



An Independent Franchised
Distributor for **Lactalis Australia**



A Member of
**Countrywide
Australasia
National Network**

**Setlex Pty Ltd T/A
Rum City Foods
ABN 38 509 899 256**

**TEL: (07) 4331 8700
FAX: (07) 4153 4296
Email: admin@rumcityfoods.com.au**

**ACN 010 483 600 Trustee
15 Commercial Street
BUNDABERG QLD 4670**

**PLEASE NOTE: NO STOCK WILL BE SUPPLIED UNTIL THE COMPLETION AND APPROVAL OF THIS
CREDIT APPLICATION**

The following information **MUST** be completed before an account can be issued:

1. Name: The registered entity of the business.
2. Full Trading Name: Either the name the business is registered as or the physical name on the building. If these names differ, we require both.
3. ABN: If you are a new business waiting for your ABN to be issued, please mark this on your application and inform one of the Rum City Foods office staff. You will be required to provide your ABN to us as soon as it has been issued.
4. Registered Address: The registered address is normally the address of the business' accountant.
5. Full Trading Address: The address of the business where the stock is to be physically delivered.
6. Invoice Address: The invoice address should be either the physical address of the business or a Post Office Box.
7. Accounts Contact: Please ensure we have a name, contact phone number, and email address for all account enquiries should we require them.
8. Personal details of the Directors/Proprietors/Owners: The personal address of the registered owner/s of the business. If the business is in partnership, please list the private addresses of all those who are attached to the business, as well as license numbers.
9. Credit References: We require at least two (2) credit references with a phone or fax contact for all accounts seeking terms greater than C.O.D. If no credit references are supplied, Cash on Delivery account will be given.
10. Privacy Authority: This section needs to be signed in order for Rum City Foods to access information on your account history from the credit references provided. If no credit references are provided, the privacy authority does not need to be signed.
11. Guarantee: This must be signed by all registered owners of the business for all accounts regardless of the terms.
12. Terms and Conditions: The Terms and Conditions annexed will apply should your application be accepted.



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 Bundaberg QLD 4670
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CREDIT APPLICATION



THE APPLICANT / CUSTOMER

Date of Application: _____ / _____ / _____

- Registered Company Partnership Sole Trader
 Govt Department Club/Association Trustee

Company Name: _____

ACN: _____

ABN: _____

Full Trading Name: _____

Registered Office Address: _____

Full Trading Address: _____

Address for Invoicing: _____

Accounts Contact: _____

Business Phone: _____ Fax: _____

Email: _____ Website: _____

Personal Details of Directors/Proprietors/Owners:

Name: _____

License No: _____ DOB: _____

Personal Address: _____ Postcode: _____

Email Address: _____ Phone Number: _____

Name: _____

License No: _____ DOB: _____

Private Address: _____ Postcode: _____

Email Address: _____ Phone Number: _____

Name: _____

License No: _____ DOB: _____

Private Address: _____ Postcode: _____

Email Address: _____ Phone Number: _____

Credit References (Major Suppliers)

Name: _____ Phone: _____

Name: _____ Phone: _____

Name: _____ Phone: _____

Name: _____ Phone: _____

By signing this Credit Application, I confirm that all information is true and correct and upon acceptance by the Distributor, this Credit Application forms a deed between the Distributor and Applicant/Customer.

NAMES AND SIGNATURES (all Parties must sign)

Signed, Sealed and Delivered as a Deed by:

Name: _____ Position: _____

Signature: _____

Date: _____

Signed, Sealed and Delivered as a Deed by:

Name: _____ Position: _____

Signature: _____

Date: _____

Signed, Sealed and Delivered as a Deed by:

Name: _____ Position: _____

Signature: _____

Date: _____

DEED AND PRIVACY AUTHORITY

In consideration of Rum City Foods ("the Distributor") providing goods on credit (should this application be successful):

I/we apply to trade with the Distributor in accordance with the attached Terms and Conditions and shall observe and perform those Terms and Conditions if this application is accepted.

