

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Alfonso P. Hernandez		11/17/2006	INDIVIDUAL: UNITED STATES
RECEIVING PARTY DATA			
Name:	Good-O Beverage Company		
Street Address:	1801 Boone Avenue		
City:	Bronx		
State/Country:	NEW YORK		
Postal Code:	10460		
Entity Type:	PARTNERSHIP: NEW YORK		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Registration Number:	3173050	MABI SEYBANO	
Registration Number:	3098898	MABI CACHEO	
Registration Number:	3098900	GUARAPIÑA	
CORRESPONDENCE DATA			
Fax Number:	(212)202-6491		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	(212) 508-6739		
Email:	prutzman@thshlaw.com		
Correspondent Name:	L. Donald Prutzman		
Address Line 1:	900 Third Avenue		
Address Line 4:	New York, NEW YORK 10022		
ATTORNEY DOCKET NUMBER:	14579.01		
NAME OF SUBMITTER:	L. Donald Prutzman		
Signature:	/LD Prutzman/		

CH \$90.00 3173050

Date:

01/29/2008

Total Attachments: 19

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BOTTLING AND DISTRIBUTION AGREEMENT

THIS BOTTLING AND DISTRIBUTION AGREEMENT ("Agreement") is effective as of the ___ day of October, 2006, by and between Taino Beverage Group LLC, a New Jersey limited liability company ("TBG"), UniLatin Beverage Corporation, a New Jersey corporation ("UBC"), Alfonso P. Hernandez ("Hernandez"), Jorge V. Rodriguez ("Rodriguez") and Eduardo B. Winter ("Winter", jointly and severally with TBG, UBC, Hernandez and Rodriguez, "Supplier") and Good-O Beverage Company, a New York general partnership ("Bottler").

WHEREAS, Supplier is the owner or exclusive U.S. licensee, with authority to sublicense, of the trademarks listed on Exhibit A hereto, and all service marks, designs, logos, trade names, advertising, commercial symbols and slogans used in connection with Products (as defined below) (collectively or separately, the "Trademarks") for beverages, extracts and flavoring ingredients used in the manufacture thereof; and

WHEREAS, Supplier is engaged in the business of selling non-alcoholic brewed beverages and in the sale of beverage base, concentrate or extract (collectively, "Extract") to beverage manufacturers for use in various beverage products and in licensing the Trademarks for use on finished beverage products manufactured from Extract in various product forms, as set forth on Exhibit B hereto and such other forms as the parties may agree from time to time (such forms, including Extract, are hereafter referred to as "Product" or "Products"); and

WHEREAS, Bottler is engaged in the business of manufacturing, selling and distributing beverages; and

WHEREAS, Supplier and Bottler hereby propose that Supplier license the Trademarks to Bottler and sell Extract to Bottler, which Bottler will compound with other materials in accordance with formulas furnished by Supplier to produce Product for sale and distribution to the beverage trade.

WHEREAS, should Bottler, for any reason, not engage in the manufacture of adequate supplies of any or all forms of Product, Supplier and Bottler hereby propose that Supplier authorize Bottler to purchase Product from sources approved by Supplier; and

NOW, THEREFORE, in consideration of these premises and the mutual covenants contained herein, Supplier and Bottler agree as follows:

1. ***Appointment.***
 - a. Subject to the express provisions of this Agreement, Supplier hereby grants to Bottler the exclusive right to manufacture (or arrange for the manufacture of), sell and distribute Products within the Territory, as defined below.

- b. Supplier will sell to Bottler and Bottler will buy from Supplier the Extract with which Bottler may manufacture or arrange for the manufacture of Product upon terms of sale and prices determined by Supplier but no less favorable to Licensee than those offered by Supplier to any other licensee or customer, taking into account all marketing support and similar payments or services offered by Supplier to such licensees and customers. Supplier shall not increase its prices to Bottler for Extract or any other item on less than ninety (90) days' advance written notice or more frequently than once in any calendar year. Any price increase shall be limited in amount to the same percentage as the percentage increase since the last price increase in the U.S. Producers' Price Index for Finished Goods; provided, however, that if Supplier can demonstrate that its cost of production per case of Products has increased by an amount greater than the otherwise permitted price increase, then Supplier may increase its price to Bottler by an additional dollar amount equal to the excess of its demonstrable increase in cost per case over the amount of the price increase otherwise permitted.
- c. Should Bottler, for any reason, not engage in the manufacture of adequate supplies of any Product authorized by this Agreement, Supplier approves the purchase by Bottler of Products from Supplier or from other sources approved by Supplier upon terms of sale and prices determined by Supplier (but no less favorable to Bottler than those offered to any other licensee or customer), or the supplying source, respectively. Moreover, Bottler is expressly authorized to arrange for the manufacture of Products at Lion Brewery in Wilkes-Barre, Pennsylvania, the Florida Brewery in Aubendale, Florida, the Matt Brewery in Utica, New York, and Cervezeria India in Mayaguez, Puerto Rico. Bottler is free to determine in its discretion the extent to which it elects to manufacture or purchase Products.
- d. Supplier shall offer to Bottler under the terms of this Agreement the right to manufacture and distribute any beverage product marketed, sold, manufactured or licensed by Supplier or any Affiliate of Supplier, that Supplier desires to have sold or distributed in the Territory. If Bottler declines such offer, then Supplier may offer such beverage products to third parties for manufacture or distribution in the Territory, but only on terms each of which is no more favorable to the third party than those of this Agreement. If no agreement is entered into with a third party within 120 days after Bottler's declining Supplier's offer to Bottler, then Supplier shall again offer such product to Bottler pursuant to this Section 1.d. before entering into any such agreement with any third party. For purposes of this Agreement, "Affiliate" shall mean any person owning or controlling, owned or controlled by or under common ownership or control with Supplier or any of the parties referred to collectively in this Agreement as Supplier.

2. ***Supplier's Obligations.***

- a. Supplier hereby licenses the Trademarks and other Intellectual Property (as defined in Paragraph 2.e.ii) to Bottler for use on and in connection with the production, packaging, advertising, promotion, sale and distribution of the Products.
- b. Supplier shall fill promptly all orders from Bottler for Extract and for other items within two weeks. Supplier's prices to Bottler for the Products shall not exceed Supplier's prices to any other customer. Supplier shall not increase its prices to Bottler for any item on less than ninety days' advance written notice.
- c. Supplier shall set aside an exclusive area described in the schedule attached hereto as Exhibit "C" (the "Territory") in which no person other than Bottler will manufacture, distribute, sell or promote Products. Supplier shall not establish for the Territory any other distributor, beverage manufacturer or licensee of the Trademarks with respect to Products and shall not itself sell, nor suffer or permit any others to sell, Products for resale or use in the Territory; nor shall Supplier sell any Products to any person that Supplier knows or has reason to know is likely directly or indirectly to resell the Products in the Territory; nor shall Supplier sell any Extract or beverage product or any ingredient for any beverage product, whether or not associated with the Trademarks, to any other person for resale or use in the Territory, except in accordance with Section 1.d. hereof after Bottler's declining of Supplier's offer pursuant to such Section 1.d; nor shall Supplier sell any Extract that is identical or substantially similar in flavor to the Extract for the Products to any other person for resale or use in the Territory, regardless of whether Bottler has declined an offer of Supplier with respect thereto under Section 1.d. Notwithstanding the foregoing, Supplier may sell Products to Development Investment Group International ("DIGI") in Florida, provided (i) that Supplier ensure that such Products are resold and delivered by DIGI only to retailers located within the State of Florida that there is no basis to believe may resell or deliver such Products outside of Florida and (ii) that no such Products shall be resold or delivered by DIGI to any customer after February 7, 2007.
- d. Supplier shall create and make available to Bottler advertising and promotion materials for Products of a form, in amounts and upon terms reasonably established by Supplier.
- e. Supplier shall promptly pay or credit to Bottler's account, when due, not less frequently than monthly, all credits, discounts, allowances, incentive payments, bill backs or other reimbursements due Bottler pursuant to any program to which the parties may agree.
- f. Supplier represents and warrants that:
 - (i) the Products:

- (A) shall be pure and wholesome, fit for human consumption, merchantable and free from all defects;
 - (B) shall, in all instances, comply with all Federal, state or local laws and regulations, in all respects, including without limitation, beverage quality, labeling, identity, quantity, packaging, and returnable container or deposit requirements;
 - (C) shall not be adulterated and misbranded within the meaning of those terms under the Federal Food, Drug and Cosmetic Act, as amended, and shall not be an article or articles which may not, under the provisions, of said Acts, be introduced into interstate commerce;
 - (D) shall not be adulterated or misbranded within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act, the Federal Hazardous Substances Act, or any applicable state pure foods act or any other applicable Federal, state, or local law or regulation;
 - (E) shall be covered by an appropriate Food and Drug Administration certificate, a copy of which is attached hereto as Exhibit D; and
 - (F) when produced from Extract in accordance with Supplier's specifications shall have a remaining shelf life of not less than twenty-four (24) months; and Extract, when delivered to Bottler, shall have a remaining shelf life of not less than one (1) year, the expiration of which shall be clearly marked on the outside of all cartons and pallets.
- (ii) it is the owner or exclusive U.S. licensor of the Trademarks and all other intellectual property used in connection with the Products (collectively, including the Trademarks, the "Intellectual Property"), that it has the right to license the Intellectual Property to Bottler, and that Bottler's use of the Intellectual Property will not infringe or violate the rights of any third party; and
- (iii) no third party and no Affiliate other than Supplier holds any rights in any of the Trademarks or to manufacture, sell, market or distribute any of the Products anywhere in the Territory except as described in the last sentence of Section 2.c; and
- (iv) it is free to enter into this Agreement and is not under any obligation, written or otherwise, to any other party which would prevent Supplier from complying with all the terms and conditions of this Agreement.
- g. Supplier shall replace all Products which, at the time and place of delivery, do not meet the requirements of Section 2.f.(i) above, at Supplier's cost, including transportation to Bottler, or a credit to Bottler's account shall be allowed, at Bottler's option. Supplier shall also reimburse Bottler for all Bottler's costs of producing, distributing and retrieving any Products found to be damaged, spoiled or deficient as a consequence of such non-conforming Products supplied by Supplier (including but not limited to Products in the hands of Distributor or of the retail trade that have

exceeded their shelf life if such Products were produced from Extract that did not conform to the requirements of Paragraph 2.f.(i)(E) above) or as a consequence of any other fault of Supplier, and the costs of either destroying such Products or returning such Products to Supplier, at Supplier's option.

- h. Supplier shall comply with all laws, rules, regulations, requirements, orders and ordinances now in effect or which may hereafter be enacted or promulgated applicable to its operations or relating to the subject matter of this Agreement.
- i. Supplier shall contribute (i) upon execution of this Agreement, the sum of \$20,000; (ii) upon commencement of production, the sum of \$30,000; and (iii) quarterly an amount equal to \$1.00 per physical case of finished goods Products sold by Bottler to any customers in the preceding quarter, to be spent on the marketing and promotion of the Products pursuant to the Annual Marketing Plan established under Paragraph 3.f hereof. Such contribution shall be paid into a separate bank account maintained by Bottler for such purpose (the "Marketing Account").
- j. Supplier shall cooperate with Bottler and any manufacturers with whom it arranges for the production of Products to ensure that the products are properly manufactured in accordance with Supplier's specifications.

3. ***Bottler's Obligations.***

- a. Bottler shall pay Supplier for Extract and any other items sold by Supplier to Bottler in accordance with the prices and terms of sale agreed by the parties. The initial price for Extract shall be \$2.85 per 24 x 12 ounce physical case (a "Case") of finished goods Products produced from such Extract, with payment to be made upon production. In addition, Bottler shall pay to supplier a royalty of \$3.00 per Case of finished goods Products sold by Bottler to its customers (but not with respect to any such Products that are given to customers as samples or free goods), with payment to be made upon such sale. In the case of both the price for Extract and the royalty, payment shall be made monthly by the end of each month for finished goods Products produced or sold in the previous month. In the event that Bottler purchases finished goods Products from Supplier, the initial price for such finished goods Products shall be \$12.99 per Case delivered to Bottler's facility, and no royalty shall be due to Supplier in connection with Bottler's resale of such finished goods Products purchased from Supplier.
- b. If Bottler shall establish and maintain facilities for the manufacture and/or distribution of Product, it shall permit representatives of Supplier to inspect such facilities at any time on reasonable notice during regular business hours.
- c. Bottler shall comply with the production, storage, quality control and other standards reasonably established by Supplier to insure the quality and uniformity of Product.

