

## **DISTRIBUTION AGREEMENT**

**THIS AGREEMENT** is made between \_\_\_\_\_ with an address of \_\_\_\_\_ (“Brewery”) and Vecenie’s Distributing Co. with an address of 140 North Ave, Pittsburgh, PA 15209 (“Distributor”) and is based upon the following:

### **RELEVANT FACTS:**

A. Brewery is a manufacturer and brewer of malt beverages in the State of \_\_\_\_\_, duly licensed by the \_\_\_\_\_, and desires Distributor to distribute its Products in certain Territories.

B. Distributor is a wholesale distributor in Pennsylvania, licensed by the Pennsylvania Liquor Control Board as an importing distributor, and desires to distribute the Brewery’s Products within certain Territories.

NOW, THEREFORE, intending to be legally bound, the parties agree as follows:

1. Appointment. Brewery hereby appoints Distributor as its Distributor in the Territory for the Products as defined below. If Brewery is a Pennsylvania manufacturer as defined in 47 Pa.C.S.A. § 4-431, this appointment shall be considered a secondary agreement with Brewery retaining the primary and exclusive rights.

2. Products. Brewery agrees to sell and Distributor agrees to purchase on a cash-on-delivery basis the malt beverage Products listed in Schedule A (“Products”) subject to the terms of this Agreement.

3. Territory. Distributor shall have the exclusive right to purchase the Products for resale in the Territory described in Schedule B. Except pursuant to written authorization by Brewery, Distributor shall not sell or supply the products to any location outside the Territory.

4. Term. This Agreement shall commence on June 15th, 2019 and shall terminate on July 15th, 2018 (“Termination Date”) when it shall automatically terminate in accordance with this Agreement. Upon the Termination Date, the Release of Brand Rights, in the form attached hereto as Schedule C, shall become effective. Distributor shall deliver to Brewery an executed Release of Brand Rights, in the form attached hereto as Schedule C, with the delivery of this Agreement.

5. Terms of Sale.

5.1 Prices for the Products shall be prices established by Brewery in effect on the date the order is accepted. Brewery shall have the right to change its prices or other terms of sale in a non-discriminatory manner and will notify Distributor thirty (30) days in advance of any changes. Brewery shall offer such prices to Distributor as it offers to other distributors of Brewery’s Products.

5.2 Brewery shall have the unqualified right to manage and conduct its business in all respects and shall be free at all times to maintain or alter the formula, ingredients, labeling or packaging of its Products; to produce or sell any particular Product or brand; and to discontinue the sale of any Products, packages or containers in the Territory.

5.3 Risk of loss shall pass to Distributor when Brewery delivers the Products to the carrier for shipment to Distributor; except Distributor retains the right to inspect Products or reject the same upon delivery of the Products to Distributor.

5.4 All kegs and pallets shall remain the property of Brewery and shall be returned to Brewery in accordance with its instructions. Distributor shall make arrangements for the delivery of the Brewery's Products to Distributor's warehouse and shall be responsible for any costs of freight in addition to the price.

6. Intellectual Property. Distributor acknowledges that Brewery has the exclusive ownership and other rights in the various trademarks, tradenames, servicemarks, trade dress and other trade designations relating to the Brewery's business and Products (hereinafter "Intellectual Property"). Brewery grants Distributor non-exclusive, non-assignable, non-licensable privilege to use this Intellectual Property only in a lawful manner in connection with the distribution, advertising, display, promotion and sale of the Products. This privilege shall terminate upon the termination of this Agreement. The Brewery's Intellectual Property shall be used in manners, forms and context specified or approved in writing by Brewery and, upon Brewery's request, Distributor shall change or discontinue the way in which Distributor uses any of this intellectual property.

7. Pennsylvania State-Mandated Provisions. Brewery recognizes that the Distributor is free to manage its business in the manner the Distributor deems best and that this prerogative vests in the Distributor the exclusive right to establish a selling price, to select the brands of malt or brewed beverages they wish to handle, and to determine the efforts and resources which the Distributor will exert to develop and promote the same of the Brewery's Products handled by the Distributor. However, the Brewery expects that the Distributor will price competitively the Products handled by them, devote reasonable effort and resources to the sale of such Products, and maintain a reasonable sales level.

8. Transfer or Assignment. Distributor agrees that it will not transfer or agree to transfer any franchise rights and obligations contained in this Agreement.

9. Indemnity. Brewery shall hold harmless, indemnify and defend Distributor from any claims of products liability or in any way related to Brewery's production of the Products and/or claims of Intellectual Property infringement excepting only any claims which result from the Distributor's negligence or intentional acts. Distributor agrees to hold harmless, indemnify and defend Brewery from any claims which result from Distributor's sole negligence and/or intentional act involving the Products or distribution of the Products. These indemnities shall include, without limitation, any and all claims for the other party's attorneys' fees, court costs and expert witness fees.

10. Notices. All notices that are required or permitted to be given under this Agreement shall be in writing signed by the party giving notice and, unless otherwise specified herein or by law, shall be transmitted by personal delivery or by certified mail to the addresses which appear in this Agreement.

11. Entire Agreement. This Agreement contains the entire understanding of the parties and no representation, promise, inducement or statement of intention other than set forth in this Agreement has been made by Brewery or Distributor and neither party shall be bound or liable for any alleged representation, promise, inducement or statement of intention.

12. No Waiver. Failure of the Distributor or Brewery at any time or times to enforce any provision of this Agreement shall in no way be construed as a waiver of such provision and shall not affect any party's right at a later time to enforce each and every provision.

13. Amendment. This Agreement may only be amended by a writing signed by the duly authorized officer of the parties.

14. Invalidity. If any provision, or portion thereof, of this Agreement is invalid or enforceable under applicable statute or rule of law, that provision only shall be deemed omitted and the other provisions of this Agreement shall remain in full force and effect.

15. Governing Law. This Agreement shall be interpreted under and governed by Pennsylvania law which is hereby incorporated into and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the  
15th day of June, 2019.

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

ATTEST:

\_\_\_\_\_

Vecenie's Distributing Company

By: \_\_\_\_\_

Name:

Title:

**SCHEDULE A**

**PRODUCTS**

Brewery grants Distributor the right to distribute all of its brands.

**SCHEDULE B**

**TERRITORY**

The Territory shall consist of:

- 1) the territory known as 834 Bessemer Street, Meadville PA 16335; and
- 2) to the extent required by Pennsylvania law that the Territory be contiguous, the Territory shall include the area comprising the most direct public thoroughfare which connects the territory identified in Sections 1) and 2) above to the extent necessary to meet Pennsylvania Liquor Control Board rules and requirements.

**SCHEDULE C**

**FORM OF BRAND RELEASE**

**RELEASE OF BRAND RIGHTS**

Effective as of the date below, Vecenie's Distributing Co. hereby releases any and all right, title and interest it had to the brand and/or franchise rights of \_\_\_\_\_ brands including, without limitation, all brands and malt beverages identified in a certain Distribution Agreement executed between the parties dated June 15<sup>th</sup>, 2019 and such brand and/or franchise rights are hereby assigned and returned back to \_\_\_\_\_.

Vecenie's Distributing Company

BY: \_\_\_\_\_

Name:

Title:

Dated: