

## **DoorDash Alcohol Addendum**

**1. BACKGROUND.** The Parties entered into the Agreement to market and deliver Merchant Products to consumers in certain markets in the United States. Merchant is a licensed alcoholic beverage retailer, and the Parties wish to incorporate the following terms specific to Alcohol Products to consumers in some or all of the Applicable Jurisdictions. In consideration of the mutual covenants and agreements stated in this Addendum, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree to amend the Agreement as follows.

### **2. DEFINITIONS.**

- 2.1. **"Alcohol Laws"** means all federal, state, and local laws pertaining to the sale of Alcohol Products, regulations, ordinances, rules, and Alcohol Product regulatory agency policies.
- 2.2. **"Alcohol Licenses"** means all applicable Alcohol Licenses, permits, license and/or permit endorsements, and/or authorizations from state and/or local Alcohol Product licensing authorities.
- 2.3. **"Alcohol Products"** means alcoholic beverages and other products sold by Merchant.
- 2.4. **"Applicable Jurisdictions"** means California, Florida, Missouri, New York, Oregon, Texas, Virginia, and Washington; Aurora, IL; Chicago, IL; Elgin, IL; Evanston, IL; Joliet, IL; Springfield, IL; and Washington, DC and any other jurisdictions that may be added by the parties via the form attached as Exhibit A.
- 2.5. **"Delivery Records"** means all delivery information that Merchant is required to record or retain by applicable Alcohol Laws.
- 2.6. **"Damages"** means all liability, cost, expense, claim, loss or damages caused by any act or omission by Merchant, including, but not limited to, injury (whether to body, property, personal or business character or reputation) sustained by any person or to any person or to any property relating to the production, sale, and/or delivery of the Alcohol Products which may result from the sale or distribution of the Alcohol Products under this Agreement (but excluding any Damages solely to the extent they arise from the negligence of DoorDash or any Dasher).
- 2.7. **"End Customer"** means the purchasing consumer.
- 2.8. **"Merchant Product"** means a product sold by Merchant.
- 2.9. **"Order"** means an order for Alcohol Products placed by an End Customer.
- 2.10. **"Party"** means DoorDash or Merchant, as the context requires.

### **3. ALCOHOL LAWS.**

- 3.1. **Alcohol Laws.** Merchant will only send orders to DoorDash during hours where alcohol delivery is legal in the Applicable Jurisdiction. Merchant will offer Alcohol Products for delivery only to the extent authorized by Merchant's Alcohol Licenses, and in factory sealed containers authorized under Merchant's Alcohol Licenses and the applicable Alcohol Laws. Merchant will not offer Alcohol Products in "kegs" or other containers the volume of which are 7.75 gallons or more.
- 3.2. **Seller of Record.** Merchant is the seller of all Alcohol Products under the Agreement. Merchant further agrees that it shall be solely responsible for the issuance of any refunds, to the extent permitted under state law. Merchant shall at all times be solely responsible for determining the selection and setting the price of all Alcohol Products sold in connection with this Agreement. For avoidance of doubt, title for all Alcohol Products sold under this agreement shall pass directly from Merchant to the End Customer on Merchant's licensed premises prior to DoorDash taking possession of any Alcohol Products for delivery.
- 3.3. **DoorDash Obligations.** DoorDash holds no federal or state alcoholic beverage retail permits or licenses in its name and DoorDash conducts its activities under this Agreement on Merchant's behalf at Merchant's express direction, and under the authority of Merchant's Alcohol Licenses as Merchant's agent. DoorDash shall not have the authority to offer, solicit, peddle, or sell alcoholic beverages and will not be deemed to have offered, solicited, peddled, or sold any Alcohol Products sold by Merchant. The Parties agree that DoorDash shall not receive any proceeds for the sale of Alcohol Products.
- 3.4. **Change in Laws.** In the event that any government agency or regulatory body provides guidance that any terms of this Addendum are in violation of, or prohibited by, any Alcohol Laws, such terms shall be deemed to be amended or deleted to conform to such Alcohol Laws. Alternatively, in such circumstances, either Party may terminate this Agreement upon written notice to the other Party.

### **4. DELIVERY PROCESS.**

- 4.1. **Merchant Responsibilities.** The Merchant responsibilities mirror those of the Agreement.
- 4.2. **Dasher Responsibilities.** In addition to the DoorDash responsibilities in the Agreement, Dashers will pick up Orders from Merchant's licensed premises and deliver them to the addresses provided by the applicable End Customers. Upon delivering a Order,

Dashers shall: (1) request and review valid, government-issued identification demonstrating that the recipient is 21 years of age or older; (2) verify that the recipient is not visibly intoxicated; and (3) collect and record Delivery Records.

4.3. **Records.** DoorDash will provide all such records to Merchant for Merchant's record-keeping requirements pursuant to Alcohol Laws. Merchant shall maintain and retain Delivery Records in a manner fully compliant with Alcohol Laws. Merchant further agrees to maintain the confidentiality of all End Customer and recipient data contained in the Delivery Records and not use such data for any purpose other than to maintain records as required by Alcohol Laws. Merchant agrees to indemnify, defend, and hold harmless DoorDash against all liabilities, damages, and costs incurred by DoorDash as a result of any violation by Merchant of this provision.

5. **STATE-SPECIFIC PROVISIONS.** If Merchant operates locations in the following states, these provisions will apply. Merchant acknowledges these state-specific provisions are not inclusive of all Alcohol Laws, and that Merchant may be subject to additional Alcohol Laws.

5.1. **Florida:** Dashers assigned to deliver orders containing Alcohol Products will act as agents of the End Customer.

5.2. **Texas:** Merchant will not offer (1) delivery of Alcohol Products in excess of 5.0% ABV or (2) delivery to addresses in dry counties or counties or localities where the sale or delivery of Alcohol Products is prohibited. Merchant represents and warrants that it has the necessary capabilities to accurately comply with wet and dry regulatory restrictions in Texas.

5.3. **Oregon:** Merchant warrants that it has obtained Same-Day Delivery approval from the Oregon Liquor Control Commission. Merchant will affix a notice to the outermost surface of each package containing Alcohol Products that states: "Contains alcohol: signature of person age 21 years or older required for delivery". Merchant further agrees that it will not send DoorDash orders (i) containing Alcohol Products after 8:30 p.m. or (ii) containing a quantity of Alcohol Products that exceeds the quantity limitation imposed by OR. Admin. Rs. 845-006-0392, 845-006-0396, and any other applicable state laws or regulations for the time of day at which the order is placed.

5.4. **Missouri:** Merchant will affix a notice to the outermost surface of each package containing Alcohol Products that states: "CONTAINS ALCOHOL; SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY."

5.5. **Virginia:** Dashers assigned to fulfill orders containing Alcohol Products will act as agents of the Merchant in compliance with Va. Code Ann. § 4.1-212.1(C). Pursuant to 3 Va. Admin. Code 5-70-225(F), Merchant will affix a notice in 16-point type or larger in a conspicuous location on the outside of each package of Alcohol Products to be delivered in Virginia that states: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Such notice shall also contain the Merchant's Delivery Permit number.

5.6. **Washington:** Merchant will affix a notice to the outermost surface of each package containing Alcohol Products that states all of the following: (a) the package contains "liquor"; (b) the recipient must be 21 years of age or older; and (c) delivery to intoxicated persons is prohibited.

## 6. PAYMENTS AND PROCESSING.

6.1. **Processing.** The End Customer's payment for all Orders containing Alcohol Products shall be processed by a third-party payment processor, and all proceeds for Orders shall be remitted to Merchant. Merchant agrees that it shall pay DoorDash any fees due to DoorDash under this Agreement by authorizing Stripe to remit such fees to DoorDash after Orders are processed and Merchant has received all sales proceeds for Orders.