- d. Bottler shall materially comply with all laws, rules, regulations, requirements, orders and ordinances now in effect or which may hereafter be enacted or promulgated applicable to its operations or relating to the subject matter of this Agreement.
- e. Bottler shall use reasonable efforts to promote the sale of Product in the Territory and to maintain a business organization and equipment necessary to function properly in the manufacture or purchase, sale and distribution of Product. Bottler may engage such subdistributors, agents or other third parties to assist it in the performance of this Agreement as Bottler deems appropriate.
- f. Bottler shall contribute (i) upon execution of this Agreement, the sum of \$20,000; (ii) upon commencement of production, the sum of \$30,000; and (iii) quarterly an amount equal to \$1.00 per physical case of finished goods Products sold by Bottler to customers located in New York and Connecticut in the preceding quarter, to be spent on the marketing and promotion of the Products pursuant to the Annual Marketing Plan established under Paragraph 3.g. Such contribution shall be paid into the Marketing Account.
- g. Bottler and Supplier shall jointly prepare and execute a reasonable Annual Marketing Plan for the Products for each marketing year, including participation in such marketing programs as the parties shall agree, and the spending of the amounts provided for under Paragraphs 2.i and 3.f hereof. Such marketing programs may include but are not limited to sampling, advertising, advertising specialty items, minivans bearing Trademarks, discounts, rebates and allowances, all as mutually agreed by the parties. Bottler and Supplier shall expend funds from the Marketing Account in a manner consistent with the Annual Marketing Plan and on the cost of a Bottler employee or representative to develop sales and distribution of the products in the Territory. All expenditures from the Marketing Account shall require joint signatures of both Bottler and Supplier. To the extent that the parties agree to advance funds to either Bottler or Supplier for expenditure by that party in accordance with the Annual Marketing Plan, the party receiving such advance shall provide the other promptly with an accounting of all such expenditures before any further advances are made.
- h. Bottler shall allow Supplier reasonable access to meet with Bottler's sales personnel to provide them with training and education respecting the Products and their sales and shall permit Supplier to develop mutually agreed sales incentives to encourage and motivate the sales force, in order to increase distribution of the Products.
- i. Bottler shall make no arrangements with others for the manufacture of Product without the prior written permission of Supplier, except as permitted by Paragraph 1.c.

- j. Bottler shall not sell or distribute Product directly or indirectly outside the Territory or sell the Product to any person that Bottler knows or has reason to believe is likely to resell the Products directly or indirectly outside the Territory, except that Bottler is hereby authorized to sell Product to other authorized manufacturers and/or distributors of Product in the United States. Supplier shall include a provision identical to this section 3.j. in all its bottling and distribution agreements with all distributors with territory within 1,000 miles of the Territory.
- k. Bottler shall cooperate in maintaining and submitting to Supplier at reasonable intervals, sales, marketing and similar reports relating to Product in a mutually agreed form; provided that Bottler shall not be required to provide any customer-level or account-level information.
- l. To the extent that Bottler is a manufacturer of Product, Bottler agrees:
 - (i) To manufacture Product or cause Product to be manufactured in compliance with the formulas and procedures reasonably prescribed by Supplier.
 - (ii) Not to use any form of Extract produced therefrom in any form of Product for which it is not intended as determined by Supplier.
 - (iii) To send samples of each Product form at Bottler's expense to Supplier at places and intervals reasonably determined by Supplier.
 - (iv) To provide such quality assurance reports as Supplier may reasonable prescribe.
- m. Except as otherwise provided in this Agreement, Bottler shall not sell, transfer, convey, assign, or otherwise dispose of all or any part of its interest in this Agreement without the written consent of Supplier, *provided* that such consent is not unreasonably withheld; and *provided further* that no consent shall be required for any transfer so long as the majority of the outstanding voting shares or other form of voting ownership of the entity holding Bottler's rights and obligations under this Agreement is held by: Harold Honickman, Shirley Honickman Hahn or any members of the immediate family or lineal descendants of any of them ("Family Members"); or any trusts for the benefit of any Family Members of any of them; or any corporation or other business entity controlled by Harold Honickman, Shirley Honickman Hahn, Family Members or such trusts. It shall be presumptively unreasonable for Supplier to withhold its consent to any transfer of Bottler's rights under this Agreement to any transferee that has at least five years' experience in the beverage industry and case sales of beverages during the 36 month period immediately preceding the month in which Bottler notifies Supplier of the identity of the proposed transferee at least equal to Bottler's case sales of the Products in the same period.

