M7.2** The Supplier shall have no claim against Dillon Bass for indemnification or compensation, whether for loss of income, loss of goodwill or any analogous loss, upon the termination of this Contract.

## M8. SURVIVAL

- M8.1** On termination of the Contract any provision of that Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect, including but not limited to: clause M5 (Warranties), M6 (Indemnities), M9 (Intellectual Property Rights) and M10 (Compliance and Clearance Obligations).

## M9. INTELLECTUAL PROPERTY RIGHTS

- M9.1** The provisions of this clause M9 shall apply in addition to and shall not replace the provisions of clauses 14 and 15.
- Consents & Releases and Approvals**
- M9.2** The Supplier shall ensure that it obtains for each Deliverable, prior to production of such Deliverable, and maintains thereafter, all necessary rights, consents, releases and approvals for Dillon Bass, members of the Pernod Ricard group and their respective licensees and assigns to use such Deliverable for the intended purpose.
- M9.3** The Supplier shall obtain such rights, consents, releases and approvals in writing before producing the relevant Deliverables and shall provide copies of the same to Dillon Bass on request.
- Use of Third-Party Materials**

- M9.4** The Supplier shall not incorporate and/or use any work or materials authored, created or performed by a third party and either commissioned for, or used in relation to, the Services, including but not limited to library images ("Third-Party Materials") in any Deliverable unless the Supplier has obtained Dillon Bass' Written Approval to do so.
- M9.5** The Supplier shall give Dillon Bass reasonable prior notice of its intention to include any such Third-Party Materials in any Deliverable and at the same time shall notify Dillon Bass in writing:
- whether an assignment to Dillon Bass of the relevant Third-Party Materials can be obtained and the cost of obtaining it; and
  - if no assignment of the relevant Third-Party Materials can be obtained or cannot be obtained for a reasonable cost, the cost of obtaining a licence of such materials for Dillon Bass' purposes as Dillon Bass may have notified to the Supplier.
- M9.6** The Supplier shall not propose the inclusion of any Third-Party Materials in any Deliverable unless the Supplier is able to negotiate a licence of such materials for Dillon Bass, Pernod Ricard group companies and their respective licensees and assigns to use such materials for Dillon Bass' purposes or the relevant Pernod Ricard group company's purposes.
- M9.7** Following receipt of the Supplier's notice under clause M9.5, Dillon Bass shall notify the Supplier whether: (i) Dillon Bass' Written Approval has been granted in respect of the inclusion of the relevant Third-Party Material; and (ii) the Supplier is required to obtain an assignment (if available) or a licence to enable the use of such Third Party Material for such purposes as specified in clause M9.5, and if so, the extent of such assignment or licence and the approved cost thereof (if any). Dillon Bass may also require the Supplier to negotiate prices at which any such licence obtained may, at Dillon Bass' option, be extended.
- M9.8** The Supplier shall ensure that all licences of Third-Party Materials are granted directly to Dillon Bass or such of Pernod Ricard's group companies as Dillon Bass shall notify to the Supplier.
- M9.9** The Supplier shall provide to Dillon Bass full information on the rights acquired in respect of each Third-Party Material (including Deliverables and Third-Party Material in respect of which a licence has been obtained) and warrants that any such information shall be accurate and complete.
- M9.10** The Supplier acknowledges and agrees that Dillon Bass and Pernod Ricard's group companies will rely upon the Supplier to ensure that any usage rights granted in connection with the Contract are sufficient to run campaigns for the purposes and for the time periods required by Dillon Bass.
- Other**
- M9.11** Without prejudice to any of the foregoing provisions, the Supplier undertakes not to disclose, use or copy the look and feel of any Deliverable for any other purpose, including without limitation the design of any website or online application.
- M9.12** The parties agree that all use and all goodwill arising from use of the materials provided to the Supplier by Dillon Bass and/or the Deliverables shall inure to the benefit of Dillon Bass or its nominee.
- M9.13** Notwithstanding that IPR may not protect all concepts, slogans, and strategies, the Supplier agrees that Dillon Bass shall own all concepts, slogans, and strategies created by or on behalf of the Supplier or the Supplier's group during the Contract which are included in the Deliverables. The Supplier shall not, and shall procure that the Supplier's group shall not, create work for another customer based on any such concepts, slogans or strategies.
- IPR and Deliverables**
- M9.14** **Asset CD:** If the Supplier provides website or other digital Services which include the creation of works, the Supplier must, on demand and/or on completion of the Services provide Dillon Bass with an asset CD containing all works in its original and final format (including, but not limited to, original layered image files, flash files (swfs and flas), development source code and compiled code, and any third party tools).
- M9.15** **Deliverables:** All Deliverables shall conform to the applicable specifications for such Deliverables set forth in the Work Plan and the terms of the Contract and any other terms agreed to in writing by the parties and shall be subject to Dillon Bass' Written Approval at each stage of development and production. Without limiting the generality of the foregoing, in no event shall the Supplier commence production on any project, or release any materials publicly, without Dillon Bass' prior Written Approval (which, for production, may be by Written Approval of an estimate). If Dillon Bass rejects any proposed Deliverables due to their non-conformance with such specifications and terms as per the Work Plan or the terms hereof or because the creative is not satisfactory to Dillon Bass, Dillon Bass will provide the Supplier with its reasons for the rejection, and the Supplier will, at its own cost, promptly revise or re-do such Deliverables and then resubmit them to Dillon Bass for Dillon Bass' approval. In no event will Dillon Bass be obligated to pay for any Services or Deliverables which Dillon Bass has rejected. The Supplier will bear all risk of loss or damage to any Deliverables until the time of delivery of such Deliverables to Dillon Bass at Dillon Bass' specified location and Dillon Bass' acceptance thereof.
- M9.16** **Edit Rights:** The Supplier guarantees that Dillon Bass will have final editing rights in Deliverables created under the Contract, and the Supplier will carry out (or (as applicable) ensure that its sub-contractors carry out) any reasonable instruction of Dillon Bass with regards to editing Deliverables. Unless agreed otherwise by Dillon Bass there will be no additional costs for editing services requested by Dillon Bass.

