

TERMS AND CONDITIONS

Definitions

PBF means Paradise Beverages (Fiji) Limited, the address being that given below.

Suva Office:

Physical Address: 122-164 Foster Road, Walu Bay, Suva

Postal Address: G P O Box 696, Suva, Fiji Islands

Business Day means Monday to Friday inclusive except for statutory holidays.

Contract means the binding contract formed between PBF and the Supplier in relation to the Deliverables.

Deliverables means the articles, things and/or services described in the Purchase Order.

Delivery Note means the document that accompanies the Deliverables from the Supplier's premises to PBF's specified place of delivery. The Delivery Note is signed-off by the Supplier, delivery person and the PBF representative responsible for receiving the Deliverables specified on the Delivery Note. The Deliverables delivered are physically checked against the descriptions and quantities, unit rates and dollar values listed on the Delivery Note.

Purchase Order means the order issued by PBF for the supply of the Deliverables which contains the following information:

- a) the quantity and description of the Deliverables required by PBF;
- b) the price of the Deliverables;
- c) the date the Deliverables are to be delivered or performed;
- d) any particular specifications relating to the Deliverables;
- e) any special instructions relating to delivery or performance of the Deliverables;
- f) a Purchase Order Number;
- g) the PBF representative's name and contact telephone number;
- h) any other specific information required by PBF's management systems.

Purchase Order Number means the special identification number, unique to each Purchase Order, which is stated on the Purchase Order.

Supplier means the person, firm or company to whom a Purchase Order is addressed.

Supplier Guiding Principles means the set of values that represent the standards of quality, integrity and excellence, required by PBF by suppliers and vendors doing business with PBF.

Tax Invoice means a document provided by the Supplier to PBF pursuant to the Value Added Tax (VAT) Act 1979.

1. Acceptance of a Purchase Order

- 1.1 All orders for Deliverables must be made using an authorised Purchase Order.
- 1.2 A Purchase Order is an offer by PBF that is deemed to be accepted upon the Supplier providing the Deliverables to which the Purchase Order relates.
- 1.3 A Purchase Order will expire after 21 days of its issue unless accepted by the Supplier.
- 1.4 PBF can withdraw the Purchase Order at any time prior to acceptance by the Supplier.
- 1.5 Additional or different terms or pricing proposed by the Supplier do not apply unless accepted in writing by the PBF representative responsible for issuing the PO.
- 1.6 Each Purchase Order placed by PBF and accepted by the Supplier will constitute a separate contract between PBF and the Supplier. Nothing in these terms and conditions will oblige PBF to place a Purchase Order with the Supplier or restrict PBF's ability to acquire goods or services from any other supplier.
- 1.7 These terms and conditions and the Purchase Order constitute the entire agreement between the parties to the exclusion of any provisions in any document or communications or prior agreement between the parties.

2. Price

- 2.1 The price stated in the Purchase Order is in Fijian dollars (unless specified otherwise), inclusive of VAT, and is otherwise all inclusive of freight, insurance, storage and any other charges or taxes (including international duty and customs charges).
- 2.2 If the price is omitted on the Purchase Order, then the price payable for the Deliverables is the lower of the price specified in any quotation given by the Supplier and accepted by PBF, or if there is no such quotation, the price will be the lowest prevailing market price for similar goods or services the subject of the Contract as determined by PBF.
- 2.3 Any variation to price must be notified to the PBF representative responsible for issuing the Purchase Order prior to acceptance of the order by the Supplier.

3. Quality and Description

- 3.1 The Deliverables will:
 - 3.1.1 confirm as to quality, quantity and description with the particulars stated in the Purchase Order;
 - 3.1.2 be of stated materials and workmanship;

- 3.1.3 be equal in all respects to the specifications or samples (if any) provided by either party to the other.

- 3.2 PBF reserves the right to have the Deliverables inspected or tested at its cost before delivery by a PBF representative. The Supplier will facilitate inspection or testing when required.
- 3.3 Deliverables will not be deemed to be accepted by PBF until they have been inspected by a PBF representative.
- 3.4 PBF may reject any Deliverables, even after they have been accepted, that are:
 - 3.4.1 of inferior quality;
 - 3.4.2 contrary to the quantity, description or specifications required of the Deliverables; and/or
 - 3.4.3 in an unsatisfactory condition or not functioning in the way they are designed to function.
- 3.5 For any such rejected Deliverables (as in clause 3.4 above) the Supplier will, at PBF's sole option and at the Supplier's sole risk and expense, either:
 - 3.5.1 repair or replace;
 - 3.5.2 or remove the Deliverables and reimburse PBF in full any payments made by PBF in respect of the defective, faulty or otherwise non-compliant Deliverables.
- 3.6 Clauses 3.4 and 3.5 do not limit or negate any other rights or remedies that PBF may have in law.

4. Delivery and Identification

- 4.1 The Purchase Order Number for the Deliverables ordered must be shown on all relevant packages, Tax Invoices, Delivery Notes and correspondence.
- 4.2 The Supplier, at its own expense, will deliver the Deliverables properly packed and secured to the place specified in the Purchase Order or as subsequently agreed.
- 4.3 Each consignment should be clearly marked with the Supplier's name and will be accompanied by a Delivery Note, detailing the description, quantity with the applicable units of measure, unit rates and dollar values of the Deliverables delivered. Where applicable, the packaging must clearly indicate any substances in the Deliverables which are or may be hazardous to human health, animal health or the environment, and prominent precaution instructions must be displayed on such packaging.
- 4.4 Partial deliveries or performance may be accepted at PBF's discretion.
- 4.5 The Supplier will comply when on any PBF site with the Health and Safety At Work Act 1996 and the Supplier will have in place and comply with a health and safety management plan. The Supplier will at all times be able to provide proof of its health and safety management plan.
- 4.6 Title to the Deliverables passes to PBF on payment. Every risk to any Deliverables remains with the Supplier until completion of delivery. Anything involved in delivery or acceptance is provided at the Supplier's every risk and cost.
- 4.7 The Supplier agrees to procure and maintain in force during the Term, at the Supplier's expense, a Public Liability policy or other related policies having a minimum limit of at least \$2,000,000. Supplier will provide a current Insurance Certificate to PBF upon request.
- 4.8 The Supplier will deliver the Deliverables at the time or times specified in the Purchase Order. If any delay occurs, the Supplier must ensure that PBF is notified as early as possible and before the date of delivery, as shown on the Purchase Order and the alternative delivery date must be agreed by PBF. CCA reserves the right to void or cancel the Purchase Order if the Deliverables are not delivered within the agreed time frame.
- 4.9 Deliverables must not without PBF's written consent be delivered earlier than 3 Business Days before the due delivery date, otherwise PBF may reject them.
- 4.10 All Deliverables must be properly packaged to prevent deterioration or damage whilst in transit. The Supplier will with all possible speed, replace, free of charge, all Deliverables damaged or lost in transit, provided that PBF will give the Supplier written notification of such damage or loss within a reasonable time.
Transportation and associated costs in relation to the replacement of Deliverables will be to the Supplier's account.

5. Payment

- 5.1 Currently PBF's standard payment term for undisputed invoices is 30 days from invoice date, payable on the last business day of the following month. However, PBF reserves the right to negotiate discounts for earlier payment with the Supplier which shall be at the Suppliers sole discretion.
- 5.2 All Tax Invoices must be submitted to PBF by the 5th Business Day of the month following the month of invoice.
- 5.3 Any Tax Invoices received by PBF without a Purchase Order Number cannot and will not be paid.
- 5.4 Tax Invoices to PBF should be emailed directly to payables@paradisebeverages.com.fj