- n. Bottler warrants and represents to Supplier that it is free to enter into this Agreement and is not under any obligation, written or otherwise, to any other party which would prevent Bottler from complying with all the terms and conditions of this Agreement.
- o. To the extent that Bottler, in its sole and absolute discretion, may agree to guarantee any debt, credit or liability of Supplier and is ever called upon to make good on any such guarantee, Bottler shall be entitled to set off such amount against any amount payable by Bottler under this Agreement to Supplier or to the marketing Account, and any unreimbursed portion of any such amount shall be immediately owing and added to any amount due from Supplier to Bottler until it is paid in full.

4. ***Trademarks.***

- a. Bottler shall notify Supplier promptly upon discovery of any use of any mark, trade name or trademark similar to any of the Trademarks. Supplier shall not be required to take any action with respect to any infringement, but Bottler shall join with Supplier, when requested by Supplier, in any proceeding or litigation or other action for the protection of the Trademarks and the goodwill associated therewith. All costs and expenses of such litigation or action shall be borne by Supplier.
- b. If Supplier does not take legal action against an infringement, Bottler may do so in its own name and/or that of Supplier, provided that Bottler bears all costs and expenses of such action. In that event, Bottler shall be entitled to any and all proceeds of such action.
- c. Nothing contained in this Agreement shall be construed to vest in Bottler any right, title or interest in or to any of the Trademarks other than the rights and license expressly granted herein.
- d. Supplier and each of them hereby grants to Bottler a lien and security interest in and assignment of the Trademarks listed on Exhibit A (as such Exhibit may be amended from time to time), whether or not registered and if registered, regardless of the location of such registration and all goodwill associated with such Trademarks, and authorizes Bottler to make any filings necessary to perfect such security interest. Supplier shall promptly execute, and shall cause any Affiliate to execute, upon request of Bottler, each and every document requested by Good-O to evidence, implement, confirm or perfect such security interest and lien. Such security interest and lien shall secure (i) all obligations of Supplier under this Agreement, (ii) any damages to which Bottler may be entitled in the event of any breach of this Agreement by Supplier and (iii) all other obligations that may now or hereafter exist from Supplier to Good-O.

5. ***Indemnification and Insurance.***

- a. Bottler shall indemnify and save harmless Supplier from and against all losses, claims, damages or other costs of any nature or kind whatsoever arising directly or indirectly out of or relating to any allegation of: (i) the breach of any warranty, representation or agreement made by Bottler in this Agreement; (ii) the negligence or intentional misconduct, misfeasance or nonfeasance of Bottler, its officers, employees, agents, servants or contractors; (iii) any quality or condition of or inherent defect introduced into the Products as a consequence of the improper operation or condition of any part of any of Bottler's bottling plants, or the improper preparation, manufacture, bottling, storage, warehousing, distribution or sale by Bottler of Products; or (iv) the conduct of Bottler's business (including the use of promotional materials and packaging not designed, manufactured or approved by the Supplier). Such indemnity shall include, but not be limited to, reasonable expenses, attorneys' fees, court costs and other expenses of investigation, litigation and settlement of any such claim. Supplier shall provide Bottler prompt written notice of receipt of any such claim and shall not settle any such claim without the prior knowledge and written consent of Bottler, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, upon written notice to Supplier that Bottler has assumed the defense of any legal action or proceeding, Bottler shall not be liable to Supplier for any legal or other expenses subsequently incurred by Supplier in connection with the defense thereof, except in the event of a conflict of interest or other matter that prevents counsel for Bottler from fully and zealously representing the interests of both Supplier and Bottler.
- b. Supplier shall indemnify and save harmless Bottler from and against all losses, claims, damages or other costs of any nature or kind whatsoever arising directly or indirectly out of or relating to any allegation of: (i) the breach of any warranty, representation or agreement made by Supplier in this Agreement; (ii) Bottler's use of the Intellectual Property in the Territory; (iii) the negligence or intentional misconduct, misfeasance or nonfeasance of Supplier, its officers, employees, agents, servants or contractors; (iv) any quality or condition of or inherent defect in the Products supplied by Supplier or any Extract, including but not limited to any imperfection, contamination or substandard quality, production, packaging, processing, storage or transportation or other condition relating to the Products or Extract at or before the time they were received by Bottler; (v) any wrongful, false or misleading claim, advertising or representation by Supplier or by any agent or representative of Supplier regarding the Products; (vi) or any third party that such person or entity has any right, claim or color of right granted or allowed by Supplier to purchase, sell, market or distribute Products in the Territory; (vii) the conduct of Supplier's business (including the promotional materials and packaging designed, manufactured or approved by the Supplier). Such indemnity shall include, but not be limited to, reasonable expenses, attorneys' fees, court costs and other expenses of investigation, litigation and settlement of any such claim. Bottler shall provide Supplier prompt written notice of receipt of any such claim and shall not settle any

