



SYDNEY FREEZER FOOD DISTRIBUTORS

16-18 CHALMERS CRESCENT MASCOT, 2020

Tel: (02) 9599 6963 Fax: (02) 9599 1440

ABN: 79 133 786 259

(A division of united Holdings Pty Ltd.)

Credit Application Form

This Form comprises 4 sections:

- 1 Details of Applicant (including Warranty and Acknowledgment of Terms and Conditions)
- 2 Other Business Information & Trade References
- 3 Terms and Conditions
- 4 Personal & Continuing Guarantee

Instructions/checklist on how to complete this form:

- Start by selecting the type of account required
- Complete only those pages relating to the credit terms requested
- Ensure you have read and understood the Terms and Conditions section
- Ensure all relevant pages are signed and dated where indicated by an authorised person
- Please return the whole document by hand or post to 16 Chalmers crescent mascot 2020. The Form may be returned by fax on (02) 9599 1440. Once received by our office, we will process your application as quickly as possible in order that your account can be opened for business.

Credit Approval

Credit Applications are subject to approval and acceptance by **SYDNEY FREEZERS FOOD DISTRIBUTORS** in its absolute discretion. On approval we will send you a Credit Application Approval Letter confirming acceptance of your application form and the approved trading terms.

Section 1: Details of Applicant

Business Details

Registered Legal Name: _____

Trading Name (if diff. to above): _____

Business Type: Company Partnership Sole Trader Other (specify) _____ ACN: _____ ABN: _____

Business Address: _____ Suburb/City: _____ State: _____ Postcode: _____

Postal Address (if diff. to above): _____

Phone No.: _____ Fax No.: _____ Email: _____

Directors/Proprietors Details (all directors and proprietors to be listed)

Name 1: _____

Residential Address: _____ Suburb/City: _____ State: _____ Postcode: _____

Home Phone No.: _____ Home Fax No.: _____ Email Address: _____

Mobile No.: _____ Drivers Licence No.: _____ State Issued: _____

Name 2: _____

Residential Address: _____ Suburb/City: _____ State: _____ Postcode: _____

Home Phone No.: _____ Home Fax No.: _____ Email Address: _____

Mobile No.: _____ Drivers Licence No.: _____ State Issued: _____

Warranty & Acknowledgement of Terms & Conditions

1. The Customer hereby applies for credit payment terms with the Company.
2. The Customer warrants and represents that it has authority to enter into this Contract and that any person signing this Contract has been duly authorised to complete and execute this Contract for and behalf of the Customer.
3. The Customer acknowledges that it has read and understood the above Terms and Conditions and that all goods are to be supplied in accordance with them. The Customer accepts the Terms and Conditions under which credit is offered and agrees to be bound by the Terms and Conditions. The Customer attests to the accuracy of the information supplied in this Credit Application Form as being true and correct.
4. The Customer agrees that any order made to the Company will be an offer to purchase goods in accordance with the Terms and Conditions and that the Terms and Conditions shall be the terms of any contract for the supply of any goods by the Company.
5. The Customer acknowledges that a facsimile copy of this Contract and carbon copies of invoices are just as binding as the original document/s thereof.
6. The Customer acknowledges that acceptance of these Terms and Conditions takes precedence over previous agreements between the Company and the Customer, but does not necessarily void such agreements.
7. The Customer acknowledges that the Company recommends that legal advice should be obtained by the Customer from its own counsel before signing this Application.
8. The Customer acknowledges that the Company may suspend or withdraw any credit facility granted to the Customer as the Company thinks fit.
9. The Customer warrants and represents to the Company that it is at the time of making this Credit Application, and will be at the time of all future dealings with the Company, solvent and able to pay its debts as and when they fall due.
10. I (the person signing below) warrant that I am duly authorised to complete and execute this Credit Application Form and Agreement for and on behalf of the Customer.

Signed for and on behalf of the Customer:

Full Name: _____ Name of Witness: _____

Signature: _____ Signature: _____

Position/Title: _____ Date: _____

Section 2: Other Business Information & Trade References

Now, please start by selecting the type of account required:

- COD account (complete Section 1 only)
- 7 day account (complete All Sections)

Account Contact Details – person in charge of accounts

A/C's Contact: Name: _____ Direct Phone No.: _____

Direct Email: _____

A/C's Supervisor Contact: Name: _____ Direct Phone No.: _____

Direct Email: _____

Other Business Information

Industry Name: _____

Date Established: _____

Length of time in business (current owners)/No. of employees: _____

Are the premises owned/leased (please state owners/lessors name) _____

Trade References (please supply particulars for at least 2 large industry suppliers who have been trading longer than 12 months, 1 service supplier, and landlord (if applicable))

Industry supplier 1 - Name: _____ Phone No.: _____

Industry supplier 2 - Name: _____ Phone No.: _____

Industry supplier 3 - Name: _____ Phone No.: _____

Landlord (if applicable) -Name: _____ Phone No.: _____

Credit Reference Authority

I _____ warrant that I am duly authorised by the Applicant to sign this authorisation and hereby authorise a representative of **SYDNEY FREEZERS FOOD DISTRUBTORS** to obtain an assessment from the above referees of the Applicant's creditworthiness for the amount of the credit limit requested of \$_____.

Name of Authorised person: _____ Name of Witness: _____

Signature: _____ Signature of Witness: _____

Position/Title: _____ Date: _____

Section 3: Terms & Conditions

SYDNEY FREEZERS FOOD DISTRIBUTORS (“the Company”) agrees to sell to the Customer the goods named in this document and the Customer agrees to purchase those goods subject to and in accordance with the following provisions:

General

1. Definitions

- 1.1 “Contract” means the contract constituted by the Terms and Conditions, together with any other document expressly incorporated into this document.
- 1.2 “The Company” means Sydney freezers food distributors.
- 1.3 “The Customer” means the Applicant named in section 1 of this document.
- 1.4 “Terms and Conditions” means these terms and conditions, which form part of the Contract.

2. Entire Agreement & General Provisions

- 2.1 The Contract governs the trading relationship between the Company and the Customer. All sales made by the Company to the Customer shall incorporate these Terms and Conditions and these Terms and Conditions constitute the entire agreement between the parties, and no variation to these Terms and Conditions will be made or binding unless reduced to writing and signed by both the Company and the Customer or their duly authorised representatives, servants or agents.
- 2.2 The Contract shall prevail and take precedence over any document or verbal exchanges between the parties, any terms or conditions contained or referred to elsewhere or implied by trade custom, practice or course of dealing. The Customer agrees to the Contract irrespective of anything in any other document, unless the Company expressly agrees in writing with reference to the Contract.
- 2.3 Each party must do or cause to be done all things necessary or reasonably desirable to give full effect to the Contract and the transactions contemplated by it.
- 2.4 The rights and obligations of the parties under the Contract do not merge on completion of any transaction contemplated by the Contract.

3. Change in Ownership

- 3.1 The Customer undertakes to advise the Company in writing one month in advance of any intended change in ownership or control, including any change of directors, shareholding, unit holding or legal or beneficial interests, in the Customer or the Customer’s business. The Customer acknowledges they remain liable for any goods and services they receive during periods of change in ownership or control, including any change of directors, shareholding, unit holding or legal or beneficial interests, in the Customer or the Customer’s business. The notice advising the Company of the change is to clearly state the name of the new owners and the date and time the change in ownership will take place. In the event that the Customer engages a third party such as a solicitor, or a professional person or organisation, to handle the sale of their business, then the Customer authorises the Company to contact the third party for the purpose of confirming the particulars of the notice. The Customer must provide contact details of the third party to the Company as and when requested. Further, in the event that the Company will only be paid any amounts owing to it by the Customer from proceeds of sale of the Customer’s business, then the Customer authorises the Company to contact the third party for the purpose of instructing them to hold a proportion of the sales proceeds equivalent to the amount owing to the Company at that time in the third party’s Trust account. Once this directive is made in writing by the Company to the third party (a copy of which is to be sent to the Customer), it legally binds the third party to act on the Company’s behalf and to pay out in full all amounts owing to the Company from the said Trust account.

4. Variations

- 4.1 The Company reserves the right to vary the Contract and its terms and conditions at its discretion.

5. No Waiver

- 5.1 The Company’s failure to insist upon strict performance of any provision of the Contract shall not be deemed to be a waiver of its rights or remedies in respect of any present or future default of the Customer in performance or compliance of any of the Contract. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

6. Force Majeure

- 6.1 In the event that the Company is prevented from carrying out its obligations under the Contract as a result of any cause beyond its reasonable control such as but not limited to Acts of God, war, strikes, block-outs, flood and failure of third parties to deliver goods, the Company shall be relieved of, and will not be liable for any delay or failure to perform, any of its obligations and liabilities under the Contract for as long as such performance is prevented.

7. Severability

- 7.1 If any clause or part clause of these Terms and Conditions shall for any reason be declared or become unenforceable, invalid, illegal or otherwise incapable of enforcement for any reason whatsoever, that clause or part clause shall be deemed to be severed from these Terms and Conditions and of no force and effect, but all other clauses and parts of clauses shall nevertheless prevail and remain in force and effect and be valid and fully enforceable and no clause or part clause shall be construed to be dependent upon any other clause or part clause unless so expressed herein.

8. Privacy Act & Credit Reference Authorisation

- 8.1 The Customer acknowledges and agrees that the Company:
 - (a) Has informed the Customer that it may give information of the types set out in Section 18E (1) of the Privacy Act 1988 about the Customer to a credit reporting agency (Section 18E(8)(c)).
 - (b) May request and obtain a credit report from a credit reporting agency for the purpose of:
 - Assessing the Customer’s application for trade credit;
 - Assessing whether to accept the Customer or guarantor in respect of credit provided by the Company;
 - Collecting amounts that are overdue in respect of trade credit provided by the Company to the Customer.
 - (c) May use information obtained from any person, or body carrying on a business or undertaking involving the provision of information about the commercial creditworthiness of persons, that concerns the Customer’s commercial activities or commercial creditworthiness, for the purpose of assessing the Customer’s application for credit.
 - (d) Has received the Customer’s authorisation to obtain any and all information it deems necessary from any source listed on the Company’s Credit Application Form. The Customer hereby authorises each of the sources listed to supply the Company with such information necessary to assist in the consideration of creditworthiness of the Customer.
- 8.2 The Customer expressly authorises the Company to do all things described in clause 8.1 above.

9. Termination of Contract

- 9.1 The Company may terminate the Contract, without having to perform any of its obligations under the Contract, immediately by notice in the event the Customer:
 - (a) breaches any clause of the Contract and such breach is not remedied within 7 days of written notice to the Customer;
 - (b) materially breaches the Contract and the breach is incapable of remedy; or
 - (c) becomes insolvent, or a liquidator, administrator, receiver or other controller is appointed over the Customer and its assets, or the financial position of the Customer, or some other fact or circumstance, leads the Company to believe on reasonable grounds that the Customer is likely to materially fail to complete its obligations under the Contract.
- 9.2 Termination of the Contract shall not relieve the Customer of:
 - (a) its obligation to pay all money owing by it to the Company on any account whatsoever, and all monies shall be payable immediately notwithstanding the date for payment of the money which may not have arrived; and
 - (b) liability arising from any antecedent breach of the terms of the Contract.
- 9.3 Upon termination of the Contract for any reason the Company:
 - (a) may retain any monies paid by the Customer;
 - (b) charge a reasonable sum for goods and services supplied in respect of which no such amount has previously been charged and the Customer agrees to pay such charge;
 - (c) demand immediate repayment of all credit then outstanding to the Company;
 - (d) retake possession of all property of the Company in the possession of the Customer; and
 - (e) pursue any additional or alternative remedies provided by law.
- 9.4 The termination of the Contract is without prejudice to any rights which have accrued to a party before the date of termination.

10. Jurisdiction

- 10.1 These Terms and Conditions shall be governed by and construed in accordance with the laws of New South Wales, or at the option of the Company, the State or Territory of Australia in which the relevant products or

services are being provided from or to. Each party submits to the non-exclusive jurisdiction of the courts of that State or Territory.

Sale of Goods and Services

11. Orders & Delivery

- 11.1 Orders are subject to approval and acceptance by the Company in its absolute discretion. The Company may in its absolute discretion refuse to supply goods to the Customer without giving any reason for its decision.
- 11.2 Delivery shall be made to the Customer at the address provided to the Company by the Customer as set out in this document.
- 11.3 Delivery of goods will be accepted in writing by the Customer or its duly authorised representative, servant or agent by placing a signature upon this document and that signature shall constitute conclusive evidence of delivery to the Customer of the goods ordered in the quantity set out in this document. Where there is no signature on the document as a result of the Company following verbal instructions from the Customer to deliver the goods without signature, or delivering goods as a matter of routine without signature, then the notes written on this document by the Company’s representatives shall constitute conclusive evidence of delivery.
- 11.4 The Company will use its best endeavours to deliver the goods in accordance with its estimated delivery dates. However, the Company does not warrant that it will deliver within this time frame.
- 11.5 The Company shall not be liable in any way whatsoever for any losses, costs, damages or expenses incurred by the Customer as a result of non-availability, non-delivery or non-supply of goods, purported late or late delivery by the Company to the Customer, or any failure to meet an estimated delivery date provided by the Company to the Customer and generally the time of delivery shall not be of the essence. In the instance where delivery is made to the Customer and no signature is recorded on this document and it has previously been agreed (whether verbally or in writing) between the Company and the Customer that no signature is required, the Company shall not be liable for any losses incurred by the Customer as a result of purported non-delivery or shortage of delivery.

12. Ownership and Risk

- 12.1 The risk in the goods shall pass to the Customer upon delivery or into custody on the Customer’s behalf.
- 12.2 The Company remains the legal owner of the goods, with full legal title and property to the goods, until full payment has been made by the Customer to the Company for the goods.
- 12.3 If goods are sold by the Customer prior to payment for such goods then the proceeds of sale and any book debt resulting from such sale shall be the property of and shall be held in trust for the Company. The right to resell goods, title to which has not passed, may be revoked by the Company at any time.
- 12.4 While any monies are outstanding by the Customer, the Customer grants to the Company the free and uninterrupted right, without liability in trespass or otherwise, to enter any premises at which any goods, title to which has not passed, are situated and to uplift and take possession of such goods.
- 12.5 In the event that the Customer cannot prove that specific goods relate to invoices for which the Company has already been paid, the Company shall be entitled to assume that all stock in the premises supplied by the Company relates to invoices that are unpaid by the Customer.

13. Passing of Risk & Limitation of Liability

- 13.1 The Customer shall immediately upon delivery make an inspection of the goods. The Customer shall be deemed to have accepted the goods as to the quantity set out herein upon delivery. In the event that the Customer claims the goods are defective, spoiled or in any other way unfresh then such a claim must be communicated to the Company no later than 24 hours after delivery in writing and the goods must be made available to the Company for reinspection. If the Customer fails to notify the Company of a claim within 24 hours of delivery, the goods will be deemed to have been received and accepted by the Customer in merchantable and faultless quality and condition at the time of receipt and the Company will have no further liability whatsoever in relation to the goods.
 - 13.2 Upon acceptance of delivery the Customer accepts any liability for loss damage or injury or any other consequences arising out of the use of the goods whether singularly or in combination with other products (for example the cooking process), and the Customer shall indemnify the Company from and against any and all claims, demands, obligations, causes of action, liabilities, expenses and damages which arise or relate to any alleged defects whether latent or patent in the goods purchased.
 - 13.3 Except as expressly provided to the contrary in this Contract and to the maximum extent permitted by law, all terms, conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise, relating in any way to the supply of the Products under this Contract are excluded. Without limiting the generality of the preceding sentence, the Company will not be under any liability to the Customer in respect of any loss or damage (including consequential loss or damage and loss of profits) however caused, which may be suffered or incurred or which may arise directly or indirectly in respect of a negligent or wilful act or omission of the Company or a failure or omission on the part of the Company to comply with its obligations under this Contract.
 - 13.4 The Company’s liability for loss and damages is limited, to the maximum extent permitted by law, to the sale price of the goods.
 - 13.5 The Customer warrants that it has not relied on any term, condition, warranty, undertaking, or representation made by or on behalf of the Company which has not been stated expressly in this Contract or upon any descriptions or illustrations or specifications contained in any document.
 - 13.6 The Customer covenants and agrees to release the Company, its successors and assigns, as well as its officers and agents from all actions, claims, demands and causes of action which they may have against the Company, its officers or agents in respect of, arising out of or resulting from the supply of the goods and services.
 - 13.7 The indemnities and releases in the Contract are continuing obligations independent from the other obligations of the parties under the Contract and will continue after the Contract ends.
- ### 14. Fitness for purpose
- 14.1 The Company makes no warranty as to the fitness for purpose of its goods.
 - 14.2 The Company shall be entitled to assign the benefit of these terms in its absolute discretion.
- ### 15. Storage and handling
- 15.1 The Customer will store and handle the goods as may be directed by the Company from time to time, or otherwise in accordance with State or Federal health regulations passed from time to time and inspect the goods for defect or spoilage both upon delivery and when the goods are defrosted.

