

PURCHASE ORDER

To ensure your invoice is processed promptly,
always quote our purchase order number and ensure
your invoice quantity & prices match that of the order.

Date: 05.11.2009
Delivery To: IDS Logistics
 T.Klongjik A.Bangpa-in
 505 Moo 2 Udomsornayuth Rd.,
 13160 Aduthdhaya

Delivery Date: 15.11.2009

Freight Forwarder: ንዲጣድፎቤ ዒገጢ ጠዳኻዲጣን ደሞካሶን ሚኒስትር ዳይሬክቶሬት
Incoterms: If you have any queries with this document please
Currency: THB contact: Thanyaras Choterapeewat
Payment Terms: Payable in 30 Days email: Thanyaras.Choterapeewat@diageo.com

Important :

Important .
Please ensure that final costs are sent to the above named person prior to submitting invoice(s) to Diageo Moët Hennessy (Thailand) Limited Accounting Department.

PURCHASING DOCUMENT APPROVED:
(A signature does not appear on this Document but it has been approved by the relevant personnel within Diageo Moët Hennessy (Thailand) Limited before being sent to the supplier)

Terms and Conditions of Payment :

1. Diageo Moët Hennessy (Thailand) Limited standard terms and conditions of purchase ("Diageo Terms") and Diageo Export Trading Terms (where applicable) will apply to this Purchasing Document unless otherwise agreed with Diageo. A copy of the Diageo Terms are enclosed with this Purchasing Document, but if you require a further copy please contact Diageo Purchasing Department (for domestic purchase order) and Supply Chain Department (for overseas purchase order) immediately at the above address. The Diageo Terms will supercede all other terms and conditions including any terms and conditions of supply and may not be varied without written authorisation of Diageo Moët Hennessy (Thailand) Limited. Delivery under this Purchasing Document will constitute acceptance of the Diageo Terms.

2. All correspondence, advice notes, delivery notes, and invoices must quote the above Purchasing Document number.

3. All prices and values quoted on this document exclude VAT.

GENERAL CONDITIONS OF PURCHASE OF GOODS AND SERVICES ("CONDITIONS")

Diageo will only do business with the Supplier on the basis of DIAGEO's Purchase Order and these Conditions. When DIAGEO places an order with the Supplier it is placed subject to these Conditions only. The terms and conditions of the Supplier will not apply unless expressly agreed by DIAGEO in writing. No course of dealing or business between DIAGEO and the Supplier will be relevant to explain or supplement any condition save as provided for in accordance with these conditions.

1. GENERAL

1.1 In these general conditions of purchase ("Conditions") the following words have the following meanings: -

- (a) "**Contract**" means a contract between **DIAGEO** and the supplier for the supply of goods ("**GOODS**") and/or services ("**Services**"), incorporating these Conditions, the relevant Purchase Order and any other document(s) referred to therein;
- (b) "**Tax**" means all taxes including value added tax, fees, duties (including stamp duties) or assessments of any kind place on the Goods and/or Services delivered by the supplier.
- (c) "**Working Days**" means calendar days excluding Saturdays, Sundays and public holidays in Thailand;
- (d) "**Delivery Address**" means the address specified for delivery of the Goods and/or Services on the Purchase Order.

2. ACCEPTANCE

2.1 **DIAGEO** will not be liable for any order or commitment unless it is issued or confirmed in a Purchase Order with an official purchase order number ("**Purchase Order Number**").

2.2 Acceptance of the Purchase Order will take place if the Supplier accepts the Purchase Order in writing within 3 Working Days of receipt of the Purchase Order; or if, with **DIAGEO's** agreement, the Goods are manufactured, shipped or delivered by the Supplier or its duly authorised sub-contractors to **DIAGEO**; or if, with **DIAGEO's** agreement, the Services are performed by the Supplier or its duly authorised sub-contractors.

[Notes: Should DIAGEO wish to secure a contract with the Supplier (to obligate the Supplier to manufacture Goods or deliver Services pursuant to the Purchase Order), there should be a fixed long-stop period within which the Supplier has to confirm acceptance of the purchase order for the latter cases (highlighted in yellow). We would suggest that the acceptance period be fixed – see, for example, obligations of the Supplier in Clause 5.1]

3. WARRANTIES, LIABILITY AND INSURANCE

3.1 The Supplier warrants that all Goods supplied to **DIAGEO** will:

- (a) be free from faulty design (unless **DIAGEO** provides the design);
- (b) be of the best workmanship and of proper material;
- (c) comply with and perform in accordance with the Purchase Order and any applicable specifications;
- (d) be fit for their intended purpose; and
- (e) Where specified on the Purchase Order, meet **DIAGEO's** requirements in all respects.