I/We acknowledge that the Distributor has informed me/us, in accordance with s.18E(8)(c) of the Privacy Act 1988, that certain items of personal information about me/us contained in this application and permitted to be kept on a credit information file might be disclosed to a credit reporting agency and to Lactalis Australia Ltd. This information includes among other things, particulars as to my/our identity, the fact that an application for credit was made and the amount of credit sought, details of current providers of credit and details of any credit at least 60 days overdue, cheques dishonoured and serious credit infringements.

To assist in the processing of this credit application, I/we hereby authorise the Distributor, its successors and/or assigns to:

- (a) Obtain information about my personal or commercial credit worthiness from my bank or any trade referee disclosed in this document and any other credit provider and credit reporting agency for the purpose of assessing the application for credit, or in connection with any guarantee;
- (b) Use, disclose or exchange with other credit providers information about my personal or commercial credit arrangements in order to assess the application for credit (including whether to accept as Guarantor any person signing), monitor credit worthiness and collect overdue accounts;
- (c) Disclose the contents of the credit report by a credit reporting agency to the Distributor's solicitors or mercantile agents.

To assist in the efficient distribution of products to me by the Distributor, I/we hereby authorise the Distributor, its successors and/or assigns to disclose to Lactalis Australia Ltd any information, including personal, credit and sales and trading information about me, stored or held by the Distributor.

I/We agree that if the Distributor approves the borrower's application for credit, this agreement remains in force until the credit facility covered by the borrower's application ceases in accordance with s.18K(1)(c) of the Privacy Act 1988. Please sign below to confirm your written consent to the Deed and Privacy Act consent above.

DATED THIS _____ day of _____ 20 _____

NAMES AND SIGNATURES (all Parties must sign)

Signed, Sealed and Delivered as a Deed:

Name: _____ Position: _____

Signature: _____

Signed, Sealed and Delivered as a Deed:

Name: _____ Position: _____

Signature: _____

Signed, Sealed and Delivered as a Deed:

Name: _____ Position: _____

Signature: _____

DEFINITIONS AND INTERPRETATION

1. In these Terms and Conditions:

“**Claim**” or “**Loss**” means, in relation to a person, a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether present, unascertained, immediate, future or contingent and “losses” or “Claims” has a corresponding meaning;

“**Customer**” means the legal entity or entities named in the Distributor Application for Commercial Credit as applying to trade with the Distributor on a commercial credit basis;

“**Distributor**” means Setlex Pty Ltd as Trustee ACN 010 483 600 (ABN 38 509 899 256), its successors and/or assigns;

“**GST**” has the meaning given to that term in the Goods and Services Tax Act 1999, or its successor;

“**Supply Agreement**” means any Agreement made between the Distributor and the Customer, which governs the purchase and/or distribution of Dairy/Food Service products by the Customer, including (without limitation) the Credit Application, Credit Deed or any other agreement or deed;

“**Terms and Conditions**” means these terms and conditions, and any amendment by the Distributor to those terms and conditions which may be made in Distributor’s sole and absolute discretion from time to time.

“**Website**” means the website of the Distributor.

2. In this document unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (d) references to statutes include all statutes amending, consolidating or replacing such statutes;
- (e) \$ means the lawful currency of Australia, and is exclusive of GST unless otherwise specified;
- (f) any reference to a party to this document includes its successors and permitted assigns; and
- (g) the use of the word “includes” or “including” is not to be taken as limiting the meaning of the words preceding it.

SALE OF GOODS

3. The sale of all goods and services by the Distributor is made upon these Terms and Conditions. Notwithstanding the above, to the extent of any inconsistency between these Terms and Conditions, and any other agreement with the Customer and the Distributor, these Terms and Conditions will prevail to the extent of that inconsistency unless any Supply Agreement specifically provides otherwise in relation to those clauses.

4. By submitting the Credit Application and/or by placing an order and/or taking delivery of goods supplied by the Distributor, the Customer agrees that these Terms and Conditions govern that sale. All purchases of goods from the Distributor are deemed to have been made by

the legal entity which is designated as the Customer on the Credit Application, as well as its successors and assigns, and that the Customer contracts with the Distributor both in its individual capacity and as trustee for any trust. The Customer agrees that the Distributor may have recourse against the assets of any trust of which the Customer is a trustee.

5. The Distributor may change these Terms and Conditions at any time by notice in writing to the Customer. At least twenty-one days’ notice of such change shall be given.
6. The Customer must notify any proposed change of ownership of the Customer’s business in writing to the Distributor at least twenty-one days prior to such change. The Customer will remain liable for all purchases of goods and services from the Distributor made in the name of the business prior to the change of ownership of the Customer’s business, as well as its successors or assigns.
7. Unless otherwise specified by the Distributor, either party may terminate the trading arrangements between the Distributor and the Customer at any time, by notice in writing. If such notice is given any monies owing by the Customer to the Distributor will become immediately due and payable by the Customer, and the Customer acknowledges that any guarantees are continuing, and Customer may elect to recover monies under such guarantees.

RESERVATION OF TITLE AND PASSING OF RISK

8. The Customer acknowledges that the title of goods delivered by the Distributor to the Customer is only transferred to the Customer once all sums owing to the Distributor on any account whatsoever have been paid in full. Until all such sums have been paid, the Distributor has the right to call for or recover the goods (for which purpose employees or agents may enter the Customer’s premises) and the Customer is obliged to deliver up the goods if so directed by the Distributor.
9. The Customer agrees to keep the goods and any proceeds of sale of the goods in a fiduciary capacity for the Distributor until such time as title is transferred to the Customer.
10. Notwithstanding the foregoing, the Customer may sell the goods to a third party in the ordinary course of business.
11. Notwithstanding any other term of these Terms and Condition:
 - (a) risk to the goods purchased by the Customer under any Supply Agreement passes to the Customer upon dispatch or delivery to the Customer; and
 - (b) the Customer accepts all risk of Loss and damage to the goods, whether caused by the Customer or not, following dispatch or delivery of the goods to the Customer.

PAYMENT

12. Subject to the performance by the Customer of all its obligations under these Terms and Conditions, and of any of its obligations under any Supply Agreement with the Distributor, the Distributor agrees to supply products to the Customer on a credit basis within the credit terms approved by the Distributor from time to time.
13. The Distributor shall have the sole right and discretion to establish credit limits for the Customer, and any such credit limits may be modified or terminated without notice in whole or in part by the Distributor from time to time in its sole and absolute discretion with respect to all orders

not accepted as of the date of such modification or termination. Any modifications or terminations of previously established credit limits for the Customer shall be applicable to all orders accepted by the Distributor on or after the date of such modification or termination and until such time as further modifications may be effected.

14. The Customer agrees to make all payments within the date specified by an invoice or statement of account supplied to it by the Distributor.
15. If the Customer fails to comply with clause 14, without prejudice to any other rights of the Distributor:
 - (a) the Customer will, if so required by the Distributor, pay interest at the Commonwealth Bank overdraft rate (or its successor), as published from time to time, per month compounded on any amount overdue, such interest being computed from the date of supply of the subject goods or services;
 - (b) the Distributor may thereafter require the Customer to pay in cash on delivery for any further orders placed by the Customer for goods or services;
 - (c) the Distributor may refuse to accept orders from the Customer or cancel orders or cease deliveries to the Customer, even if such orders were in the process of being delivered;
 - (d) any monies outstanding become immediately due and payable and the Distributor may require the immediate payment of all monies then owing by the Customer to the Distributor; and;
 - (e) the Distributor may take such action as it deems appropriate for the recovery of all monies owing by the Customer to the Distributor, including the Distributor's legal costs on a solicitor client basis and any costs involved in recovering the outstanding monies including debt collection costs.

CHARGING CLAUSE

16. We hereby charge and grant a security interest in all my/our right, title and interest (whether existing or future) in any property of any nature whatsoever including but not limited to the goods delivered to the Customer pursuant to this or any other agreement, and whether real or personal ("Property") to secure the payment of any money that I/ we become liable to pay to the Distributor ("Charge"). To give further effect to the Charge I/we deliver to the Distributor within seven days of written request by the Distributor, an executed mortgage or other form of security over any Property in registrable form that incorporates the Distributor's standard covenants as prepared by the Distributor's solicitors. I/we irrevocably appoint the Distributor and any solicitor nominated by the Distributor as my/our attorney to execute, obtain and/or register a mortgage, caveat or other instrument or thing to support the Charge in respect of the Property. If the Charge created by this clause is or becomes void or unenforceable, it may be severed from these Terms and Conditions without any effect on its validity and I will not be exonerated from these Terms and Conditions in whole or part, nor will the Distributor's rights, remedies or recourse against me in any way be prejudiced or adversely affected by such severance.

PERSONAL PROPERTY SECURITIES ACT

17. I/We agree and undertake to do anything the Distributor requires (such as obtaining consents and signing and producing documents) in connection with the registration of this document or any other document on any register established pursuant to the Personal Property Securities Act 2009 ("PPSA"). In the event that I/We fail to deliver such document, I/We hereby appoint the Distributor to be its lawful attorney for the purpose of executing and

registering such documents. I/We acknowledge and agree that these Terms and Conditions constitute a security agreement for the purposes of section 20 of the PPSA and that a security interest exists in all goods (and their proceeds) and all property charged by me/us to the Distributor and in all future such property (and their proceeds). I/We contract out of and waive our rights in the following provisions of Chapter 4 of the PPSA: sections 95, 118, 120, 121(4), 123, 125, 129, 130, 132(2), 132(4), 134(2), 135(2), 137(2), 142, 143, 157(1), 157(3). Where the Distributor has rights under Chapter 4 of the PPSA, those rights will continue to apply. I/We acknowledge that we have received value as at the date of first delivery of any goods from the Distributor to the Applicant and have not agreed to postpone the attachment of the security interest granted to the Applicant under these Terms and Conditions. I/We irrevocably grant to the Distributor the right to enter upon our premises or property, without notice, and without in any way being liable to me/us or to any third party, if the Distributor has cause to exercise any of the Distributor's rights under s123 and/or 128 of the PPSA and I/We agree to indemnify the CREDITOR from any Claims made by any third party as a result of the Distributor exercising such rights.

DELIVERY AND ACCEPTANCE

18. If a delivery date is specified by the Customer, the Distributor will in no circumstances be liable for any Loss or damage of any kind whatsoever suffered or incurred by the Customer as a consequence or part, or late delivery. Any delay in delivery will not constitute grounds for cancellation of the subject order or any other order by the customer.

CLAIMS AND ALLOWANCES

19. Any Claims for credit for faulty stock, over charges, or any similar Claims must be received in writing by the Distributor within five days of the date of supply or the Customer will be considered to have waived any right to claim against the Distributor in respect to the relevant goods. It is the Customer's responsibility to ensure that goods are checked at the time of delivery. Faulty goods must be returned to the Distributor if credit is claimed for such goods. Return of goods does not necessarily entitle the Customer to a credit in respect of those goods.

LIMITATION OF LIABILITY

20. To the extent permitted by law:
 - (a) the Customer indemnifies the Distributor and keeps the Distributor forever indemnified against all Claims, demands, expenses and liabilities of whatsoever nature, including (without limitation) death, personal injury, damage to property and consequential loss (including loss of profit) which may be made by or against Distributor or the Customer or which any party may sustain, pay or incur as a result of or in connection with the manufacture, sale, export, import or use of the Goods, and any and all costs associated with enforcement of any Supply Agreement, Credit Application, Credit Deed or any other agreement between the Customer and Distributor, including legal costs on a solicitor-client basis, and the Customer agrees to pay such recovery costs on demand by the Distributor;
 - (b) the Customer release the Distributor from any and all Claims;
 - (c) the Distributor is not liable, and the Customer releases the Distributor against same, in any circumstances for any loss, damage, death, injury, expense, or Consequential Loss, whether in contract, tort, under statute or otherwise, including (but not limited to) loss of profit or revenue, loss of use, interruption of business,

loss of data, legal costs or settlement costs or otherwise, including (but not limited to) that arises from or in connection with the Supply of Goods, use or consumption of the Goods, the use of the Website or any other website linked to the Website, or otherwise.

21. The Distributor does not exclude or limit the application of any provision of any applicable statute, legislation or other regulation (including the *Competition and Consumer Act 2010* (Cth) and its Schedules and Regulations) (**Australian Consumer Law**) where to do so would contravene that statute, legislation or regulation, or cause any part of these Terms and Conditions to be void, and nothing in these Terms and Conditions is to be interpreted as doing so.
22. The Distributor's goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable Loss or damage. The Customer is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
23. Unless otherwise expressly provided in these Terms and Conditions or subject to the Australian Consumer Law, to the fullest extent permitted by law, the Distributor expressly excludes all warranties, conditions and representations in whatever form, relating to the goods, including any warranties or representations relating to performance, quality or fitness for use of the goods.
24. The Distributor reserves the right to cancel an order at any time in its sole and absolute discretion (including for example, stock unavailability, technical error and/or fraudulent activity). If an order or part of an order is cancelled by the Distributor, then the Distributor will use reasonable endeavours to contact the Customer to inform the Customer of that cancellation and to arrange a refund of that order or part thereof, utilising the original payment method.
25. The Customer acknowledges and agrees that the Distributor will not make alterations to an order that has been fulfilled and/or dispatched to the Customer.
26. If the Customer wishes to make an alteration to an existing order that has been placed but not fulfilled by the Distributor, any such request should be requested by emailing the requested change to the Distributor as soon as possible. However, the Customer acknowledges and agrees that to the extent permitted by law, the Distributor has no obligation to make any alteration or change to an order, once it has been made by the Customer.
27. The Customer agrees and understands that the Distributor does not provide any guarantees or warranties on delivery dates and times, and the Distributor is not liable for any loss, damage or claim, as a result of goods not being delivered to the Customer by any specified timeframe.

DISCLAIMER

28. The information contained in the Website is provided in good faith on an "as is" basis. To the extent permitted by law, the Distributor does not represent or warrant to the reliability, accuracy or completeness of the information contained on the Website. To the extent permitted by law, the Distributor is not responsible or liable for any Liabilities (direct, indirect or consequential losses and damages) arising in any way (including without limitation negligence) for errors in, or omissions from, the information in this Website. However, the Distributor will endeavour to correct any inaccuracies on the Website if the Distributor becomes aware of them.
29. Illustrations and photos contained in this Website are sample representation of the Goods advertised, and

variations may occur from time to time and from store to store.

30. The Website may contain links to external websites that are not operated by the Distributor or related bodies corporate. The Distributor does not make any endorsements, or representations as to the accuracy of information contained within those websites. These links are provided for convenience only and the Customer agrees that:
 - (a) the Distributor makes no representations or warranties, or have any responsibility or liability for those websites;
 - (b) these links do not indicate, expressly or impliedly, that the Distributor endorses the site or the products or services that are provided at those sites; and
 - (c) access and use the products and services made available at those sites solely at your own risk.
31. The Distributor does not claim that any information (including any files) obtained from or through the Website is free from viruses or other faults or defects.
32. The Customer is responsible for scanning any information for viruses, and agrees that the Distributor has no responsibility or liability to the Customer or any other person for any Loss or damage (whether direct, indirect, consequential or economic), regardless of cause, negligence or otherwise, which may be the direct or indirect result of any such information.

INSOLVENCY

33. If the Customer becomes bankrupt or makes any arrangements with or assignments for the benefit of its creditors, or being company, becomes the subject of any proceedings for, or makes arrangements or composition with its creditors, or if a receiver, or receiver or manager, administrator or liquidator is appointed to the Customer, or in respect of any of its assets, then, In addition to any other rights which the Distributor may have either by virtue of the foregoing Terms and Conditions or by law generally, the Distributor may:
 - (a) refuse to accept further orders from the Customer;
 - (b) refuse to supply goods or services pursuant to any existing order from the Customer;
 - (c) take such action as it thinks fit for recovery of all monies owing by the Customer to the Distributor including the Distributor legal costs on a solicitor client basis and any costs involved in recovering the outstanding monies including debt collection costs.

FORCE MAJEURE

34. If for any reason beyond the control of the Distributor (including without limitation as the result of any strike, tradedispute, fire, tempest, them or breakdown) orders cannot be filled at the time stipulated by the Customer, the Distributor shall be entitled to determine the contract and the Customer shall not have any Claims for damages arising out of such cancellation, without prejudice to the rights of the Distributor to recover all sums owing to it in respect of deliveries made or services provided prior to the date of such determination.

PRIVACY

35. All personal information gathered by the Distributor will be handled in accordance with the Privacy Act 1988.

CERTIFICATE

36. A certificate signed by an officer of the Distributor about any matter or sum payable to the Distributor is prima facie evidence of the matters stated within it.

GENERAL

37. The rights and obligations of the parties under a Supply Agreement, contract, deed, or the Terms and Conditions does not merge on completion of any transaction contemplated by that agreement, deed, contract or Terms and Conditions.
38. Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to any Contract, or these Terms and Conditions, and any transaction contemplated by it.
39. GST will be charged on those products that attract GST at the applicable rate.
40. A notice, consent or other communication under these terms and conditions / Supply Agreement is only effective if it is in writing, signed by or on behalf of the party giving it and it is received in full and legible form at the addressee's address or email address of the party.
41. Nothing in these Terms and Conditions will be taken as giving rise to a relationship of employment, agency, partnership or joint venture.
42. The Distributor may sub-contract or assign the performance of any obligations or matters under these Terms and Conditions to any third party in its sole and absolute discretion.
43. Any failure of the Distributor to enforce any provisions under these Terms and Conditions will not constitute a waiver of that right unless such waiver is given in writing.
44. If any term or provision in these Terms and Conditions is considered illegal, invalid or unenforceable under an applicable law, then that term or provision will be severed from these Terms and Conditions to the extent of that inconsistency, and the remaining Terms and Conditions will remain in full force and effect.
45. These Terms and Conditions are governed by, and constructed in accordance with the laws of Queensland, Australia. The parties agree to submit to the non-exclusive jurisdiction of the courts of Queensland.
46. The Customer may not assign, transfer or otherwise deal with these Terms and Conditions or any right under therein without the prior written consent of The Distributor, which must not be unreasonably withheld.
47. Any warranty, indemnity, or obligation of confidentiality in these Terms and Conditions will survive termination.
48. All material on the Website owned, operated, licensed or controlled by The Distributor, including but not limited to images, illustrations, audio clips, and video clips, are the intellectual property of The Distributor or other parties that have licensed their material to the Distributor.
49. Material on any website owned, operated, licensed or controlled by The Distributor is solely for your personal, non-commercial use. Such material may not be copied, reproduced, republished, modified, uploaded, posted, transmitted, or distributed in any way, including by e-mail or other electronic means, without the express prior written consent of the Distributor.
50. Use of the materials on any other website or networked computer environment, or use of the materials for any purpose other than personal, non-commercial use is a violation of the Distributor's intellectual property rights and is prohibited.

DEED OF GUARANTEE AND INDEMNITY

TO: Setlex Pty Ltd ACN 010 483 600 (ABN 38 509 899 256) its successors and/or assigns

(“Distributor”)

FROM: Name: _____ of _____

Name: _____ of _____

(“Guarantors”)

RE: Credit Application/Credit Deed between the Distributor and the Customer annexed herein

In consideration of the Distributor its successors and/or assigns (“the Distributor”) agreeing from the date hereof to supply goods and/or services on credit to the Applicant/Customer, the Guarantors:

1. guarantee to the Distributor that the Borrower will duly perform all of their obligations under the Credit Deed, including:
 - (a) the punctual payment of all monies owing to the Distributor in accordance with the payment terms, and acknowledges that the monetary value of this guarantee and indemnity is unlimited;
 - (b) compliance with all obligations including but not limited to the obligations set out in the Terms and Conditions which the Customer owes now or may in the future owe to the Distributor, including for all goods and services that the Distributor may from time to time supply to the Customer on any account the subject of the Credit Deed;
2. agree to indemnify the Distributor against all damages, costs, expense and losses of any kind (including legal fees on an indemnity basis) which the Distributor may suffer as a result of any failure by the Borrowers to perform all of their obligations under the Credit Deed.
3. The Guarantors agree that their obligations under this Guarantee and Indemnity are continuing, regardless of any:
 - (a) termination of the Credit Deed by the Distributor as a result of any breach by the Borrower(s);
 - (b) insolvency, bankruptcy or winding up of the Borrower(s);
 - (c) grant of time or other concession to the Borrowers by the Distributor;
 - (d) compromise, waiver or variation of any of the rights of the Distributor against the Borrower(s) under the Credit Deed;
 - (e) delay by the Distributor in exercising its rights under the Credit Deed;
 - (f) other matter which, but for this clause, might have released the Borrower(s) from their obligations to the Distributor.
 - (g) failure of the Guarantors to sign this guarantee properly;
 - (h) the Applicant/Customer incurring any obligations to the Distributor without the knowledge or consent of the Guarantors jointly or severally;
 - (i) any monies being unrecoverable by the Distributor from the Applicant/Customer for any reason at all;
 - (j) the Distributor not complying with any agreement or deed with the Applicant/Customer;
 - (k) the Distributor failing to take any step to perfect, protect or enforce any right it may have, or granting any extension of time, release or other indulgence to the Applicant/Customer;
 - (l) any change in status, ownership or membership of the Applicant/Customer or of any of the GUARANTORS:

- (m) the death, incapacity, administration, bankruptcy, liquidation, receivership or insolvency of the Applicant/Customer or of one or more of the Guarantors:
 - (n) that the Guarantors jointly or severally cease to be a director of, or to have any relationship with the Applicant/Customer or there is a change in status or structure of the Applicant/Customer;
 - (o) any variations to the terms of the credit provided by the Distributor to the Applicant/Customer (even if this increases my liability under this Deed of Guarantee and Indemnity);
 - (p) the Applicant/Customer refusing further credit to the Applicant/Customer; or
 - (q) by the release of any of the Guarantors or if this Deed of Guarantee and Indemnity is unenforceable against any one or more of the Guarantors.
4. This Guarantee and Indemnity binds each of the Guarantors jointly and severally.
 5. Any terms defined in the Credit Application/Credit Deed have the same meaning when used in this Guarantee and Indemnity, and the Guarantors acknowledge and agree they have received a copy of the Credit Application/Credit Deed prior to signing this Guarantee and Indemnity.
 6. The Guarantors warrant, where the Applicant/Customer is a trust, that the Applicant/Customer has full authority as trustee to enter into agreements or deeds for the supply to it of goods or services, or both, on credit.
 7. The Guarantors irrevocably consent to service of any notices and/or court documents relating to this GUARANTEE by:
 - (a) posting it to or leaving it at my address as set out below; or
 - (b) posting it to or leaving it at another address as advised in writing by me to the Distributor at anytime.
 8. The Guarantors confirm that I have read the Privacy Authority in this Application and I agree to be bound by its terms.
 9. The Guarantors agree that any payment made to the Distributor and later avoided by the application of any statutory provisions shall be deemed not to discharge my liability hereunder and in any such event, the Distributor is to be restored the rights it would have had if the payment had not been made.
 10. The Guarantors agree that the Distributor may apply any payment it receives in reduction of any indebtedness of the Applicant/Customer in such manner and amount as the Distributor may decide irrespective of the age of the debt.
 11. The Guarantors hereby charge and grant a security interest in all my/our right, title and interest (whether existing or future) in any property of any nature whatsoever ("**Property**") to secure the payment of any money that I/we become liable to pay to the Distributor ("**Charge**"). To give further effect to the Charge I/we deliver to the Distributor within seven days of written request by the Distributor, an executed mortgage over any Property in registrable form that incorporates the Distributor's standard covenants as prepared by the Distributor's solicitors. I/we irrevocably appoint the Distributor and any solicitor nominated by the Distributor severally as my/our attorney to execute, obtain and/or register a mortgage, caveat or other instrument or thing to support the Charge in respect of the Property. If the Charge created by this clause is or becomes void or unenforceable, it may be severed from this Deed of Guarantee and Indemnity without any effect on its validity and I will not be exonerated from this Deed of Guarantee and Indemnity in whole or part, nor will the Distributor's rights, remedies or recourse against me in any way be prejudiced or adversely affected by such severance.
 12. This Deed of Guarantee and Indemnity may be withdrawn by the Guarantors (or in the case of my death, by my legal representative) only upon the expiry of thirty (30) days from the day on which written notice of withdrawal is actually received by the Distributor but will continue in force in respect of the liability incurred up to the time the withdrawal takes effect. Upon receipt of the notice, the Distributor may no longer provide credit or supply goods or services to the Applicant/Customer.
 13. If any provision of this Deed of Guarantee and Indemnity is unenforceable, the provision will be ineffective to the extent of the unenforceability, but will not invalidate the remainder of the Deed of