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- 5.1 The descriptions, quantities, unit rates and dollar values on the Tax Invoices received by PBF must match the signed-off Delivery Notes. If the quantities and dollar values on the Tax Invoices received by PBF do not match the Delivery Notes payment will not be made.
- 5.2 PBF will deduct withholding tax where required by law.
- 5.3 PBF's preferred method of payment is direct credit by electronic file transfer. The Supplier must provide to PBF the required bank account details and a deposit slip for direct payment to be enabled.
- 6. Warranty**
- 6.1 The Supplier must ensure that the Deliverables:
- 6.1.1 are designed, manufactured and delivered in compliance with all applicable user requirements, specifications and standards; and
- 6.1.2 are new and unused on delivery unless specified otherwise in each case by PBF; and
- 6.1.3 are free from any defects and are fit for the purpose intended by PBF; and
- 6.1.4 are compatible with the other Deliverables available from the Supplier; and
- 6.1.5 are supplied to PBF using all diligence, care and skill, and using sufficient, appropriately trained, qualified, experienced and supervised persons; and
- 6.1.6 satisfy the requirements of PBF; and
- 6.1.7 comply with all applicable:
- (a) health and safety standards;
- (b) product packaging and labelling;
- (c) transport, handling and storage;
- (d) environmental;
- (e) weights and measures;
- (f) and all other relevant legislation, regulations, standards, industry codes of practice of Fiji and any quality assurance system approved or required by PBF.
- 6.2 The Supplier warrants:
- 6.2.1 that it has the right to sell the Deliverables specified in the Purchase Order; and the Deliverables will be free of any security interest, charge, lien or other encumbrance; and
- 6.2.2 that it has all necessary permits, licenses or consents to supply or perform the Deliverables.
- 6.3 The Supplier's guarantees to PBF that any Deliverables will have an expiry / best before date no sooner than 3 months following the date of delivery.
- 6.4 Each warranty is to cover any defective labour, materials and performance. The Supplier will, to the extent possible, pass on to PBF the benefit of any warranty or guarantee received from any other person in respect of the Deliverables supplied, so that PBF may have recourse against those persons.
- 7. Intellectual Property Rights, Indemnity**
- 7.1 All intellectual property rights in any Deliverables which are original work created by the Supplier for PBF pursuant to the Purchase Order will belong to PBF upon creation, and the Supplier undertakes to do promptly all things necessary to transfer such rights to PBF.
- 7.2 The Supplier will fully indemnify PBF against any cost, expense and liability (and legal expenses) arising from any infringement right including but not limited to any patent; design right (whether registered or not); trademark or copyright arising out of PBF's possession, use or distribution of Deliverables supplied by Supplier to PBF.
- 8. Assignment and subcontracting**
- 8.1 The Supplier will not, without the written consent of PBF (such consent not to be unreasonably withheld), assign or transfer the Contract or any part thereof to any third party.
- 8.2 The Supplier must not subcontract or otherwise arrange for another person to discharge any of its obligations (excluding delivery) under the Contract without the prior written consent of PBF. Notwithstanding PBF's consent, the Supplier will remain fully responsible for all obligations to PBF under the Contract.
- 9. Confidentiality and Publicity**
- 9.1 The Supplier will keep confidential and secure, and not misuse, any information of PBF that would reasonably be expected to be proprietary, commercially sensitive or confidential.
- 9.2 Disclosure and use of information by either party is allowed to the extent required by law or to the extent necessary to perform the Deliverables as specified in the Purchase Order.
- 9.3 The Supplier will stop using and return to PBF, or destroy any PBF property and information if requested by PBF.
- 9.4 The Supplier will not represent or publicise in any way to anyone that it is a provider or supplier of PBF, or allow media release or advertising that names or suggests PBF, without PBF's prior written consent.

10. Bankruptcy or Liquidation

- 10.1 If the Supplier has a receiver or administrator appointed to the whole or any part of its assets, or if an order is made or a resolution is passed winding up the Supplier, then unless such order or resolution is part of a scheme of reconstruction or arrangement PBF will be at liberty:
- 10.1.1 to cancel the Purchase Order(s) by notice in writing without compensation to the Supplier;
- 10.1.2 to give any receiver, or liquidator or administrator or other person the option of carrying out the Contract.

11. Documentation and Tools

- 11.1 All drawings, designs, technical information, advice and other thing communicated or supplied by PBF are confidential and will remain the property of PBF. They will be used solely for the use of the Contract and will not be shown or disclosed to any third party without PBF's prior written consent.
- 11.2 All tools, moulds, parts, materials and other things supplied by or paid for by PBF in order to assist the Supplier fulfil the Purchase Order will be the property of PBF and will be used solely for the purpose of the Contract and will be returned to PBF or passed to PBF, as the case may be, promptly upon request.

12. PBF Policies

- 12.1 In relation to the performance of the Supplier's obligations under this Agreement, the Supplier will, and will ensure that its employees, agents and sub-contractors (if any), at all times comply with PBF's ultimate Parent Company's policies:
- Amatis Responsible Sourcing Guidelines;
 - the Site Rules;
 - Amatis Code of Conduct
 - Amatis Human Rights Policy
 - Amatis Anti-Bribery and Corruption Policy;
 - all relevant legislation and regulations in force including, but not limited to, the Health and Safety at Work Act 1996, the Employment Relations Act 2007 and the Human Rights and Anti-Discrimination Commission Act 2009; and
 - any safety instructions given by Amatil from time to time.

These policies are available at request, and can also be found on www.ccamatil.com

13. Governing Law

- 13.1 The construction, validity and performance of a Contract will be governed by the laws of and applicable in Fiji and the parties submit to the non-exclusive jurisdiction of the courts of Fiji.

14. Waiver

- 14.1 Any waiver or purported or implied waiver by PBF of strict compliance with these terms and conditions will not be deemed to be a waiver unless it is in writing and signed by an authorised representative of PBF. Any such waiver will not prejudice the rights of PBF in respect of any breach of these conditions to which such waiver does not specifically relate.