

APPLICATION FOR CREDIT ACCOUNT

|  |  |  |  |  |  |  |  |  |
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| *Details on all 4 pages, including signed director guarantees, must be completed for application to be accepted* | | | | | | | | |
| Date: / / | | | | | | | | |
| **CUSTOMER DETAILS** | | | | | | | | |
| Full Trading Name: | | | | | | | | |
| Business Address: | | | | | | | P/Code: | |
| Postal Address: | | | | | | | P/Code: | |
| Business Type *(please circle)* | | | Sole Trader / Partnership / Company | | | | | |
| Trading Since: | | Phone: | | | | Fax: | | |
| ABN: | | | | ACN: | | | | |
| *If you have been trading with the above name for less than two years please supply previous name* | | | | | | | | |
| Previous Trading Name: | | | | | | | | |
| **CONTACT DETAILS / CHEF / MANAGER** | | | | | | | | |
| Name: | | | | | Name: | | | |
| Position: | | | | | Position: | | | |
| Mobile/Phone: | | | | | Mobile/Phone: | | | |
| Fax: | | | | | Fax: | | | |
| Email: | | | | | Email: | | | |
| **ACCOUNTS PAYABLE** | | | | | | | | |
| Name: | | | | | Fax: | | | |
| Position: | | | | | Email: | | | |
| Solicitors name: | | | | | Fax: | | | |
| Phone: | | | | | Email: | | | |
| **FULL NAME AND DETAILS OF PROPRIETOR(S) / DIRECTOR(S)***(please circle)* | | | | | | | | |
| **1**.Name: | | | | | Mobile/Phone: | | | |
| Private Address: | | | | | | | | |
| Drivers Licence Number: | | | | | Date of Birth: | | | |
| **2**. Name: | | | | | Mobile/Phone: | | | |
| Private Address: | | | | | | | | |
| Drivers Licence Number: | | | | | Date of Birth: | | | |
| **FULL NAME AND DETAILS OF 3 TRADE REFERENCES** *(must be food service related, no liquor or drink companies)* | | | | | | | | |
| **1**. Company Name: | | | | | | | | |
| Contact Name: | | | | | Phone: | | | |
| **2**. Company Name: | | | | | | | | |
| Contact Name: | | | | | Phone: | | | |
| **3**. Company Name: | | | | | | | | |
| Contact Name: | | | | | Phone: | | | |
| **CREDIT & PAYMENT TERMS** | | | | | | | | |
| Credit Limit Requested: $ | | | | | Credit Limit Approved: $ | | | *(office use)* |
| Trading Terms Requested *(please circle)*: | | | **COD / 7 days / 14 days from Invoice / 15 days from Statement** | | | | | |
| Trading Terms Approved: | **COD / 7 days / 14 days from Invoice / 15 days from Statement** | | | | | | | *(office use)* |
| **METHOD OF PAYMENT:** | **EFT / CHQ / Credit Card / Cash** | | | | | | | |
| **OPENING HOURS & PREFERRED DELIVERY TIMES** | | | | | | | | |
| Trading Days / Hours: | | | | | Preferred Delivery Times: | | | |
| **TERMS OF CREDIT** | | | | |  | | | |
| 1. The Customer named above must pay for all goods supplied on credit in accordance with the terms and conditions of supply provided with this application. 2. The Customer will at all times be liable to Sapori for payment for all goods supplied on credit under a purchase order or at the request of the Customer or any person acting on behalf of the Customer. 3. Sapori may determine at any time in its absolute discretion that credit will no longer be available to the Customer. | | | | | | | | |
| **CREDIT AGENCIES** | | | | |  | | | |
| The Customer expressly consents to Sapori:   1. making inquiries as to the credit and financial position of the Customer using information including exchanging information disclosed in this Application as it sees fit from time to time including assessing this Application; 2. obtaining and/or giving commercial references from time to time, including notification of a default by the Customer to any party; and 3. receiving from any Credit Report containing personal information about the Customer and its directors/principals and any Guarantors in relation to any matter relating to the Customer including collecting overdue amounts.   The Customer and Sapori agree to comply with the provisions of the *Privacy Act 1988* (Cth). | | | | | | | | |

**TERMS AND CONDITIONS OF SUPPLY**

This agreement (**“Agreement”**), formed upon acceptance of the Credit Application by Sapori, sets out the terms and conditions on which Sapori will supply Goods to the Customer. All Goods purchased by the Customer are supplied by Sapori under the terms of this Agreement.

**1. DEFINITIONS AND INTEPRETATION**

1.1 In this Agreement the following words and expressions will have the following meanings:

**Australian Consumer Law** or **ACL** means the law set out in Schedule 2 to the CCA (as defined below).

**Credit Application** means the application for credit made by the Customer attached to this Agreement.

**Customer** means the customer described in the Credit Application.

**Goods** means the goods described in any Purchase Order.

**Purchase Order** means any purchase order for Goods signed in writing by the parties.

**Purchase Price** means the price of the Goods set out in the Purchase Order as varied in accordance with clause 3.1.

**Sapori** means Sapori International Group Pty Ltd (ABN 51 605 255 927)

**Statutory Guarantees** means the guarantees that apply to the purchase of goods and services (as defined in the *Competition and Consumer Act 2010* (Cth) (**CCA**)), as set out in Part 3-2, Division 1 of the ACL.

1.2 All schedules and attachments to this Agreement, and any Purchase Orders, form part of this Agreement.

**2. GOODS**

2.1 Sapori will use its reasonable endeavours to supply the Goods in accordance with the terms of any Purchase Order.

2.2 Sapori reserves the right to deliver the Goods in instalments.

**3. PAYMENT AND GST**

3.1 The Customer must pay to Sapori the Purchase Price in full within 7 days of the date of any invoice provided by Sapori (**Due Date**).

3.2 If the Customer does not pay the Purchase Price in full on or by the Due Date then, in addition to the Purchase Price, the Customer must pay on demand interest, to be calculated on a daily basis at a rate 5% higher than the rate specified in the *Penalty Interest Rate Act 1983* (Vic) from time to time, from the Due Date until the date of final payment by the Customer plus a monthly administration fee of $55.00.

## 3.3 If GST applies to a taxable supply made under this Agreement the party to which the taxable supply is made must pay GST on that taxable supply, in addition to any consideration (excluding GST) that is payable for that taxable supply. It must do so at the same time and in the same way as it is required to pay the consideration for the taxable supply.

## 3.4 The Customer agrees that it will reimburse Sapori all expenses costs and disbursements incurred in recovering any outstanding monies, including but not limited to, Debt Collection Agency fees and solicitors costs reasonably incurred by Sapori.

## 3.5 The Customer acknowledges that Sapori may in its absolute discretion and without notice withhold the supply of Goods to the Customer while monies remain outstanding by the Customer to Sapori or the amount outstanding exceeds the credit limit provided to the Customer by Sapori and that Sapori shall not be liable for any loss suffered by the Customer.

## 3.6 The Customer agrees to charge all of his, her or its right title and interest in any property owned by him, her or it whether legally owned or beneficially owned and consents to Sapori lodging a caveat noting such interest and agrees that he, she or it shall be barred from objecting to such an action by Sapori.

**4. PERSONAL PROPERTY SECURITIES ACT 2009 (PPSA)**

4.1 Defined terms used in this clause 4 have the same meaning as given to them in the PPSA.

4.2 Sapori and the Customer acknowledge that this Agreement constitutes a Security Agreement and gives right to a Purchase Money Security Interest (PMSI) in favour of Sapori over the Goods supplied to the Customer, as Grantor, pursuant to a Contract, and over the Goods to be supplied under a Contract fall within the PPSA classification of “other Goods” acquired by the Customer pursuant to a Contract.

4.4 The Customer acknowledges that Sapori, as Secured Party, is entitled to register its interest in the Goods supplied or to be supplied to the Customer, as Grantor, under a Contract on the PPSA Register as Collateral

4.5 The Customer waives its right to any of the following under the PPSA:

1. receive notification of a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer, as Grantor, to Sapori;
2. receive notice of removal of Accession under section 95;
3. receive notice of an intention to seize Collateral under section 123;
4. receive notice of disposal of Collateral under section 130;
5. receive a Statement of Account if there is no disposal under section 132(4);
6. receive notice of retention of Collateral under section 135;
7. the right to redeem the Collateral under section 142;
8. the right to reinstate the Security Agreement under section 143;
9. receive a Statement of Account under section 132(3)(d) following a disposal showing the amount paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.

4.6 The Customer agrees that, to the extent permitted by law, nothing in section 95, 121(4) 130, 132(3)(d), 132(4)(d), 135, 142 or 143 of the PPSA will apply to the enforcement of the Security Interest created under this Agreement.

4.7 Subject to section 275(7) of the PPSA, neither Sapori nor the Customer will disclose information of the kind mentioned in section 275(1) of the PPSA.

