

ECasks Fair Use Policy

1 Basis of Rental

- 1.1 The Rental period starts on delivery and ends on dispatch (or refill in line with Term 1.2). Delivery and dispatch only take place as set out in Term 2. ECasks remain our property at all times, and you have no right, title or interest in them.
- 1.2 Each Rental entitles you to fill an ECask once; you may not refill an ECask without our consent. If you refill an ECask (with our consent), this counts as a new Rental, and our Rental Charge for an unwashed ECask applies. Unless otherwise agreed, all ECasks are delivered washed, but will not have been sterilised. If you take unwashed ECasks, a different fill fee may apply. EKegs are delivered washed, sterile and filled with 1.5bar nitrogen. If you take unwashed EKegs, a different fill fee may apply.
- 1.3 You will not obtain or collect an ECask except in line with Term 2. If you obtain an ECask in another way, you will tell us immediately and follow our instructions.
- 1.4 You will not participate in any beer swaps using ECasks, ie swap beer with another brewery for onward sale or distribution.
- 1.5 Risk of loss, theft, damage or destruction of ECasks passes to you on delivery, and remains with you until dispatch. During the Rental period you will, at your own expense, obtain and maintain any insurances required to protect the ECasks.

2 Order, Delivery and Dispatch

- 2.1 You may ask us to deliver a number of ECasks and we will use reasonable efforts to deliver all of them. We will give you an indication of delivery quantities where we can, and you may cancel an order if you give us at least 48 hours' notice. You will accept and pay for all ECasks we deliver, up to the requested number.
- 2.2 Delivery of an ECask takes place when (a) we bring it to you (a delivery charge, as set out in our original quote, will apply) or (b) you collect it from us. You will agree the delivery time with us and make yourself available for delivery.
- 2.3 We may change the specification of ECasks before delivery where required by law or where this will not materially affect your use of them. We may deliver by instalments, and rejecting one instalment does not entitle you to reject others.
- 2.4 Dispatch takes place when an ECask leaves your premises to be sent to (or collected by) an Agreed Wholesaler – you must tell us when this happens. The Rental ends on the later of (a) dispatch and (b) you telling us dispatch has occurred. You may not collect an ECask after dispatch.
- 2.5 You will dispatch ECasks within 28 days of delivery; late dispatch incurs our daily hire charge.
- 2.6 You may only dispatch an ECask to an Agreed Wholesaler. It is your responsibility to check that the person you send it to is on our then-current list of Agreed Wholesalers; if you dispatch an ECask to anyone else, our collection fee may apply.

3 Looking After ECasks

You will:

- 3.1 ensure that ECasks are kept at your premises throughout the Rental period in a suitable environment, used only for the purposes they were designed for and operated properly by trained competent staff in accordance with the manufacturer's and our instructions;
- 3.2 take all necessary steps to ensure that ECasks are safe and do not pose a health or injury risk to a person at work using, cleaning or maintaining them;
- 3.3 ensure ECasks are in as good a condition on dispatch as on delivery (subject to fair wear and tear), and not alter or tamper with an ECask or any identifying marks or radio frequency identification in or on it, or do (or allow to be done) anything which might jeopardise our right, title or interest in an ECask;
- 3.4 not put any labels on an ECask, except one on the top and another on the belly of the ECask;
- 3.5 not part with possession of an ECask except in line with Term 2, and will tell us immediately if an ECask is lost, stolen, seized, confiscated or damaged or if there is a Total Loss (our replacement charge applies to Total Losses); and
- 3.6 indemnify us against all costs, expenses (including legal expenses), losses, damages and other liabilities we suffer or incur arising out of or in connection with your use of ECasks during the Rental period and/or any breach of these Terms.

4 Reporting

- 4.1 You will give us dispatch data, including the Agreed Wholesaler's address ECasks have been dispatched to in the previous 7 days. If you do not do this, you will incur our late reporting charge.
- 4.2 We may audit your use of ECasks and records and documentation relating to them at any time on notice during working hours, and you will give us reasonable assistance
- 4.3 If you have more ECasks than you have reported to us, we may charge you a fill fee for each additional ECask. If you have fewer ECasks than you have reported to us, we may charge you a replacement fee for each missing ECask.

4.4 If we find out, or reasonably suspect, that you have refilled an ECask without telling us, we may charge you an unarranged fill fee for each such refill.