such claim without the prior knowledge and written consent of Supplier, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, upon written notice to Bottler that Supplier has assumed the defense of any legal action or proceeding, Supplier shall not be liable to Bottler for any legal or other expenses subsequently incurred by Bottler in connection with the defense thereof, except in the event of a conflict of interest or other matter that prevents counsel for Supplier from fully and zealously representing the interests of both Supplier and Bottler.

- c. Notwithstanding the foregoing, to the extent that any claim that would otherwise be subject to indemnification pursuant to Paragraph 5.a. is traceable in whole or in part to:
- i. any ingredient supplied by Supplier;
 - ii. any act or failure required or approved by Supplier; and/or
 - iii. any matter subject to indemnification by Supplier under Paragraph 5.b.;

then Supplier shall pay the percentage of all costs, fees, damages, judgments and decrees allocable to such ingredient, act, failure or matter, and Bottler shall pay only for the percentage of the costs, fees, damages, judgments and/or decrees allocable to Bottler's own acts or failure to act.

- d. During the term of this Agreement, each party shall secure, pay for and maintain in full force and effect comprehensive general liability insurance (including contractual liability and with product liability coverage respecting the Products and Extract) in an amount of not less than five million dollars (\$5,000,000) in the aggregate and one million dollars (\$1,000,000) per occurrence. Such insurance maintained by each party shall name the other party as additional insured. Each party shall furnish to the other annually a certificate confirming such coverage.

6. ***Termination.***

- a. After the fifth anniversary of the Effective Date, Supplier may terminate this Agreement for any reason, with or without cause, upon not less than ninety days' written notice to Bottler effective on the December 31 immediately following the end of such ninety day notice period, provided Supplier first pays to Bottler an amount equal to (i) four times Bottler's Gross Profit, plus (ii) an additional amount equal to Bottler's aggregate contributions pursuant to Section 3.f. over the life of this Agreement, plus interest of 12% per annum from the date of each such contribution. Within thirty days of receipt of such notice, Bottler shall give Supplier notice of the amount due, together with reasonable substantiating documentation, and Supplier shall make such payment within thirty days after receipt of such notice from Bottler. Termination shall not be effective until such payment has been made.

For purposes of this provision, Bottler's "Gross Profit" shall mean Bottler's gross sales of the Products during the twelve complete calendar months immediately

preceding the notice of termination, net of all discounts, rebates, allowances and free goods, less the total cost incurred by Bottler to produce or purchase such Products, including but not limited to the cost of Extract and all other ingredients, supplies, labels and packaging materials, royalties, labor and production fees. The amount to be paid to Bottler pursuant to this provision shall be increased proportionately, with due account taken of the seasonality of Bottler's sales of the Products, for any period of time that Supplier is unable or otherwise fails to make deliveries of the Products to Bottler.

- b. Subject to the provisions of Paragraph 6.d., at any time, Supplier may terminate this Agreement if Bottler does not correct, as provided in this Paragraph 6.b., any material failure, other than a failure resulting from events of Force Majeure (as defined in Paragraph 13), to fulfill any of its obligations hereunder after receiving written notice from Supplier identifying the alleged failure with specificity and stating that Supplier intends to terminate this Agreement if such failure is not timely corrected. Bottler shall have ninety (90) days after receipt of such notice to effect a cure of any default, *provided*, however, that if any such default cannot reasonably be cured within ninety (90) days, Bottler shall be deemed to have timely cured the default if it commences to cure the default within such ninety (90) day period and proceeds thereafter to complete the cure within the period in which such cure can reasonably be completed; and *provided further* that if a default is of a nature that cannot reasonably be cured, Bottler shall be deemed to have cured such default if it establishes reasonable procedures to prevent a recurrence of the same type of default. Upon a failure by Bottler to cure a material default as provided in the preceding sentence, Supplier may terminate this Agreement, subject to Paragraph 6.d., by not less than thirty (30) days written notice given within ninety (90) days after expiration of the period for cure; provided, however, that Supplier first pays to Bottler the amount provided for in Section 6.a., less the amount of any damages that Supplier can establish were directly caused by Bottler's material failure.
- c. Bottler may terminate this Agreement at any time by giving Supplier at least ninety (90) days prior written notice, without liability by either party to the other.
- d. Upon termination of this Agreement for any reason, Bottler shall discontinue the use of the Trademark in Bottler's trade name, or in connection with advertising, sales and promotion materials, or otherwise, promptly after the disposition of its remaining inventory of Extract and Products. On or before the termination date, Bottler shall promptly provide Supplier with a detailed written inventory setting forth all Products, Extract and other point-of-sale materials owned by and in the possession of Bottler which bear the Trademarks and any ingredients, labels, supplies and packaging materials in Bottler's possession that were acquired for the production of Products. Bottler shall then make available to Supplier at Bottler's warehouse or other facility, for the inspection by Supplier, all such Products and other materials. Following Supplier's receipt of such written inventory from Bottler and after a reasonable period of time within which Supplier may inspect such inventory, Supplier will itself promptly purchase or cause a third party to