**5. TITLE AND RISK**

* 1. Risk for any loss of, or damage of, the Goods will pass to the Customer as set out below:

1. where delivery is made by a carrier nominated by Sapori and delivery charges are invoiced to the Customer, upon delivery of the Goods to the Customer by the Sapori nominated carrier.
2. where the Customer’s nominated carrier is used for the delivery of the Goods, upon collection of the Goods from Sapori by the Customer’s nominated carrier.
3. in all other cases, when the Goods leave Sapori’s premises.

5.2 Title to the Goods passes to the Customer on payment in full of the Purchase Price for the Goods, plus any administration fee and penalty interest applied in accordance with clause 3.2.

5.3 Sapori’s right under this clause 5 secures:

1. Sapori’s right to receive the Price of the Goods; and
2. all other amounts owing to Sapori under any other contract.

5.4 All the payments received from the Customer must be applied in accordance with Section 14(6)(c) of the PPSA.

5.5 Until full payment in cleared funds is received by Sapori for all Goods supplied by it to the Customer, as well as the other amount owing to Sapori by the Customer under any other contract.

1. legal title and property in all Goods supplied under this Agreement remain vested in Sapori and do not pass to the Customer;
2. subject to clause 5.5(c), the Customer must keep the Goods separate from other Goods and maintain the labeling and packaging of Sapori so that they are readily identifiable as the property of Sapori;
3. the Customer must not sell the Goods except in the ordinary course of the Customer’s business;
4. the Customer holds and agrees to hold the proceeds of any sale of the Goods for Sapori in a separate bank account with a bank to which the Customer has not given any security;
5. in addition to any rights Sapori may have under Chapter 4 of the PPSA, Sapori may, without notice, enter any premises where it suspects the Goods may be located and remove them without committing a trespass, even though they may have been attached to other Goods or land not the property of Sapori, and for the purpose the Customer irrevocably licenses Sapori to enter such premises and also indemnifies Sapori from and against all Loss suffered or incurred by Sapori as a result of exercising its rights under this clause.  If there is any inconsistency between Sapori’s rights under this clause 5.5(e) and its rights under Chapter 4 of the PPSA, this clause 5.5(e) prevails;
6. the Customer acknowledges and warrants that Sapori has a security interest (for the purposes of the PPSA) in the Goods and any proceeds until title passes to the Customer in accordance with this clause 5.  The Customer must do anything reasonably required by Sapori to enable Sapori to register its security interest, with the priority Sapori requires and to maintain that registration; and
7. the security interest arising under this clause 5 attaches to the Goods when the Customer obtains possession of the Goods and the parties confirm that they have not agreed that any security interest arising under this clause 5 attaches at any later time.
8. The Customer warrants that it does not intend to use the Goods predominately for personal, domestic or household purposes.

5.6 If the Customer fails to pay all or any part of the Customer’s total indebtedness to Sapori under this Agreement, Sapori may without notice and without prejudice to any of its other rights and remedies;

1. recover and/or sell the Goods or any of them and may enter upon the Customer’s premises for that purpose; and
2. recover any difference between the sale or scrap value of the Goods and the price payable by the Customer for the Goods.

**6. INTELLECTUAL PROPERTY AND LABELS**

6.1 Nothing in this Agreement affects ownership of any intellectual property rights owned by Sapori, including in the Sapori brand. Sapori owns all intellectual property rights in or associated with the Goods.

6.2 The Customer must not manufacture, or arrange for the manufacture, of any goods or products that utilise any of the intellectual property rights of Sapori, and must immediately inform Sapori of any infringement or alleged infringement of the intellectual property rights of Sapori of which the Customer becomes aware.

6.3 The Customer must not alter, remove, damage or destroy any labels attached to the Goods, or remove or interfere with any part of any packaging.

**7. LIABILITY**

7.1 Any claim arising from the Goods must be made within 48 hours of delivery of the Goods or any such period allowed by law that cannot be excluded.

7.2 Except for the Statutory Guarantees, Sapori disclaims and excludes all other warranties and representations in relation to the Goods.

7.3 To the maximum extent permitted by section 64A of the ACL, Sapori limits its liability to the replacement of the goods or the supply of equivalent goods.

**8. INDEMNITY**

The Customer must continually indemnify Sapori and its officers, employees and agents against any liability, loss, damage or expense (including legal costs) incurred or suffered as a direct or indirect result of a breach of this Agreement, or the Customer’s negligence or wilful misconduct.