4.5 Your reporting obligations and our audit rights continue after the Rental period ends.

5 Paying for ECasks

5.1 The Rental Charge is the relevant price for the fill fee plus late payment surcharge listed in our Price List (including delivery charge, if applicable), plus any VAT and other applicable taxes, duties or similar charges, which you will also pay.

5.2 If you pay the Rental Charge within 40 days of the date of invoice, you may deduct the late payment surcharge. Otherwise, all payments must be made without deduction or set off unless required by law.

5.3 Unless otherwise agreed, fees and charges will be as set out in the Price List. No payment is considered received until we have received cleared funds.

6 Warranties and Liability

6.1 We warrant that, on delivery, ECasks will (a) substantially conform to their specification (b) be of satisfactory quality and fit for any purpose we hold out and (c) be free from material defects in workmanship. **Defect** means a breach of these warranties.

6.2 We are only liable for a defect if (a) you tell us within 48 hours of discovering it and (b) we have a reasonable opportunity to examine the relevant ECask and you have brought it to us if we ask you to. If an ECask is defective, we will (at our option) replace the defective ECask or issue a credit note for the Rental Charge you paid for it.

6.3 We are not liable for a defect if (a) you use the relevant ECask after notifying us under Term 6.2(a) or (b) the defect arose because you did not follow our instructions on the storage, use or maintenance of the ECasks or (if there is none) good trade practice.

6.4 We are not liable to you for any loss of profits, loss of anticipated revenue, loss of business opportunity, loss of goodwill, ullage beer cost, for any third party claim or for any indirect or consequential loss, damage, cost, expense, claim or liability arising out of or in connection with these Terms or a Rental.

7 Default

7.1 Any of the following is a **default**: (a) you fail to pay us any amount when due; (b) you fail more than one audit in any 12 months; (c) you breach any of these Terms or any other agreement you have with a CB company; (d) you become insolvent, or we have reason to think you may become insolvent; (e) early termination of any facility you have with a CB company; and (f) acceleration of any debt you owe a CB company due to your breach.

7.2 If a default happens and you fail to remedy it within 7 days' written notice, unless the default is pursuant to 7.1(b) in which case immediately,, we may do any of the following: (a) require you to give up all ECasks you have, and at your cost collect the ECasks and enter any premises to do so; (b) cancel any or all orders; (c) withhold delivery of any orders until the default has been remedied to our satisfaction; (d) end or suspend any credit facilities; and you will pay us all outstanding amounts immediately.

8 General

8.1 In these Terms the following terms have the following meanings:

- **Agreed Wholesaler** means a business which is included in our list of approved wholesalers. We may update this list from time to time;
- **CB company** means us or any other Close Brothers group company;
- **ECask** means a 9 gallon cask or any other container we supply;
- **Price List** means our then-current list of applicable fees and charges;
- **Rental** means the supply of an ECask and your use of it in accordance with these Terms;
- **Rental Charge** means the ECask Rental charge as set out in Term 5.1;
- **Terms** means these terms governing our supply of ECasks to you;
- **Total Loss** means that an ECask is damaged beyond repair, lost, stolen, seized or confiscated;
- **we, us** and **our** mean Close Brewery Rentals Limited (trading as ECasks), a company registered in England and Wales with number 5826492 whose registered office is at Tolworth Tower, Ewell Road, Tolworth, Surbiton, Surrey KT6 7EL; and
- **you** and **your** mean a person who places an order for ECasks.

8.2 These Terms (and no other terms) govern our supply of ECasks to you, and by placing an order for ECasks you agree to them. No conduct by us constitutes acceptance of any terms you put forward unless this is put in writing and signed by one of our directors.

8.3 These Terms are governed by English law and the English courts.

Fair Use Terms Price List

Rental Charges – Fill Fees	
Fill Fee – Clean ECask	£6.30 per ECask
Fill Fee – Dirty Ecask	£5.80 per ECask
Fill Fee – Unarranged Fill	£9.45 per ECask
Late Payment Surcharge	£0.25 per ECask
Daily Hire Charge	£0.05 per ECask per day on site above the 28 day rental limit
Late Reporting Charge	£0.25 per ECask reported between 8 days and 28 days after date of despatch £0.75 per ECask reported between 29 days and 56 days after the date of despatch £2.25 per ECask reported between 57 days and 90 days after the date of despatch £9.45 per ECask reported between 91 days and 176 days after the date of despatch £50 per ECask reported after 177 days after the date of despatch
Collection Fee	£10 per ECask
Replacement Fee / Total Loss	£75 per ECask