promptly purchase and take title to and possession of all such inventory and materials that are in good and merchantable condition, have a remaining shelf life that meets or exceeds industry standards, and are not otherwise obsolete or unusable. The price to be paid by Supplier shall be the purchase price paid for such inventory and materials, plus other costs incurred by Bottler reasonably related to the acquisition and receipt of such inventory and materials, such as freight and insurance charges and any excise taxes, so as to arrive at Bottler's laid-in cost of all such inventory and materials. Notwithstanding the foregoing, visi-coolers, venders and other cold equipment bearing Trademarks shall be retained by and remain the property of Bottler, but Bottler shall promptly remove such Trademarks from all such equipment.

11. *Notices.*

For purposes of this Agreement, all notices to the Supplier shall be addressed as follows:

Taino Beverage Group LLC
UniLatin Beverage Corporation
Alfonso P. Hernandez
Jorge V. Rodriguez
Eduardo B. Winter
91 West 24th Street
Bayonne, New Jersey 07002

For purposes of this Agreement, all notices to Bottler shall be addressed as follows:

Good-O Beverage Company
1801 Boone Avenue
Bronx, New York 10460
Attention: Richard Hahn

With a copy to:

Richard Hahn
502 North Hillcrest Road
Beverly Hills, California 90210

and with a copy to:

Andre R. Jaglom, Esq.
Tannenbaum, Helpert, Syracuse & Hirschtritt, LLP
900 Third Avenue
New York, NY 10022

All notices pursuant to the terms of this Agreement shall be given by hand delivery to the party, by overnight commercial courier service providing a receipt for delivery, or by

registered, certified or express United States mail, postage prepaid, return receipt requested, and shall be effective upon receipt.

12. ***Recalls.***

a. If:

- (i) any government agency recommends or requires the recall of any Products or packaging; or
- (ii) either Supplier or Bottler reasonably determines that any Products or packaging should be recalled or should be withdrawn from distribution and sale;

based upon a determination that such Products or packaging are not fit for human consumption, are contaminated, constitute a health hazard, are of substandard quality or are otherwise not saleable, then Supplier and Bottler shall coordinate the immediate cessation of sale and distribution and/or the recall or withdrawal as necessary of all such Products or packaging from the Territory. If necessary or advisable, Bottler and Supplier shall cooperate to recall and/or reacquire the applicable Products or packaging from any purchaser thereof.

- b. If the problem at issue was not caused by Bottler, then Supplier shall pay the costs and expenses associated with any such recall, and Supplier shall indemnify Bottler for (i) its laid-in cost of all unsold recalled Products and the cost of returning such Products to Supplier or destroying them, as Supplier may elect; and (ii) its reasonable costs and expenses associated with such recall, which costs may include but are not limited to credits, refunds, or other payments by Bottler to its customers in connection therewith. For purposes of this Agreement, "laid-in cost" shall include the cost (including invoice cost, insurance and freight) of all ingredients, supplies and materials and the cost of production for Products manufactured by Bottler, and the invoice cost, insurance and freight for Products purchased in finished form by Bottler.
- c. If the problem at issue was caused by Bottler, then Bottler shall pay the costs and expenses associated with any such recall, and Bottler shall indemnify Supplier for its reasonable costs and expenses associated with such recall.

