



LIQUOR DISTRIBUTION BRANCH

LIQUOR WAREHOUSE PROGRAM AGREEMENT

This Agreement is effective the _____ day of _____ 2009

BETWEEN:

Domestic Agent/Distributor
(referred to as We, us or our as the context requires)

AND: British Columbia Liquor Distribution Branch
(referred to as the BCLDB or it, as the context requires)

This Agreement sets out the terms and conditions under which liquor may be imported into the Province of British Columbia under a Purchase Order and stored at an approved Excise Licensed Warehouse (import wine and spirits) or a custom bonded warehouse (import beer) until the liquor is transferred to the LDB at its Distribution Centre (import wine and spirits and beer), the case of beer, privately distributed to Approved Customers, if so authorized or until Product is transferred out of province, including to ships chandlers..

1. INTERPRETATION

1.1 In this Agreement:

- (a) "Approved Customers" means any customers that the Seller is authorized to privately distribute beer to under an ancillary agreement;
- (b) "ancillary agreements" means other agreements that deal with the rights and obligations of the BCLDB and the Domestic Agent, Distributor or Seller concerning the importation and sale of liquor in BC including the Purchase Order, Excise/Release Purchase Order, and the *Private Distribution Agreement*, as applicable;
- (c) "BCLDB" means the British Columbia Liquor Distribution Branch;
- (d) "Distribution Centre" means the BCLDB's distribution centre at 3200 East Broadway in Vancouver or its distribution centre located in Kamloops;

- (e) “Distributor” means a person appointed by the Manufacturer, who has purchased Product from the Manufacturer in order to sell this Product to the BCLDB in accordance with a Letter of Authorisation which has been given to the BCLDB;
- (f) “Domestic Agent” means the person appointed by the Manufacturer to act as its agent in the province in accordance with a Letter of Authorization which has been given to the BCLDB;
- (g) “Inspection” means the inspection or audit contemplated in Article 10.2 of this Agreement;
- (h) “Lost Product” means unaccounted for Product as referred to in Article 11.1 of this Agreement;
- (i) “Manufacturer” means the person who
 - (i) manufactures the liquor, or
 - (ii) assembles the produce of growers and winemakers and sells the results under its own name (negotiant),and who has either:
 - (1) appointed a Distributor who has purchased Product from the Manufacturer in order to sell the Product to the BCLDB, or
 - (2) is the Seller of the Product to the BCLDB but has appointed a Domestic Agent who will act on its behalf in the province;
- (j) “Product” means the Manufacturer’s registered liquor for which the Domestic Agent, on behalf of the Manufacturer, or the Distributor, as applicable, is responsible in the province;
- (k) “province” means the Province of British Columbia;
- (l) “Records: means the documents and information referred to in Article 10 of this Agreement;
- (m) “Seller” means the Manufacturer or Distributor of Product, as applicable, and is the seller of the Product to the BCLDB;



LIQUOR DISTRIBUTION BRANCH

- (n) “Warehouse” means either:
 - (i) for import spirits and wine, an excise licensed warehouse,
 - (ii) for import beer, a custom bonded warehouse;
- (o) “Retail Accounting Centre” means the reporting entity responsible for capturing the product movement activity of privately distributed duty paid alcoholic beverages.

2. COVENANTS

- 2.1 We have been authorized to act as the Domestic Agent of the Manufacturers listed in Appendix A to this Agreement and have been authorized to requisition, ship and store and otherwise act on behalf of the Manufacturer on all matters dealing with its Product being imported into and sold in the Province.
- or** We have been authorized to act as the Distributor of Product of the Manufacturers listed in Appendix A to this Agreement and have purchased Product from the Manufacturers for resale to the BCLDB.
- 2.2 All Products which we represent, either as a Domestic Agent or Distributor is or will be registered for sale in the province prior to any request we make to the BCLDB for the issuance of a Purchase Order.

3. IMPORTATION OF LIQUOR INTO THE PROVINCE

- 3.1 We will submit to the BCLDB a completed Seller’s advice requesting the issuance of a Purchase Order for Product which the BCLDB may issue, in its discretion, if it believes it is appropriate for the market conditions and inventory levels of the Product.
- 3.2 The BCLDB will be importer of record for Product imported under a Purchase Order and will handle all importation procedures with the Canada Border Services Agency (CBSA), unless the BCLDB advises otherwise.
- 3.3 Despite this Agreement, the BCLDB has the right to order and purchase liquor including Product directly from a Manufacturer.