This warranty will continue (excluding fair wear and tear) for either 24 months from the date when the Goods are first used by **DIAGEO** or 30 months from the date of delivery whichever period expires first; provided that the limitation on warranty period shall not apply in the case where the Supplier has concealed the defect). The Supplier will replace or repair any Goods not conforming with these warranties at its cost entirely, and if it fails to do so **DIAGEO** may do so and charge the Supplier the cost.

3.2 The Supplier shall provide the Services: using reasonable skill care and diligence using suitably skilled experienced and qualified staff and where staff are named in the Purchase Order shall not use any other staff to provide the Services unless AGREED by **DIAGEO** in writing;

(a) using reasonable skill care and diligence using suitably skilled experienced and qualified staff and where staff are named in the Purchase Order shall not use any other staff to provide the Services unless AGREED by **DIAGEO** in writing;

(b) using the best workmanship and materials;

- (c) In compliance with the Purchase Order and any applicable specifications; and
- (d) to meet **DIAGEO's** requirements in all respects.

3.3 The Supplier warrants that all Goods and Services will comply with or be performed in accordance with all applicable laws, regulations and codes of practice, including **DIAGEO** codes of practice (available on request).

3.4 The Supplier warrants that it and its employees shall comply with the spirit and content of **DIAGEO's** Code of Conduct from time to time in force (and where applicable, the **DIAGEO** Marketing Code of Conduct from time to time in force, copies available at www.diageo.com), and **DIAGEO's** applicable site safety and security rules (copies available on request).

3.5 The warranties set out herein which are in addition to any statutory or other applicable warranties will apply for the benefit of **DIAGEO** its successors, assignees and customers.

3.6 The Supplier will indemnify **DIAGEO** in full against all claims, liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by **DIAGEO** as a result of or in connection with:-

- (a) breach of any warranty given by the Supplier;
- (b) any claim that the Goods or Services infringe, or their importation, use or resale infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person anywhere in the world, except to the extent that the claim arises from compliance with any specification supplied by **DIAGEO**;
- (c) any liability to consumers in respect of the Goods or Services; and

(d) any act or omission by the Supplier or its employees, agents or sub-contractors in supplying, delivering or installing the Goods or performing the Services.

3.7 The supplier shall maintain in force a Policy of Insurance satisfactory to **DIAGEO** in respect of its liabilities under the Contract [(including but not limited to a Policy of Insurance that covers any loss or damage to the Goods during the time when the Goods are delivered to **DIAGEO** and/or to cover third party liability during the time when the Supplier performs Services, as may be applicable and requested by **DIAGEO**], and will provide **DIAGEO** with evidence of such insurance on request.

4. INSPECTION AND TESTING

4.1 **DIAGEO** shall be entitled to send an inspector, representative or agent to test or inspect the Goods and/or Services at any reasonable time at the Supplier's or its sub-contractor's facilities ("**DIAGEO Inspections**"), and to repeat **DIAGEO** Inspections with such frequency as **DIAGEO** may, at its complete discretion, determine.

4.2 The Supplier will give reasonable notice to **DIAGEO** of its testing of the Goods and/or Services ("**Supplier Tests**") and **DIAGEO** or its representatives may attend **Supplier Tests**. The Supplier will provide **DIAGEO** with such test certificates as **DIAGEO** may reasonably require with respect to any **Supplier Tests**.

4.3 **DIAGEO** Inspections and/or **Supplier Tests** and/or test certificates provided pursuant to **Supplier Tests** do not relieve the Supplier of any liability, nor does it imply acceptance of the Goods and/or Services concerned by **DIAGEO**.

5. DELIVERY/TRANSPORT/PACKING

5.1 The delivery/completion date specified in the Purchase Order must be met, and time is of the essence. **DIAGEO** does not waive its rights with respect to a delay in delivery or completion unless specifically agreed in writing. The Supplier shall comply with all delivery or performance instructions notified to it, failure to do so may result in the delivery of Goods and/or the provision of Services being refused, and the Supplier will be responsible for any additional costs resulting.

5.2 All Goods will be delivered to the Delivery Address.

5.3 The Supplier shall ensure that all Goods supplied shall be properly protected against damage and deterioration in transit and delivered DDP (Incoterms), and shall bear the description, the quantity of the contents and the Purchase Order Number on each package.

5.4 Unless otherwise stated in the Purchase Order, the Supplier will make no charge for containers, packaging material, crating, boxing, or storage.