### 6.2. Returns.

6.2.1. DoorDash shall not process any returns, exchanges, or substitutions of Alcohol Products that have been delivered to End Customers. DoorDash will inform End Customers that requests for returns or exchanges should be handled directly by Merchant, in accordance with Merchant's standard return policy. Merchant will handle all End Customer support issues relating to such refunds or returns.

6.2.2. An Alcohol Product will be deemed undeliverable in the following circumstances: (i) the recipient does not present valid identification indicating that he or she is at least 21 years of age, (ii) the recipient is visibly intoxicated; (iii) the recipient is not available to receive the delivery; (iv) the Alcohol Product is damaged prior to delivery to the recipient; or (v) there are other circumstances that would render the delivery of the Alcohol Product unreasonable or unlawful, as determined in DoorDash's sole discretion. In the event that an Alcohol Product is undeliverable, DoorDash will communicate to Merchant that the delivery was not completed and Pursuant to Merchant's direction, DoorDash shall return the Alcohol Product to the Merchant Location from which it was picked up.

7. **REPRESENTATIONS AND WARRANTIES.** In addition to the representations and warranties set forth in the Agreement, and notwithstanding anything in the Agreement to the contrary, the Parties make the following representations, warranties, and covenants.

7.1. **Mutual.** DoorDash and Merchant hereby represent and warrant that each complies and shall continue to comply during the term of the Agreement with all applicable laws necessary for each to perform its obligations under this Addendum and the Agreement.

7.2. **DoorDash.** DoorDash hereby represents and warrants that it shall ensure that Dashers fulfilling Orders that include Alcohol Products: (1) will be 21 years of age or older; (2) will have received orientation materials relating to the delivery of Alcohol Products in accordance with Alcohol Beverage Laws, including verifying that recipients are at least 21 years of age and identifying whether individuals are visibly intoxicated; and (3) will collect information required for record-keeping purposes by Alcohol Laws.

7.3. **Merchant.** Merchant hereby represents and warrants that Merchant (i) shall promptly inform DoorDash of any regulatory or governmental inquiry that could reasonably jeopardize Merchant's legal ability to sell or deliver Alcohol Products or otherwise perform its obligations under this Agreement; (ii) holds and will maintain in good standing throughout the term of this Agreement the Alcohol Licenses required for the sale of Alcohol Products directly to consumers in Applicable Jurisdictions, including but not limited to any Alcohol Licenses required to accept orders for Alcohol Products from consumers direct or through a third party via the internet and/or to deliver Alcohol Products to End Customers; and (iii) currently complies with and will continue to comply with all Alcohol Laws, and that it is responsible for alcoholic beverage regulatory compliance related to DoorDash's activities and any sales or deliveries of Alcohol Products under this Agreement.

8. **INDEMNIFICATION.** The Indemnifying Party will defend, indemnify, pay and hold harmless the Indemnified Party from and against any third-party claims arising from the breach of any representations or warranties or covenants made under this Addendum. Notwithstanding the foregoing, Merchant assumes all responsibility for, shall bear all liabilities and expenses and shall indemnify and hold DoorDash harmless from all Damages caused by any act or omission by Merchant, including, but not limited to, injury (whether to body, property, personal or business character or reputation) sustained by any person or to any person or to any property relating to the production, sale, and/or delivery of the Alcohol Products which may result from the sale or distribution of the Alcohol Products under this Agreement (but excluding any Damages solely to the extent they arise from the negligence of DoorDash or any Dasher).

9. **LIMITATION OF LIABILITY.** THE PARTIES AGREE THAT (i) NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THIS ADDENDUM, FOR INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, AND (ii) EACH PARTY'S MAXIMUM AGGREGATE LIABILITIES RELATED TO OR IN CONNECTION WITH THIS ADDENDUM SHALL NOT EXCEED THE TOTAL AMOUNT PAID OR PAYABLE BY ONE PARTY TO THE OTHER PARTY UNDER THE AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING ANY CLAIM.

10. **CONFLICT.** If there is a conflict between the provisions of this Addendum and the Agreement, the provisions of this Addendum will control.