4. WAREHOUSING OF PRODUCT

- 4.1 We have appointed a Warehouse in the province to store Product pending the completion of the sale of the Product to the BCLDB or Approved Customers, or the transfer of the Product outside the province, as applicable.
- 4.2 We cannot transfer Product into or out of the Warehouse without the BCLDB's written permission and we agree to pay any transfer fees assessed.
- 4.3 All costs associated with the storage of Product at the Warehouse or transfers of such Product will be paid by us.
- 4.4 All risks associated with the storage of Product at the Warehouse and any transfers of such Product to the BCLDB at its Distribution Centre, or to Approved Customers, if applicable, will be for our account.

5. DELIVERY OF PRODUCT

- 5.1 The BCLDB will issue to me or to my Warehouse on my behalf, an Excise Purchase Order for transfers of Product (import wine and spirits) to the BCLDB's Distribution Centre. Once an Excise Purchase Order is issued by the BCLDB, Product must be released to fulfil the Excise Purchase Order.
- 5.2 The BCLDB will issue to me or to my Warehouse on my behalf, a Release Purchase Order for transfers of Product (import beer) to the BCLDB's Distribution Centre or in the case of beer privately distributed, to the Retail Accounting Centre for sale and distribution to Approved Customers, in accordance with the terms of any ancillary agreement.

6. PAYMENT FOR PRODUCT

- 6.1 Payment for Product will be in accordance with the instructions in our Letter of Authorisation and in accordance with the terms of the Purchase Order unless other terms are agreed to with the BCLDB.

7. DISPUTES INVOLVING DOMESTIC AGENT

- 7.1 If there is any dispute involving me, as a Domestic Agent, the Manufacturer whom I represent or our Warehouse related to my authority, the Product or about any payments

due for Product or other expenses or costs related to the Product which dispute is brought to the attention of the BCLDB by one of the parties, then the BCLDB may, at its discretion, do one or more of the following, notwithstanding any instructions on a Letter of Authorization related to the Product:

- i) pay any amounts owing for the purchase of the Product into court,
- ii) withhold any payment owing and account for the payment until such time as the dispute between the parties is resolved and an agreed upon direction to pay has been issued to the BCLDB;
- iii) set off from amounts owing for the purchase of the Product, an amount sufficient to release any lien on the Product issued by the Warehouse such that the Product may sold into the market, or
- iv) take such other actions as the BCLDB is legally entitled to do,

and we will not have any recourse whatsoever against the BCLDB.

8. TRANSMISSION OF EXCISE or RELEASE PURCHASE ORDERS

- 8.1 We authorize my Warehouse to receive any Excise/Release Purchase Order by electronic transmission and to transfer the Product in the manner stated in the Excise/Release Purchase Order.

9. DEFECTIVE AND TIME BARRED PRODUCT

- 9.1 We acknowledge the warranties listed in the Purchase Order. We will indemnify the BCLDB for all costs and expenses associated with defective Product. We may be released from this liability should the Manufacturer fully indemnify the BCLDB for any such costs and expenses.
- 9.2 Any of my Product which is defective must be destroyed or exported out of the province at our sole cost, within the timeframe agreed upon with the BCLDB.
- 9.3 If we have imported any beer from outside of Canada, which has remained in the Custom Bonded Warehouse for twelve months from the date of importation, we must either destroy the beer or export it out of Canada, all at our sole expense.

10. BOOKS AND RECORDS

- 10.1 We must keep or ensure that the following Records related to my Products are kept in the province for a period of not less than seven years following the end of each fiscal year:
- i) Purchase Orders and Excise/Release Purchase Orders or other documents related to the transfer of Product to and from the Warehouse;
 - ii) Customs documentation regarding the importation, transfer, Product movement and reporting as prescribed by CBSA;
 - iii) Excise documentation regarding the Product movement and reporting as prescribed by the Canada Revenue Agency;
 - iv) records recording defective Products;
 - v) any other financial or other information relating to the Products or this Agreement as the BCLDB requires.

We may be released from all or part of this obligation should my Warehouse agree to keep any of these Records and make them available to the BCLDB.

- 10.2 The BCLDB may at any time check the inventory of Product in any Warehouse or other location where Product is stored or conduct an inspection or audit ("Inspection") at any location where Product or Records are situated.
- 10.3 If the BCLDB conducts any Inspection which discloses that Product has been dealt with in manner which is not allowed under the Agreement, we must pay the expenses of the Inspection, including any costs associated with any Inspection undertaken, as the BCLDB determines in its absolute discretion. We may be released from this obligation if our Warehouse agrees to pay the costs of Inspection.

11. LIABILITY FOR PRODUCT THAT IS UNACCOUNTED FOR

- 11.1 If the BCLDB determines after a review of the Records or Warehouse inventory, that any of the Product cannot be accounted for or does not have a valid adjustment ("Lost Product"), we agree to indemnify the BCLDB for the amounts owing on the Lost Product as determined by the BCLDB. Any amounts deemed to be owed can be set off from any payments due and owing for the purchase of the Product. We may be released from the above obligations if our Warehouse agrees to assume these liabilities.

12. INSURANCE

- 12.1 We will ensure that the insurance requirements under the Purchase Order are met including that the insurance will be adequate to recover any loss suffered while the Product is stored in the Warehouse. We may be released from the obligation to insure Product in the Warehouse if the Warehouse agrees to assume these obligations.

13. TERMINATION OF THE AGREEMENT

- 13.1 The BCLDB can terminate or suspend all or any part of this Agreement on any terms the BCLDB directs, without prior notice, if we do any of the following:
- i) bring Product into the province without a valid Purchase Order;
 - ii) do not provide the records or access to the Product at the Warehouse in a timely manner;
 - iii) refuse to provide Product in response to an Excise or Release Purchase Order issued by the BCLDB;
 - iv) all our Letters of Authorisation are revoked by Manufacturers or we otherwise cease to carry on the business of Domestic Agent or Distributor in the province.
- 13.2 We may end this Agreement by giving at least 60 days notice in writing to the BCLDB.
- 13.3 If this Agreement is terminated or suspended for more than two months for any reason, and we have Product warehoused in the province in a Warehouse, then we must either export the Product out of the province or destroy the Product, either to be done at our sole expense. Alternatively, if the BCLDB wants, the BCLDB may purchase all or any part of the Product for a price we agree to.

14. NOTICE

- 14.1 We will give each other any notice, as required under this Agreement by either:
- i) sending the notice by prepaid mail, provided the mail system is operating
 - ii) personally deliver the notice by hand
 - iii) sending the notice by Facsimile or e-mail



LIQUOR DISTRIBUTION BRANCH

to the BCLDB, addressed to:

Director, Wholesale Supply Chain
Liquor Distribution Branch
3383 Gilmore Way
Burnaby, B.C. V5G4 AS1
e-mail: authorisations.GST@bcldb.com

and to us, addressed to:

Name:

Address:

E-mail address:

Fax number:

- 14.2 Any notice mailed will be treated as if received on the fifth business day after the date of mailing providing mail service is operating. Any notice sent by facsimile or e-mail will be treated as if received on the same day of sending, if received before 4:00pm, or on the next business day if received after 4:00pm.
- 14.3 Notice of change of either of our addresses for delivery must be in writing to the other party and delivered in the manner provided in paragraph 14.1 of this Agreement.

15. THE ASSIGNMENT OF THIS AGREEMENT

- 15.1 This Agreement is assignable only with the prior written consent of the BCLDB, not to be unreasonably held.

16. GENERAL



LIQUOR DISTRIBUTION BRANCH

- 16.1 The laws of British Columbia apply to this Agreement.
- 16.2 We will comply with all applicable laws, statutes, regulations, bylaws, orders, directives, policies and procedures of general application imposed by the LDB, or any other government authority (federal, provincial or municipal) which affects the importation, transport, storage/warehouse, sale or consumption of Product or in any way related to the performance of this Agreement
- 16.3 If a provision of this Agreement cannot be enforced, the provision is to be considered to be separate and removable from the Agreement.
- 16.4 The BCLDB may exercise its rights or perform its obligations under this Agreement through its General Manager or any employee designated by the General Manager for this purpose.
- 16.5 This Agreement is the whole agreement between us and replaces any previous agreement, whether written or oral, express or implied, concerning importation and storage of Product in the province including the previous agreement entitled "Agent Stocking Program Agreement".

Acknowledged and agreed to by the Domestic Agent/Distributor

Authorised Signatory: _____

Position:

Company Name:

Company Address:

E-mail address:

Telephone No:

Fax No:

Signature of Domestic Agent/Distributor:

Date Signed by Domestic Agent/Distributor: