



THIS AGREEMENT is made the 16 day February 2016

**BETWEEN:**

- (1) **HEINEKEN INTERNATIONAL B.V.** (Company Number: 33103545) whose registered office is at Tweede Weteringplantsoen 21, 1017 AD, Amsterdam, Netherlands ("Heineken"); and
- and
- (2) **PUNCH TAVERNS PLC** (Company Number: 03752645) whose registered office is at Jubilee House, Second Avenue, Burton Upon Trent, Staffordshire, DE14 2WF ("Punch").

Heineken and Punch are hereinafter referred to as the "**Parties**" or either one thereof as "**Party**".

**WHEREAS:**

Punch has, and will continue to, provide Heineken with confidential documents and information for their review to allow discussions and information exchange to take place between the Parties in relation to Project Chiltern (the "**Project**"). During the course of the discussions, information of a commercial, technical or proprietary nature may be disclosed by a Party to the other Party and accordingly the Parties agree that such disclosure shall be subject to the terms set out herein.

**NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:**

1. In this Agreement:

1.1 "**Affiliate**" means any holding company or subsidiary company of a Party or any company which is a subsidiary company of the holding company of that Party and the expressions "holding company" and "subsidiary" shall have the meanings respectively ascribed thereto by Section 1159 of the Companies Act 2006;

1.2 "**Confidential Information**" means:

- (a) all and any information, documents, data and opinions disclosed by or on behalf of a Party to the other Party including without limitation commercial, financial or proprietary material, pricing information, data, know-how, formulae, processes, operating methods and procedures, results, designs, drawings, specifications, industrial and or intellectual property, computer programmes or other software and any other information relating to the Project, this Agreement and the business of either Party whether in written (including electronic), pictorial, visual or oral form or disclosed pursuant to discussions with any of the Affiliates, officers, employees, agents, advisors or consultants of a Party and

whether or not marked as confidential;

- (b) information of whatever nature relating to the business or properties of a Party obtained by observation during visits to its premises or those of its Affiliates or those of any third party instructed, engaged, or retained in any way whatsoever by a Party; and
- (c) analyses, compilations, studies and other documents prepared by either or both of the Parties, its officers, employees, agents, advisors or consultants which contain or otherwise reflect or are generated from the information specified in paragraph (a) or (b) above.

The term "**Confidential Information**" does not include any information which (i) at the time of disclosure or thereafter is generally available to the public (other than as a result of its disclosure by the Receiving Party or, where applicable, its Representatives in breach of this Agreement), (ii) was available to the Receiving Party or its Representatives on a non-confidential basis prior to disclosure by the Disclosing Party, (iii) was, is, or becomes available to the Receiving Party or its Representatives on a non-confidential basis from a person who, to the Receiving Party's knowledge, is not otherwise bound by a confidentiality agreement with the Disclosing Party, or is not otherwise prohibited from transmitting the information to the Receiving Party or its Representatives, or (iv) is independently developed by the Receiving Party or on its behalf without violating any of the obligations under this Agreement;

- 1.3 "**Disclosing Party**" means the Party disclosing Confidential Information to the Receiving Party or the Party to whom the Confidential Information belongs;
  - 1.4 "**Receiving Party**" means the Party in receipt of Confidential Information from the Disclosing Party or otherwise acquired by that Party;
  - 1.5 "**Permitted Purpose**" means the analysis or use of Confidential Information in connection with the Project; and
  - 1.6 "**Representatives**" means the employees, directors, officers, members and outside professional advisors (including attorneys, accountants, consultants and financial advisors) of a Party or the employees, officers or outside professional advisers of a Party's Affiliates.
- 2 In consideration of the disclosure to it by Punch of Confidential Information, Heineken hereby agrees with and undertakes to Punch, that, subject as herein described, all Confidential Information received by Heineken:
- 2.1 shall not be used for any purpose other than the Permitted Purpose;
  - 2.2 shall not be copied other than in connection with the Permitted Purpose; and
  - 2.3 shall be held strictly confidential and shall not be divulged directly or indirectly or otherwise made available in whole or in part to any third party without the prior written consent of Punch, provided that Heineken may without such approval disclose such Confidential Information:
    - (a) to the extent strictly necessary for the Permitted Purpose to its Affiliates and Representatives directly concerned with the Permitted Purpose and

whose knowledge of the Confidential Information is essential for the Permitted Purpose; or

- (b) to any governmental or regulatory authority having a right to require or request the same or to any recognised Stock Exchange, in compliance with the rules and regulations thereof or to the extent required by law or by any court of competent jurisdiction (provided that Heineken shall, to the extent permitted by law, prior to such disclosure inform Punch in writing of such requirement and shall disclose only such Confidential Information as is necessary to comply therewith),

provided that prior to any disclosure of Confidential Information under paragraphs (a) and/or (b), Heineken shall ensure that the intended recipient is made aware of the confidential nature of the Confidential Information and, in relation to any disclosure under paragraph (a), shall assume full responsibility for the actions of such recipients; provided, however, that notwithstanding anything to the contrary in this Agreement, Heineken will not be responsible for any breach of this Agreement by any such recipient who is not one of its directors, members, officers or employees and who has agreed to be bound by the confidentiality provisions of this Agreement by the execution of a letter agreement substantially in the form of Exhibit A hereto..

Further, without the prior written consent of Punch, Heineken will not (directly or indirectly) disclose to any person, (i) the existence of this Agreement or its contents, or (ii) that either Punch or Heineken] have been involved in any discussions, except as required by law, regulation or legal process.

