



Supply Agreement

STANDARD TERMS FOR THE PROVISION OF EQUIPMENT

1. Interpretation

1.1. In these Terms:
"Consumables" means any concentrates, cups and other products required for the use of the Equipment;
"Contract" means either standard or enhanced contract for the provision of the Equipment by Big Zero Refreshments Ltd to the Customer on the terms hereinafter appearing;
"Customer" means the person named in the Schedule to which these terms are attached, who accepts Big Zero Refreshments Ltd's terms for the provision of the Equipment;
"Equipment" means the equipment described in the Schedule and any part of it;
"Minimum Purchasing Requirement" means Consumables, at a rate of 2 x20 litres per calendar month or such other amount as may be notified in writing by Big Zero Refreshments Ltd to the Customer;
"Big Zero Refreshments Ltd whose registered office is: Melton Grove Works, Church Road, Lytham, Lancashire FY8 5PL also referred to herein as BZR
"Schedule" means the Schedule to which these terms are attached;
"Year" means the period of 12 months from the Commencement Date (as hereinafter defined) and each consecutive period of 12 months thereafter during the period of the Contract.
In these Terms references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.
In these conditions headings will not affect the construction of these conditions.

2. Provision of Equipment

2.1. In consideration of the Customer agreeing to perform the obligations upon it set out herein, agree BZR to loan to the Customer the Equipment upon the terms and subject to the conditions hereinafter appearing.
2.2. In the event that the Customer shall be found at any time not to be in possession of the Equipment, BZR may immediately charge the Customer the sum of £3000 per machine for the full replacement cost.

3. Commencement and Duration

The Standard Contract will commence on the Commencement Date and (subject to early termination in accordance with clause 11), shall continue for a minimum period of 12 months and shall continue thereafter unless and until terminated by either party giving the other party not less than three months written notice.
The Enhanced Contract will commence on the Commencement Date and (subject to early termination in accordance with clause 11), shall continue for a minimum period of 12 months and shall continue thereafter unless and until terminated by either party giving the other party not less than three months written notice.

4. Use of the Equipment

4.1. The Customer may only use the Equipment at the premises stated in the Schedule and in the location at which it is installed by BZR for the purpose of dispensing products supplied by BZR. The Customer shall only use Consumables supplied by BZR. The equipment is not to be used and the Customer will not permit it to be used for any other purpose.
4.2. The Customer agrees that it will not:-
4.2.1. without the prior consent of BZR effect any mechanical or other modification to the Equipment, make any alterations or additions, or fit other accessories, and where prior consent has been given, thereafter any such additions, alterations or modified parts which may be made or fitted shall become part of the Equipment and shall belong to BZR;
4.2.2. remove or interfere with any identification marks or plates affixed to the Equipment or attempt to do so nor permit any other person to do the same;
4.2.3. add to or remove from the Equipment any advertising material, label or logo except with the written agreement of BZR;
4.2.4. use any Consumables in connection with the Equipment other than those supplied by or approved by BZR (except as expressly agreed by BZR).
4.2.5. use any concentrate not supplied by BZR. If BZR prove the Customer has used the equipment supplied by BZR. BZR may immediately charge the Customer £1000 excluding Value Added Tax.

5. Initial Obligations of BZR

BZR shall:
5.1. deliver the Equipment to the address stated in the Schedule;
5.2. install the Equipment at the location at the Customer's premises stated in the Schedule;
5.3. provide training for at least one member of the Customer's personnel in the operation, cleaning and maintenance procedures required for the proper operation of the Equipment, and shall provide one copy of written instructions for the procedures thereby demonstrated;

6. Duties of BZR

BZR shall, during the continuance of the Contract and in the event that the Equipment becomes unserviceable (other than as a result of the negligence or misuse by the Customer or the failure by the Customer to follow the maintenance or cleaning instructions given by BZR to the Customer pursuant to clause 5.3, or theft, vandalism or accidental damage) deliver to the Customer replacement Equipment (not necessarily of the same type and age as the Equipment) within 14 days of receipt of notification from the Customer requesting the same (or as soon thereafter as is reasonably practicable).