**M9.17** *Address Materials:* To the extent the Supplier secures domain names, internet addresses, telephone numbers, or any other similar properties, rights, or matters for Dillon Bass in connection with the Services ("Address Materials"), the Supplier agrees that it shall hold such Address Materials in trust for Dillon Bass' exclusive use, and shall execute any documents that Dillon Bass may require to effect the transfer of any Address Materials to Dillon Bass or its designee.

## **M10. COMPLIANCE AND CLEARANCE OBLIGATIONS**

**M10.1** Dillon Bass acknowledges that the Supplier shall not be required to carry out full trade mark clearance searches in relation to the Deliverables or other products of the Work Plans, unless specifically requested to do so by Dillon Bass in relation to a particular project (for which additional fees may be agreed).

**M10.2** Notwithstanding clause M10.1 and without limiting clause M5.1, the Supplier will use best endeavours (including obtaining at its own cost such legal advice and conducting such searches (in all cases including preliminary internet word searches) as are reasonably necessary in all applicable territories) to ensure that any Deliverables will not: (i) breach advertising regulations; (ii) infringe the IPR of any third party; nor (iii) contain anything obscene, blasphemous, libellous or in breach of applicable legislation.

**M10.3** In the event that:

- the Supplier determines, using best endeavours, or otherwise becomes aware that there is a risk that any Deliverables will: (i) breach advertising regulations; (ii) infringe the IPR of any third party; or (iii) contain anything obscene, blasphemous, libellous or in breach of applicable legislation; or
- any legal advice or searches undertaken pursuant to clause M10.1 show that any clearances, permissions, licences and/or releases ("Clearances") are required from any third party, the Supplier will notify Dillon Bass in writing of any such risk(s) in all cases as early as is reasonably practicable prior to the delivery or submission to Dillon Bass of any Deliverables. If, during the term of the Contract, the Supplier becomes aware of any new risks arising subsequent to such presentation, delivery or submission, the Supplier shall notify Dillon Bass in writing immediately of such risks.