13. ***Force Majeure.***

Neither party shall have any liability to the other for any failure to perform its obligations under this Agreement by reason of events beyond its reasonable control, including but not limited to strikes, lockouts, labor disputes, floods, fires, war, terrorist acts or threats, hurricane, typhoon and other like extreme weather, earthquake, lightning, explosion, riots, disturbance, civil commotion, epidemics, embargoes, quotas, shortage of inventory due to crop failure, shortage of labor, delays in transportation, or government action, including but not limited to price controls, currency controls or detention of goods by authorities ("Force Majeure"); *provided*, however, that the parties shall perform their obligations to the maximum extent and as soon as reasonably practicable.

14. *Miscellaneous.*

- a. The indemnification, hold harmless and defense against claims provisions in this Agreement (including the provisions of Sections 5 and 12) shall survive the expiration, rescission or termination of this Agreement.
- b. This Agreement does not constitute either party an agent or employee of the other. Their relationship shall be that of independent contractors, and neither shall have any authority to bind the other by reason of this Agreement.
- c. If for any reason any provision of this Agreement shall be deemed by any court, governmental agency, body or tribunal of competent jurisdiction to be legally invalid or unenforceable in any jurisdiction to which it applies, the validity of the remainder of the Agreement shall not be affected and such provision shall be deemed modified to the minimum extent necessary to make such provision consistent with applicable law, and, in its modified form, such provision shall then be enforceable and enforced.
- d. The parties' obligations under this Agreement shall be binding upon, and the parties' rights under this Agreement shall inure to the benefit of, their respective permitted successors and assigns.
- e. This Agreement, represents the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior arrangements, oral or written, on the same subject. No term of this Agreement may be changed in any way except by a writing signed by both parties.
- f. The waiver by Supplier or Bottler of any breach or default, or series of breaches or defaults, of any term or condition herein contained shall not be deemed a waiver of any continuing or subsequent breach or default of the same term or any other term or condition of this Agreement.
- g. This Agreement shall be "in perpetuity" beginning on the date hereof, except that this Agreement may be terminated as expressly provided in this Agreement.
- h. The parties agree that each of them participated in the drafting of this Agreement and had the opportunity to have this Agreement reviewed by legal counsel, and accordingly, this Agreement shall be construed without regard to any principle of construction that provides for ambiguities to be resolved against the drafter or otherwise against either party.
- i. This Agreement shall be construed, enforced and governed by the laws of the State of New York without regard to principles of conflict or choice of laws. Any action or proceeding arising out of or in connection with this Agreement shall be heard in a

federal or state court of appropriate subject matter jurisdiction located in the State and County of New York and the parties hereby agree to exclusive venue in, and consent to the personal jurisdiction of, such courts.

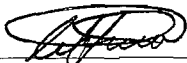
IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day first above written.

BOTTLER:
GOOD-O BEVERAGE COMPANY

By: 
Richard Hahn
President

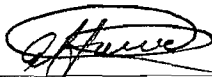
Date: 11/17/06

SUPPLIER:
TAINO BEVERAGE GROUP LLC

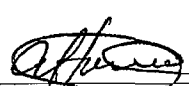
By: 
Alfonso P. Hernandez
Chief Executive Officer

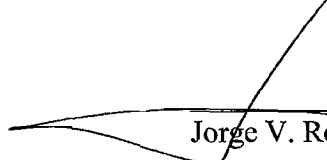
Date: 11/17/06

UNILATIN BEVERAGE CORPORATION

By: 
Alfonso P. Hernandez
Chief Executive Officer

Date: 11/17/06

 11/17/06
Alfonso P. Hernandez Date

 11/17/06
Jorge V. Rodriguez Date

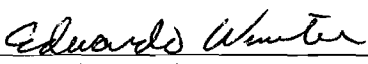
 11/17/06
Eduardo B. Winter Date

EXHIBIT "A"

Trademarks

MABI TAINO
MABI SEYBANO
MABI CACHEO
GUARAPIÑA

EXHIBIT "B"

Schedule of Authorized Product Forms

PRODUCT FORMS

24 x 12 oz. bottles of all flavors available from Supplier

All other product forms used or authorized by Supplier

Initials-Supplier:

J.V.R. G. H. C. W.

Initials-Bottler:

R.H.

EXHIBIT "C"

TERRITORY DESCRIPTION

The entire United States and its territories and possessions, including the fifty states, the District of Columbia, the U.S. Virgin Islands and Guam.

Initials-Supplier:

ah J.V.P. Ew

Initials-Bottler:

KH