5.5 Unless agreed prior to delivery **DIAGEO** assumes no obligation for Goods shipped in excess of the quantity ordered in the Purchase Order. Shipments in excess of the quantity ordered and not accepted by **DIAGEO** may be returned to the Supplier, and the Supplier will pay **DIAGEO** for all expenses incurred in connection with such shipments.

6. DOCUMENTATION

6.1 The Supplier will provide **DIAGEO** free of charge with all working drawings, operating instructions, plans, specifications and information reasonably necessary to enable **DIAGEO** to use the Goods or the Services for their intended purpose. The Supplier will also provide **DIAGEO** with all certificates of origin, quantity, quality, insurance and compliance with industry requirements or standards and in such form as **DIAGEO** may from time to time reasonably request.

6.2 The Supplier will:

(a) send on the day of delivery for each consignment a separate advice note and invoice for each delivery including details of the Goods supplied to the Delivery Address;

(b) send on the day of completion of the Services provided a separate advice note and invoice for each Service (as itemised in the Purchase Order) including details of the Services provided; and

(c) mark clearly the Purchase Order Number on each package, packing notes, invoices, monthly statements and all other correspondence or documents relating to the Purchase Order.

6.3 The documents referred to in conditions 6.1 and 6.2 are herein collectively referred to as "**Delivery Documents**".

7. TITLE AND RISK OF LOSS

7.1 Risk of loss or damage to the Goods will not pass to **DIAGEO** until the Goods have been delivered into **DIAGEO's** possession and are confirmed by **DIAGEO** to be in accordance with the Contract, a Purchase Order and/or these Conditions.

7.2 Title to the Goods will pass to **DIAGEO** upon acceptance of the Purchase Order pursuant to Clause 2.2. The Supplier shall immediately upon receipt of payment, appropriate the Goods to **DIAGEO** and shall keep them separate from all other goods in the possession of the Supplier and shall clearly mark the Goods as the property of **DIAGEO**. Passing of title shall not in respect of the goods prejudice any right of rejection or other right, which **DIAGEO** may have.

8. PRICE AND PAYMENT

8.1 The price shall be as stated in the Purchase Order and unless otherwise stated shall be exclusive of applicable value added tax. No additional charges will be paid unless agreed by **DIAGEO** in writing in advance. Any variation of the price requires prior written agreement of **DIAGEO**.

8.2 All payments are contingent upon the Goods and/or the performance of the Services conforming with the Purchase Order and receipt of the Delivery Documents to the satisfaction of **DIAGEO**.

8.3 Payment will be made in accordance with the Purchase Order.

8.4 **DIAGEO** assumes no payment obligations in addition to those contained in the Contract for goods and/or services provided in a quantity or to a specification in excess of the Goods and/or Services ordered in the Purchase Order, save where **DIAGEO** has agreed to the provision of such goods and/or services in writing.

8.5 Payments will be made within 60 days of receipt of a correct and complete invoice (including the valid Purchase Order Number and Tax invoice details) or at intervals agreed with the Supplier against the Goods and/or Services delivered. All payments will be made without prejudice to **DIAGEO's** rights should the Goods or performance of the Services prove unsatisfactory or are not in accordance with the Contract, the Purchase Order or these Conditions.

8.6 **DIAGEO** shall have the right to set-off any amounts which may become payable by it to the Supplier against any amounts the Supplier may owe to **DIAGEO**.

8.7 All Taxes on the Goods and/or Services delivered by the Supplier shall be on the account of the Supplier, except for any taxes, duties or charges collected on **DIAGEO's** income which shall be borne by **DIAGEO**. **DIAGEO** shall be entitled to withhold an amount required by law from payments made to the Supplier under the Contract.

9. INTELLECTUAL PROPERTY

9.1 The Supplier acknowledges that in connection with the provision of any Goods or Services to **DIAGEO**, the Supplier may develop works and/or materials, including documents, models, prototypes, software, data, formulae, specifications, inventions, concepts, processes, techniques, analyses, compilations, studies, reports, graphic designs, three dimensional designs, moulds, photographs, names or logos ("**Works**").

9.2 In connection with all **Works**:

(a) the Supplier hereby assigns to **DIAGEO**, with full title guarantee and without restriction, the legal and beneficial ownership of all intellectual property rights (including, but not limited to, copyright, database rights and design rights by way of an assignment of future rights) subsisting in or relating to any **Works**

(collectively the "Intellectual Property") for any Intellectual Property which is not already bestowed upon **DIAGEO** in accordance with the law, and the Supplier agrees to undertake any registration and all actions, as soon as reasonably practicable, to effect the absolute transfer of Intellectual Property to **DIAGEO** as may be required by law;

[Note: The above paragraph is no longer necessary to fix the assignment on the date of the Purchase Order] as we already prescribed in (a) that the Supplier shall effect the transfer of Intellectual Property as soon as reasonably practicable (after the intellectual right becomes available).]

(b) the Supplier agrees, at **DIAGEO's** request and cost, to do all such things as may be necessary or desirable to vest in **DIAGEO** the full benefit of all Intellectual Property subsisting in or relating to any Works.

9.3 **DIAGEO**, or where relevant its affiliates, are and will be deemed to be the proprietor of all **DIAGEO** trade marks and all associated goodwill. The Supplier hereby acknowledges that the Supplier will not gain any right, title or interest in such trade marks or goodwill and shall not make any use of the same without **DIAGEO's** prior written approval.

9.4 Any permission to reproduce the trade marks on any Goods, Services or Works is solely related to the purposes connected with the Contract and will expire once the Contract is fulfilled or cancelled whichever occurs earlier.

9.5 Any Goods, Services or Works created in connection with the provision of the Goods or Services supplied to **DIAGEO** by the Supplier incorporating **DIAGEO** trade marks or trade marks belonging to **DIAGEO** affiliates are supplied on a sole and exclusive basis. The Supplier shall not supply the same or similar goods or works to any other party or dispose of them in any way whatsoever other than to **DIAGEO**, unless otherwise specified in the Purchase Order.

9.6 The Supplier warrants that the provision of the Goods and/or Services shall not infringe any third party intellectual property rights.

9.7 The Supplier will not do anything calculated or likely to damage any of **DIAGEO's** trade marks or **DIAGEO's** name or reputation or those of its products.

9.8 The Supplier shall procure that its employees and subcontractors shall waive all of their moral rights described (being any of the rights prescribed in Article 6 of the Berne Convention for Protection of Literary and Artistic Works 1886 (as amended and revised from time to time), being "droit moral" or other analogous rights arising under statute that exist or that may come to exist, anywhere in the world) in respect of any of the Works.

9.9 Any excess Goods produced bearing **DIAGEO** names, trade marks or logos which are not supplied to **DIAGEO** must be

promptly notified to **DIAGEO** and destroyed, unless otherwise agreed by **DIAGEO** in writing.

10. OUR PROPERTY

All tools or materials, dies, jigs, fixtures, patterns or other items of equipment ("Equipment") and all drawings, specifications and other data or papers ("Documents") provided commissioned or owned by **DIAGEO** or created for **DIAGEO** in connection with the Contract, together with all copies or reprints will remain the property of **DIAGEO** at all times. Equipment will be marked as belonging to **DIAGEO**. Equipment and Documents shall be used solely for the purpose of fulfilling the Contract and handed over to **DIAGEO** on completion, cancellation or termination of the Contract. The Supplier will from that date on make no further use, either directly or indirectly of any Documents, or of any information that comes from Documents without **DIAGEO's** written consent.

11. CONFIDENTIALITY

11.1 The existence and terms of the Contract and any other information and materials relating to **DIAGEO** or its business disclosed to the Supplier by or on behalf of **DIAGEO** ("Confidential Material") prior to (a) the entering into of the Contract shall be confidential information of **DIAGEO** and shall not be used or disclosed by the Supplier to any third party. This does not apply to information in the public domain through no breach or fault of the Supplier. The Supplier shall return all such Confidential material to **DIAGEO** on request and shall cease all further use thereof.

11.2 The Supplier's obligations set out in this Condition 11 shall continue in force after the date of the performance of the Contract and thereafter in perpetuity.

11.3 The Supplier shall take all necessary precautions to ensure the security of all Confidential Material and shall comply with **DIAGEO's** directions in relation to all Confidential Material.

11.4 The Supplier shall ensure that Confidential Material is disclosed only to those of its employees who need to know it for the purpose of performing the obligations of the Supplier under the Contract, the Purchase Order and/or these Conditions and who are bound by appropriate and legally binding confidentiality and non-use obligations. The Supplier shall be fully responsible for any unauthorised disclosure or use of Confidential material by its employees.

11.5 All documents, files and other items (in whatever format or medium) which contain or record Confidential Material shall remain or become the property of **DIAGEO**, and the Supplier shall deliver them to **DIAGEO** upon request, together with all copies thereof.

11.6 The Supplier shall not, and shall ensure that its employees shall not, in any way publicise its relationship with **DIAGEO** and its associated companies without express written agreement of **DIAGEO**.