- 3 In consideration of the disclosure to it by Heineken of Confidential Information, Punch hereby agrees with and undertakes to Heineken, that, subject as herein described, all Confidential Information received by Punch:

- 3.1 shall not be used for any purpose other than the Permitted Purpose;
- 3.2 shall not be copied other than in connection with the Permitted Purpose; and
- 3.3 shall be held strictly confidential and shall not be divulged directly or indirectly or otherwise made available in whole or in part to any third party without the prior written consent of Heineken, provided that Punch may without such approval disclose such Confidential Information:

- (a) to an Affiliate of Punch directly concerned with the Permitted Purpose and whose knowledge of the Confidential Information is essential for the Permitted Purpose; or
- (b) to any governmental or regulatory authority having a right to require or request the same or to any recognised Stock Exchange, in compliance with the rules and regulations thereof or to the extent required by law or by any court of competent jurisdiction (provided that Punch shall, to the extent permitted by law, prior to such disclosure inform Heineken in writing of such requirement and shall disclose only such Confidential Information as is necessary to comply therewith); or

- (c) to the extent strictly necessary for the Permitted Purpose to its Representatives directly concerned with the Permitted Purpose and whose knowledge of the Confidential Information is essential for the Permitted Purpose,

provided that prior to any disclosure of Confidential Information under paragraphs (a) to (c) above, Punch shall ensure that the intended recipient is made aware of the confidential nature of the Confidential Information and, in relation to any disclosure made under paragraphs (a) and/or (c), shall assume full responsibility for the actions of such recipients; providing, however, that notwithstanding anything to the contrary in this Agreement, Punch will not be responsible for any breach of this Agreement by any such recipient who is not one of its directors, members, officers or employees and who has agreed to be bound by the confidentiality provisions of this Agreement by the execution of a letter agreement substantially in the form of Exhibit A hereto.

Further, without the prior written consent of Heineken, Punch will not, and will direct its Affiliates and Representatives not to (directly or indirectly) disclose to any person, (i) the existence of this Agreement or its contents, or (ii) that either Punch or Heineken have been involved in any discussions, except as required by law, regulation or legal process.

- 4 All Confidential Information shall remain the property of the Disclosing Party and the disclosure of Confidential Information does not amount to a licence in favour of the Receiving Party. The Disclosing Party does not make any representation or warranty, express or implied, as to the quality, accuracy or completeness of the Confidential Information disclosed by or on behalf of it. Heineken and Punch each hereby acknowledge that any breach by it of any of the provisions of this Agreement may cause serious damage to the other Party. The Parties acknowledge that damages may not be an adequate remedy for breach of any of the terms set out in this Agreement and that the non-breaching Party should be entitled to seek equitable relief including injunctions in respect of any breach by a Party hereto. Any failure by the Disclosing Party in exercising any right, power or privilege hereunder shall not, nor shall any single or partial exercise thereof, preclude any exercise of any other right, power or privilege.
- 5 Heineken and Punch agree and undertake to each other that the Confidential Information shall only be copied or duplicated to the extent strictly necessary for the Permitted Purpose. Furthermore, any of the Confidential Information and copies, and any extracts, summaries or analyses thereof, shall be returned to the Disclosing Party or destroyed or expunged from any electronic storage device (with written confirmation of the same to the Disclosing Party) within fourteen (14) working days of receipt of a written request to do so from the Disclosing Party, provided that a Party may retain copies of the Confidential Information if required by law or any regulatory or governmental authority or in accordance with internal compliance procedures. Notwithstanding the foregoing, the Disclosing Party acknowledges that it is impossible to ascertain that information stored in or transmitted by computers, word processing and electronic mail and similar systems ("Electronic Systems") has been completely destroyed and therefore, in respect of Confidential Information so stored or transmitted, upon receipt of such request, the requirements of this provision shall be met by Receiving Party having made all commercially reasonable efforts to destroy or erase Confidential Information stored on its Electronic Systems. The confidentiality obligations under this Agreement shall survive any such return, destruction or retention of Confidential Information and shall remain binding on the Parties unless this Agreement terminates in accordance with paragraph 11 below.

- 6 Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the Parties.
- 7 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the other provisions of this Agreement and all provisions not affected by the invalidity or unenforceability shall remain in full force and effect.
- 8 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 9 The Parties to this Agreement may rescind or vary this Agreement without the consent of a third party to whom an express right to enforce any of its terms has been granted.
- 10 This Agreement is personal to the parties and shall not be assigned or otherwise transferred in whole or in part by either party without the prior written consent of the other party.
- 11 This Agreement shall terminate on the earlier of (i) mutual agreement of the Parties and (ii) two (2) years after the date hereof.
- 12 This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed an original, but such counterparts shall together constitute one and the same Agreement.
- 13 The construction, validity and performance of this Agreement shall be governed by English Law and the Parties submit to the non-exclusive jurisdiction of the courts of England.

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be executed by their duly authorised representatives as of the day and year first above written.

  
.....  
Signed  
by **J.A. SMITS**  
duly authorised  
for and on behalf of  
**HEINEKEN INTERNATIONAL B.V.**

  
.....  
F.M. van der Lingen


  
.....  
Signed **STEVE DANDO**  
by  
duly authorised  
for and on behalf of  
**PUNCH TAVERNS PLC**

Exhibit A

Representative's Letter

16/2 2016

Punch Taverns plc

-and-

Heineken International B.V.

Dear Sirs:

In consideration of certain information being provided and continuing to be provided, the undersigned agrees to be bound, in its capacity as a "Representative" (as defined in the Agreement attached hereto) of ~~Punch Taverns plc~~/Heineken International B.V. by the confidentiality provisions of such Agreement.

Yours faithfully

~~[Representative's Name]~~

By: Henry Phillips

Name: Henry Phillips  
Title: Managing Director  
NonexA