7. Duties of the Customer

The Customer shall during the continuance of the Contract:-
7.1. ensure that the Equipment is only operated in accordance with the instructions for its use and by an appropriately trained person;
7.2. indemnify BZR against all fines, penalties and liabilities imposed on BZR or arising in respect of any non-compliance or contravention of law or regulation applying to the operation and use of the Equipment (including, without limitation, all laws and regulations relating to food hygiene) by the Customer or any employee, officer or agent of the Customer, together with any costs or expenses relating thereto incurred by BZR;
7.3. not take or allow the Equipment to be taken from the Customer's premises stated in the Schedule, or move the Equipment from the position from which it is installed by BZR, without receiving The prior written authority of BZR;
7.4. bear the cost of the repair or rectification of any damage to the Equipment resulting from negligence or improper use of the Equipment by the Customer or any employee, officer or agent of it or which is accidentally or willfully damaged by any other person present on the Company's premises (other than an employee, officer or agent of BZR);
7.5. not sell, assign, mortgage, let or hire or otherwise dispose of or part possession of the Equipment for any part thereof;
7.6. take all necessary steps as an expense to retain and recover possession and control of the Equipment of which the Customer loses possession or control;
7.7. permit BZR or its authorised representatives at all reasonable times to enter upon the premises where the Equipment may from time to time be kept, to inspect and test the condition of the same;
7.8. in respect of the condition and maintenance of the Equipment, be solely responsible at its own cost for:-
7.8.1. regularly cleaning and maintaining the Equipment in accordance with the instructions given by BZR to the Customer pursuant to clause 5.3;
7.8.2. keeping accurate records of the maintenance and cleaning of the Equipment;
7.8.3. promptly informing BZR of any damage to the Equipment or any malfunction or breakdown in its operation;
7.8.4. promptly informing BZR of the theft or loss of possession of the Equipment.
7.9. not use or operate or permit the Equipment to be used or operated in a manner contrary to any statutory provision or regulation or in any way contrary to law having regard

in particular (but without prejudice to the generality of the foregoing) to the

regulations effecting maintenance and usage of food dispensing equipment;

7.10. not turn the machine off at any time except in the case of emergency or for the purposes of cleaning or maintenance in accordance with clause 7.8 hereof; and
7.11. purchase from BZR in each year the Minimum Purchasing Requirements or if the contract is terminated by the Customer provide compensation for the period of the Contract up to the Minimum Purchasing Requirement or the amount of the previous year's sales, whichever is higher. This figure will be divided by 12 and multiplied by the number of months remaining of the contract.

8. Insurance

8.1. The Customer shall throughout the term of the Contract keep the Equipment (including any replacement Equipment provided under clause 6) insured with an insurance company of good repute against loss or damage from all risks (including third party risks). The Customer shall notify its insurers that the Equipment is on loan (value of £3,000 per machine) from BZR and request the insurers to endorse a note of such interest on the policy of insurance naming BZR as loss payee.
8.2. The customer shall on demand produce to BZR the policy of insurance, the premium receipts and Insurance Certificate and shall not allow the Equipment to be used for any purpose not permitted by the terms and conditions of the said policy or do or allow to be done any act or thing whereby such insurance may be invalidated.
8.3. If the Equipment or any part of it is declared a total loss, the loan thereof by BZR shall terminate, and in such event BZR shall provide replacement Equipment of a similar make and type, which replacement shall be deemed to be included in the Contract for all purposes as if such loss had not taken place. BZR shall use its reasonable endeavours to provide such replacement within [14] days of receiving notice from the Customer of such loss.

9. General Liability

9.1. The Customer shall be solely responsible for and hold BZR fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by BZR as a result of the use by the Customer of the Equipment (other than death or personal injury resulting from the negligence of BZR, its employees or agents).
9.2. The loan of the Equipment by BZR is not subject to any condition or express, implied or statutory warranty in connection with the fitness for any purpose of the Equipment and any conditions and warranties are hereby expressly excluded insofar as permitted by statute and (save for BZR's liability for death or personal injury caused by the negligence of BZR, its employees or agents), BZR will not be responsible for any liability, claim, loss, damage or expense of any kind or nature caused directly or indirectly by the Equipment or its use.
9.3. BZR shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs of expenses or other claims for consequential compensation whatsoever (and however caused) which arise out of or in connection with the Contract.
9.4. The Customer will be solely responsible for and hold BZR fully indemnified against, all claims, demands, liabilities, losses, damages, proceedings, costs and expenses suffered or incurred by BZR as a result of any breach or default on the part of the Customer in the discharge of its obligations hereunder.

10. Ownership

10.1. The Equipment shall at all times remain the property of BZR and the Customer shall have no rights to the Equipment other than as bailee of the Equipment and the Customer shall not do or permit or cause to be done any matter or thing whereby the rights of BZR in respect of the Equipment is or may be prejudicially affected. BZR
10.2. Without prejudice to clause 2 or its authorised representatives may at any time and without notice take repossession of the Equipment and for such purpose may enter upon any premises where it is stored or installed.
10.3. The provisions of clause 3 shall be without prejudice to any claim that BZR may have for damages for any breach by the Customer of the Contract, or any other rights hereunder.

11. Termination

11.1. BZR shall be entitled to terminate the Contract by giving written notice to the Customer if:-
11.1.1. the Customer commits a continuing or material breach of the Contract and, if the breach is capable of remedy fails to remedy it within 30 days after receipt of a written notice giving full particulars of the breach requiring to be remedied;
11.1.2. if in any year the Customer fails to purchase the Minimum Purchasing Requirement, or fails to purchase any consumables in any calendar month;
11.1.3. if any distress, execution, or other legal process shall be levied on or against the Equipment or any part thereof or against any premises where the same may be located, or against any of the Customer's goods or property, or the Customer shall permit any judgment against it to remain unsatisfied for 7 days or more;
11.1.4. if the Customer, being an individual, shall die, shall suffer an interim order (within the meaning of the Insolvency Act 1986) to be made against him or enter into a voluntary arrangement or suffer the making of a statutory demand or the presentation of a petition for a bankruptcy order;
11.1.5. if the Customer, being a body corporate, shall enter into any liquidation, shall call any meeting of its creditors, or shall have a receiver appointed overall or any of its undertaking or assets, or shall suffer the appointment or the presentation of a petition for the appointment of an Administrator under the provisions of Part II of the Insolvency Act 1986, or shall be deemed by virtue of Section 123 of the Insolvency Act 1986 to be unable to pay its debts; or
11.1.6. if the Customer ceases to trade from the premises at which the Equipment is located.
11.2. On termination of the Contract howsoever or whenever occasioned or on the expiry of the loan period, the Customer shall no longer be in possession of the Equipment with BZR's consent and shall (unless otherwise agreed in writing with BZR) make the Equipment available for collection.

12. Force Majeure

12.1. BZR does not accept responsibility for any failure or delay in the performance of its obligations caused by circumstances beyond its control, including, without limitation, acts of God, governmental actions, or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lockouts, strikes or other labour disputes (whether or not relating to the workforce of either party to the Contract), or any inability or delay in obtaining supplies of adequate or suitable materials.

13. Forbearance

13.1. No forbearance indulgence or relaxation on the part of BZR shown or granted to the Customer in respect of any of the provisions of the Contract, shall in any way effect, diminish, restrict or prejudice the rights or powers of BZR under the Contract or operate as or be deemed to be a waiver of any breach by the Customer of the terms and conditions of the Contract.

14. Concurrent Remedies

14.1. No right or remedy herein conferred upon or reserved to BZR is exclusive of any other right or remedy herein, or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder, or now or hereafter existing, and may be enforced concurrently therewith or from time to time.

15. Notices



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Any notice hereunder shall be in writing and may be served by sending it by recorded delivery post to the address stated in the Schedule.

16. Governing Law

The Contract shall be governed by and construed in accordance with the Law of England and the parties submit to the exclusive jurisdiction of the English courts.