**M10.4** The Supplier will not produce Deliverables in respect of which it has identified that: (i) there is any evidence of the same or similar marks used by or within the drinks industry in any relevant territory; or (ii) any of the risks in clause M10.3 may apply, unless the Supplier has obtained prior Written Approval from Dillon Bass.

**M10.5** In the event that legal advice or searches undertaken pursuant to paragraph M10.2 show that Clearances are required from any third party, such Clearances must be notified to Dillon Bass in writing in accordance with paragraph M10.3 and the Supplier will use its best endeavours to obtain such Clearances on terms pre-approved by Dillon Bass, including if applicable at Dillon Bass' pre-agreed cost.

**M10.6** Without prejudice to paragraph M5.1 or Dillon Bass' other rights under the Contract, if the Supplier fails to notify Dillon Bass of legal risks or any Clearances associated with Deliverables in accordance with paragraph M10.3, the Supplier shall reimburse Dillon Bass in full for the cost of Dillon Bass obtaining its own legal advice (including in connection with any Clearances) as Dillon Bass deems appropriate in the circumstances.

**M10.7** Any failure of the Agency to comply with this clause M10 shall be a material breach of the Contract.

## **M11. NON-COMPETE**

**M11.1** The Supplier shall comply with the obligations set out in any non-compete obligation in a Work Plan or as otherwise provided by Dillon Bass from time to time during the Contract.



## APPENDIX 1

## Work Plan

This Work Plan sets out the Services to be provided and the Sums Due in accordance with the terms and conditions of the Contract between Dillon Bass and the Supplier. All capitalised words and expressions shall have the meanings given to them in the Contract.

<b>Project Name</b>	[Insert Project Name]
<b>Project Commencement Date</b>	[Insert Project Commencement Date]
<b>Brand(s)</b>	[Insert]
<b>Territory</b>	[Insert]
<b>Supplier Project Manager</b>	[Insert name, address and email]
<b>Dillon Bass Project Manager</b>	[Insert name, address and email]
<b>Key Individuals</b>	[Insert details of Key Individuals (including name and title) required for the provision of any part of the Services. "Key Individuals" are actively involved in the provision of the Services.]
<b>Authorised Persons</b>	[Insert details of Authorised Persons with authority to grant Written Approvals]
<b>Third Party Artist</b>	[Insert details of any third-party artists]
<b>Third Party Talent</b>	[Insert details of any third-party talent]
<b>Third Party Brand Partnerships</b>	[Insert details of any third-party brand partnerships]
<b>Third Party Profile</b>	<ul style="list-style-type: none"> <li>• Shall comply with the Pernod Ricard Code of Commercial Communications and general principle of responsible drinking for the terms of the Services and an agreed time thereafter</li> <li>• If an individual, shall be over the age of 25</li> <li>• No association with any alcohol products other than the Brand for the term of the Services and an agreed time thereafter.</li> <li>• No previous history of alcohol or substance misuse.</li> <li>• Shall not do anything to bring the Dillon Bass, its brands or any member of the Pernod Ricard group into disrepute.</li> <li>• [insert any other profile specifics].</li> </ul>
<b>Insurance Requirements</b>	[Insert any specific insurance requirements]
<b>Designs/ Works as at the date of signing Work Plan</b>	[Insert images of the designs or assets which are being created (if any)]
<b>Non-Compete</b>	[Insert any specific requirements]

**Services –**

The Supplier will perform the Services and deliver the Deliverables on the terms below, all subject to Dillon Bass' reasonable satisfaction:

<b>Service Description</b>	<b>Fees</b>	<b>Delivery Date</b>
<b>Deliverables (Dillon Bass owns)</b>		
<b>Asset</b>	<b>Fees</b>	

Deliverables (Dillon Bass licence to use only)				
Asset	Fees	Territory (if applicable)	Term (if applicable)	Media (if applicable)
Payment schedule				
Date/interval on which Sums Due may be invoiced by the Supplier	Amount that may be invoiced by the Supplier			

Signed on behalf of  
**Dillon Bass**

Signed on behalf of  
**Supplier**

.....  
Sign

.....  
Sign

.....  
Print name

.....  
Print name