Guarantee and Indemnity which will continue to have full force and effect.

- 14. I submit to the jurisdiction of the Courts of Queensland.
- 15. Subject to the provisions of this Deed of Guarantee and Indemnity constitutes the sole and entire agreement between the parties and any representation, warranty, guarantee or other terms of any nature not contained in this Deed of Guarantee and Indemnity shall have no force or effect.
- 16. The Guarantors warrant to the Distributor that they have read this Deed of Guarantee and Indemnity and the Credit Deed and they understand the nature and effect of this Deed of Guarantee and Indemnity.
- 17. The Guarantors agree that they have had the opportunity of obtaining independent legal advice before signing this Deed of Guarantee and Indemnity and have obtained such independent legal advice.
- 18. In this Deed of Guarantee and Indemnity:
 - (a) "Customer" means the applicant named in the Credit Application/Credit Deed and any related entity to the applicant as defined in the Corporations Act 2001.
 - (b) "Credit Application" or "Credit Deed" means this application, Credit Deed and Credit Account generally.
 - (c) "Guarantee" means this Deed of Guarantee and Indemnity.
 - (d) "Guarantor" / "Guarantors" means the person(s) identified below as 'guarantor' and if more than one jointly and severally and in any event (to the extent applicable) the joint and several successors and/or assigns of each.

OTHER MATTERS

- 19. The Guarantor and the Distributor agree that they contract out the following provisions under the Personal Property Securities Act 2009 (PPSA) in relation to the goods and that the following provisions under the PPSA will not apply to this agreement – Section 95,96,125,128,129,130,132 (3) (d),132 (4),134 (1),135,142 and 143.
- 20. Subject to section 275 (7) of PPSA, the Guarantor and the Franchisee agree that neither the Distributor nor the Guarantors will disclose information of the kind mentioned in Section 275 (1) PPSA.

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED BY THE GUARANTOR

Signature: _____ } Witness: _
 _____ }
 Full Name: _____ }
 Date: _____ } Name of Witness:

SIGNED SEALED AND DELIVERED BY THE GUARANTOR

Signature: _____ } Witness: _
 _____ }
 Full Name: _____ }
 Date: _____ } Name of Witness:

SIGNED SEALED AND DELIVERED BY SETLEX PTY LTD ACN 010 483 600 (ABN 38 509 899 256)
in accordance with section 127 of the Corporations Act

Director/Secretary: _____

Name:

Date: _____

Director: _____

Date: _____

OFFICE USE ONLY

APPROVED

DECLINED

Signature: _____ Date: _____

ACCOUNT NUMBER: # _____ TRADING TERMS: _____