Supply Agreement

STANDARD TERMS & CONDITIONS OF SALE OF CONSUMABLES

1. Interpretation

- 1.1. In these Terms:
"Contract" means any contract between Big Zero Refreshments Ltd and the Customer for the sale and purchase of the Goods, incorporating these Conditions;
"Customer" means the person whose order for the Goods is accepted by Big Zero Refreshments Ltd;
"Delivery Point" means the place where delivery of the Goods is to take place under condition 4;
"Goods" means any goods (except drink dispensing machines) agreed in the Contract to be supplied to the Customer by Big Zero Refreshments Ltd (including any part or parts of them);
"Big Zero Refreshments Ltd" also known as "BZR" whose registered office is Melton Grove Works, Church Road, Lytham, Lancashire FY8 5PL.
"Terms" means the standard terms of sale set out in this document and (unless the context otherwise requires) includes any special terms agreed in Writing between the Customer and BZR;
"Writing" (and any similar expression) includes comparable means of communication including electronic mail.
- 1.2. In these Terms references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.
- 1.3. In these Terms references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.
- 1.4. In these conditions headings will not affect the construction of these conditions.

2. Application of Terms

- 2.1. Subject to any variation under condition any contract will be subject to these Terms to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2. These conditions apply to all BZR's sales to the Customer and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of BZR.
- 2.3. Each order for Goods by the Customer from BZR shall be deemed to be an offer by the Customer to purchase Goods subject to these Terms.
- 2.4. The Customer must ensure that the terms of its order are complete and accurate.

3. Description

- 3.1. The Customer shall be responsible for ensuring the accuracy of terms of any order submitted by it. The quantity and description of the Goods shall be set out in the Customer's order, if accepted by BZR.
- 3.2. All drawings, descriptive matter, specifications and advertising issued by BZR and any descriptions or illustrations contained in BZR's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of the Contract.

4. Delivery

- 4.1. Unless otherwise agreed in writing by BZR delivery of the Goods shall take place at the Delivery Point as stated in the Customer's order.
- 4.2. Any dates specified by BZR for delivery of the Goods are intended to be an estimate and time for delivery shall not be of the essence of the Contract unless previously agreed in Writing by BZR. The Goods may be delivered by BZR in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 4.3. If for any reason the Customer fails to take delivery of the Goods or BZR is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations then without limiting and other right or remedy available to BZR, BZR may store the Goods until actual delivery whereupon the Customer will be liable for all related costs and expenses (including without limitation storage and insurance).
- 4.4. The Customer will provide at its expense at the Delivery Point adequate and appropriate equipment and manual labour for unloading the Goods.

5. Non-delivery

- 5.1. The quantity of any consignment of Goods as recorded by BZR upon despatch from BZR's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 5.2. BZR shall not be liable for any non-delivery of Goods (even if caused by the BZR's negligence) unless written notice is given to BZR within 7 days of the date when the Goods would in the ordinary course of events have been received.
- 5.3. Any liability of BZR for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note against any invoice raised for such Goods.

6. Risk/Title

- 6.1. The Goods are at the risk of the Customer from the time of delivery or if the Customer wrongfully fails to take delivery of the Goods, at the time when BZR has tendered delivery of the Goods.
- 6.2. Notwithstanding delivery and the passing of risk in the Goods, ownership of the Goods shall not pass to the Customer until BZR has received in full (in cash or cleared funds) all sums due to it in respect of:
- 6.2.1 the Goods; and
- 6.2.2 all other sums which are or which become due to BZR from the Customer on any account.
- 6.3. Until such time as property and the Goods passes to the Customer, the Customer shall hold the Goods as BZR's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and the third parties and properly stored, protected and insured and identified as BZR's property, but the Customer may resell or use the Goods in the ordinary course of its business.
- 6.4. Until such time as the property and the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), the Seller may at any time require the Customer to deliver up the Goods to BZR, and if the Customer fails to do so forthwith, enter on any premises of the Customer or any third party where the Goods are stored and repossess the Goods.
- 6.5. The Customer shall not be entitled to pledge or in any way charge by way of security for indebtedness any of the Goods which remain the property of BZR, but if the Customer does so all monies owing by the Company to BZR shall (without limiting any other right or remedy of BZR) forthwith become due and payable.
- 6.6. BZR shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from BZR.

7. Price

- 7.1. Unless otherwise agreed by BZR in writing the price for the goods shall be the price set out in BZR's price list published on the date of delivery or deemed delivery.
- 7.2. The price for the Goods shall be exclusive of VAT.

8. Payment

- 8.1. Unless otherwise agreed in Writing by BZR, the Customer shall pay for the Goods on delivery.

- 8.2. Time for payment shall be of the essence.
- 8.3. No payment shall be deemed to have been received until BZR has received cleared funds.
- 8.4. The Customer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by BZR to the Customer.
- 8.5. If the Customer fails to pay BZR any sum due pursuant to the Contract the Customer will be liable to pay interest to Big Zero on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of Barclays Banks plc accruing on a daily basis until payment is made, whether before or after any judgment. BZR reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 and Late Payment of Commercial Debts Regulations 2002.
- 8.6. For the avoidance of doubt, in the event that any contract between BZR and the Customer is terminated, BZR shall not be obliged to either take back or repurchase from the Customer any Goods ordered or purchased by it.
- 8.7. Without prejudice to any other right or remedy of BZR, if the Customer fails to make any payment on the due date, BZR shall be entitled to Charge the Customer liquidated damages reflecting loss to BZR as follows:-
- 8.7.1. the sum of £7.50 or £15.00 for each letter that BZR or BZR's legal representatives (respectively) send to the Customer requiring payment of the outstanding sums; and
- 8.7.2. 5% of the amount outstanding in respect of commission charged by BZR's legal representatives in pursuing the outstanding sums;
- 8.7.3. fixed costs, disbursements and other expenses in issuing a summons in the County Court or in commencing insolvency proceedings (including the issue of statutory demands), such sums to be charged in accordance with the scales for court fees and costs currently in existence from time to time; and
- 8.7.4. £500.00 in respect of taking steps towards either court or insolvency proceedings (if such proceedings are not concluded).
- 8.8. BZR reserves the rights to claim its reasonable debt recovery costs under the Late Payment of Commercial Debts Regulations 2002.

10. Limitation of Liability

- 10.1. The following provisions set out the entire financial liability of BZR (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 10.1.1. any breach of these conditions; and
- 10.1.2. any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2. All warranties, conditions and other terms, implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3. Nothing in these conditions excludes or limits the liability of BZR for death or personal injury caused by BZR's negligence or fraudulent misrepresentation.
- The Customer's attention is in particular drawn to the provisions of condition 10.4.**
- 10.4. Subject to conditions 10.2 and 10.3:
- 10.4.1. BZR's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the price of the Goods; and
- 10.4.2. BZR shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

11. Assignment

- 11.1. The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of BZR.
- 11.2. BZR may assign the Contract or any part of it to any person, firm or BZR.

12. Force Majeure

- 12.1. BZR reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of BZR including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials provided that, if the event in question continues for a continuous period in excess of 180 days, the Customer shall be entitled to give notice in writing to BZR to terminate the Contract.

13. General

- 13.1. Each right or remedy of BZR under the Contract is without prejudice to any other right or remedy of BZR whether under Contract or not.
- 13.2. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, enforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 13.3. Failure or delay by BZR in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- 13.4. Any waiver by BZR of any breach of, or any default under, any provision of the Contract by the Customer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 13.5. The parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 13.6. The formation, existence, constructions, performance, validity and all aspects of the Contract shall be governed by English Law and the parties submit to the exclusive jurisdiction of the English courts.

14. Communications

- 14.1. All communications between the parties about this Contract must be in writing and delivered by hand or sent pre-paid first class post:
- 14.1.1. (in case of communications to BZR) to its registered office or such changed address as shall be notified to the customer by BZR; or
- 14.1.2. (in the case of the communications to the Customer) to the registered office of the addressee (in the case of a limited company) or (in any other case) to any address of the Customer set out in any document which forms part of this Contract or such other address as shall be notified to BZR by the Customer.
- 14.2. Communications shall be deemed to have been received:
- 14.2.1. if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
- 14.2.2. if delivered by hand, on the day of delivery;
- 14.3. Communications addressed to BZR shall be marked for the attention of the Managing Director.