12. REACH, TERMINATION ETC.

12.1 If the Goods or Services are not supplied or performed in accordance with the Contract **DIAGEO** may, without prejudice to any other remedy, require the Supplier to supply replacement Goods or reperform Services within 7 days; alternatively or if the Supplier fails to do so **DIAGEO** may cancel the Contract, require repayment of any part of the Contract price already paid and claim damages and any losses and costs incurred by **DIAGEO**.

12.2 **DIAGEO** may terminate the Contract immediately, by written notice without any liability to the Supplier, if:-

(a) the Supplier makes any arrangement with its creditors, becomes subject to an administration order or goes into bankruptcy, liquidation, or receivership;

(b) a receiver, trustee or liquidator is appointed over any of the Supplier's property or assets;

(c) the Supplier becomes unable to pay its debts generally as they become due, or ceases or threatens to cease to carry on business; **DIAGEO** reasonably considers that any of the events set out in condition 12.2(a) to (c) is about to occur to the Supplier.

12.3 On cancellation/termination of the Contract by **DIAGEO**, the Supplier will immediately return to **DIAGEO**, any of **DIAGEO's** property held by the Supplier. **DIAGEO** may enter the Supplier's premises to recover such property.

12.4 The rights set out in this Condition 12 are in addition and without prejudice to **DIAGEO's** other legal rights and remedies.

13. CANCELLATION

DIAGEO may at its option cancel the Contract in whole or in part with respect to any undelivered Goods or Services not performed to completion. **DIAGEO's** only obligation for cancelling the Contract covering standard stock Goods will be to pay for Goods shipped prior to cancellation. If **DIAGEO** cancels the Contract covering Goods made to its specification or for Services performed and initiated at its request, and the Supplier is not in breach of the contract, the Purchase Order or these Conditions subject to delivery and/or performance of the same, **DIAGEO** will pay the Supplier the agreed unit price for Goods completed and/or Services performed calculated as a reasonable percentage of the agreed completed Services price, and also the direct and proven costs arising from the manufacture of

the Goods incurred by the Supplier before the Supplier received notice of cancellation. Under no circumstances will the total payment upon cancellation exceed the total Contract price. **DIAGEO** will not be liable for prospective or anticipated profits by reason of such cancellation or other economic or consequential loss.

14. ASSIGNMENT AND SUBCONTRACTING

14.1 **DIAGEO** may assign the Contract and its rights and obligations to any other company directly or indirectly owned and/or controlled by Diageo plc.

14.2 The Supplier may not without **DIAGEO's** prior written consent assign, mortgage, charge or dispose of any of its rights or obligations, or sub-contract or otherwise delegate performance of its obligations. The Supplier will remain fully responsible for any Services and/or Goods provided by a sub-contractor.

14.3 The Supplier will on request provide **DIAGEO** with full details of any suppliers to the Supplier of goods or services which are or are intended to be incorporated in the Goods and/or Services supplied to **DIAGEO**.

15. MISCELLANEOUS

15.1 Nothing in this Agreement will create, or be deemed to create, a partnership or the relationship of principal and agent or employer and employee between **DIAGEO** and the Supplier.

15.2 The Contract contains the entire agreement between the parties with respect to its subject matter, and may only be modified by a written document signed by duly authorised representatives of both parties.

15.3 **DIAGEO** may from time to time alter these Conditions in such manner as it determines. Such alteration will, however, not affect any Contract that **DIAGEO** may have entered into with the Supplier prior to the alteration.

15.4 The Supplier acknowledges that, in entering into the Contract, the Supplier does not do so on the basis of, nor rely on, any representation, warranty or other provision except as expressly set out in the Purchase Order.

15.5 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable in whole or part, the Contract will continue to be valid as to its other provisions.

15.6 A reference to a condition in these Conditions is a reference to a clause of these Conditions.

16. NOTICES

16.1 Any notice required or authorised under these Conditions to be given by a party to the other will be given by delivering it by hand or sending it by pre-paid recorded delivery post to the other party at its registered office and marked for the attention of the General Manager or to such other address as may be agreed from time to time, or sending it by facsimile transmission.

16.2 Any notice sent by facsimile will be deemed to have been received immediately provided that the transmission slip is retained and the original is sent by recorded delivery post (as set out in Condition 16.1) within 24 hours of transmission.

17. GOVERNING LAW

These Conditions and any Contract of which these Conditions form part will be governed by the laws of the Kingdom of Thailand and the parties submit to the exclusive jurisdiction of the courts of Thailand.