**9. MISCELLANEOUS**

9.1 Any waiver or amendment of the provisions of this Agreement must be in writing and signed by both the Customer and Sapori and will be effective only to the extent to which such waiver is made or given.

9.2 This Agreement, together will all documents attached hereto or incorporated by reference (including, without limitation, any Purchase Order) forms the entire contract between the Customer and Sapori and in the event of any inconsistency between the terms of purchase as set out in this Agreement and the terms of sale set out in any other form of contract, invoice, acknowledgement or notice provided by the Customer to Sapori, the terms and conditions of this Agreement will prevail.

9.3 The Customer shall not assign its rights and obligations under this Agreement or any Purchase Order without Sapori’s written consent.

9.4 Sapori will not be liable for any breach of this Agreement caused by any event beyond the reasonable control of Sapori.

9.5 This Agreement shall be governed by, and subject to, the laws of the State of Victoria.

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| The Customer confirms it has read understood and accepts the Terms and Conditions and agrees to be bound by them and warrants that the Customer has taken all necessary action to authorise the execution delivery and performance of this Agreement in accordance with its terms. A copy of these Terms and Conditions will always be made available and the Customer acknowledges receipt of the same by its execution of this Credit Application. | | | |
| *(Please sign as a Sole Trader and /or all Partners)* | | | |
| 1.Signature: | | 3.Signature: | |
| Name: | | Name: | |
| Position: | Date: | Position: | Date: |
| Witness: | Date: | Witness: | Date: |
| Signature: | | Signature: | |
| Name: | | Name: | |
| Position: | Date: | Position: | Date: |

**PERSONAL GUARANTEE**

*(Please read carefully and sign below)*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **CUSTOMER DETAILS** | | | | |
| Full Trading Name: | | |  | |
| Business Address: | | | P/Code: | |
| Postal Address: | | | P/Code: | |
| **GUARANTORS DETAILS** | | |  | |
| **1**.Name: | | |  | |
| Private Address: | | | P/Code: | |
| **2**. Name: | | |  | |
| Private Address: | | | P/Code: | |
| **3**.Name: | | |  | |
| Private Address: | | | P/Code: | |
| In consideration for Sapori agreeing at the Guarantor's request to supply from time to time goods and/or services to the Customer, the Guarantor(s) hereby agrees with Sapori as follows: 1. To guarantee and to be answerable and responsible to Sapori for the punctual and proper payment of all moneys that are, or may in the future become, payable by the Customer to Sapori for all goods and/or services Sapori may now, or may in the future, supply to the Customer.2. To keep Sapori indemnified from and against all losses and damages which Sapori may incur as a result of any failure by the Customer to pay to Sapori when due and payable any money for goods and/or services supplied by Sapori to the Customer.3. To charge all of his or her right title and interest in any property owned by him or her whether legally owned or beneficially owned and consents to Sapori lodging a caveat noting such interest and agrees that he or she shall be barred from objecting to such an action by Sapori.4. This is a continuing guarantee to Sapori for all debts past, present and future monies owed by the Customer to Sapori and will not be affected or discharged by the Administration, Receivership, Official Management, Liquidation, Bankruptcy or death of the Customer or any disclaimer by a Liquidator or Trustee of the Customer or the death of the Guarantor. The Guarantor must not compete with Sapori for any dividend or distribution in any Liquidation, Bankruptcy, Scheme of Arrangement or Compromise of Debts of the Customer.5. Sapori will be at liberty without notice to the Guarantor at any time and without discharging the Guarantor from any liability to grant time or other indulgence to the Customer and to accept payment from the Customer in any form and to treat the Guarantor in all respects as though the Guarantor was jointly and severally liable with the Customer to Sapori instead of being merely a surety.6. In this Guarantee, words in the singular include the plural and agreements made by the Guarantor if more than one person will bind each of them jointly and severally and this Guarantee will not be affect by any want of capacity or due execution of it by any person named as Guarantor. | | | | |
|  | | | | |
| 1.Signature: | | 3.Signature: | | |
| Name: | | Name: | | |
| Position: | Date: | Position: | | Date: |
| 2.Signature: | | 4.Signature: | | |
| Name: | | Name: | | |
| Position: | Date: | Position: | | Date: |
| **A copy of a current Australian Drivers Licence must be supplied** | | | | |
| **(Belonging to Director/s or Sole Trader)** | | | | |
| *Please do not hesitate to contact our accounts receivable department if you have any questions regarding your application*  *P: 03 9329 3922 or E: accounts@saporiinternational.com* | | | | |