Trade Credit & Payment

16. Payment

- 16.1 Payment must be made in accordance with the terms set out in this document or if not stated, within 7 days of delivery.
- 16.2 Interest on overdue invoices shall accrue from the date upon which payment is due on a weekly basis and at a rate determined pursuant (usually 2.5%) to Section 39A(1) of the Local Courts (Civil Claims) Act 1970 or such other rate as the Company determines. In addition it should be noted that in the event the Company is required to commence debt recovery or legal proceedings for recovery of overdue and outstanding amounts, it shall be entitled to recover, in addition to the interest determined above, its legal costs (including court and solicitors fees), debt collection agent’s commission and other collection fees, including internal accounting and administration charges determined with reference to independent third party invoices and internally generated time sheets completed by the Company’s staff. Time may be charged out at a rate determined by the Company based on the experience and skill level of the Company’s staff.

17. Guarantors

- 17.1 The Company is entitled to full recourse to the Guarantors for any and all amounts outstanding including interest, legal and court costs and debt recovery costs as stipulated in clause 16.

18. Set Off

- 18.1 The Customer acknowledges that it has no right to set off, withholding or counter claim in respect of any monies which are or become payable by it under the Contract against any monies or claims which the Company may be liable for in connection with the Contract.

19. Notices

- 19.1 Any notice, request, demand, consent or approval sent pursuant to the Contract must be legible and in English addressed to the appropriate party and is deemed received:
 - (a) where posted, 3 business days from and including the date of postage;
 - (b) where delivered by hand, when delivered to the addressee; or
 - (c) where faxed, when received by the addressee or if receipt is on a non-business day or after 4.00pm (addressee time) then at 9.00am the following business day.

Section 4: Personal & Continuing Guarantee

At my/our request and in consideration of SYDNEY FREEZERS FOOD DISTRIBUTORS ABN 79 133 786 259 (herein referred to as the 'Company') having agreed to supply goods and services and to give credit to:

_____ (Applicants Name),

I/We _____ (Guarantor's Name/s),

being directors of the applicant agree with the Company as follows:

1. To unconditionally and irrevocably guarantee, jointly and severally (if more than one guarantor), and be answerable and responsible to the Company for, the due and punctual payment by the Applicant of all moneys for all such goods and services as the Company may from time to time supply and deliver to, or provide, at the Applicant's request. This guarantee shall bind my/our personal representatives, trustees, successors or assignees.
2. This guarantee shall be a continuing guarantee to the Company for the whole debt owed by the Applicant to the Company howsoever incurred, at any time and at any place and shall include costs incurred as a result of any breach committed by the Applicant of the Company's Terms and Conditions. This guarantee shall not be affected by any payment of moneys, the Company granting time or any other indulgence to the Applicant or any other person, the Company's failure or neglect to recover moneys, any lack of power on any director's part to give this guarantee, any director not executing this guarantee, or any other event, act or omission on the Company's part whatsoever.
3. All monies received by the Company from the Applicant shall be taken and applied by the Company as payments to the Applicant's account, without there being any deduction in respect of any claim arising under this guarantee. Such payments may include voidable transactions or other transactions not subject to this guarantee. My/our right to be subrogated to the Company in respect thereof shall not arise until the Company has received the full amount of all their claims against the Applicant.
4. The Company may at any time, at their absolute discretion, and without giving any notice whatsoever to me/us, refuse further credit or supplies to the Applicant, or grant to it any other indulgence including the acceptance of any other security without discharging or impairing my/our liability under this guarantee.
5. This guarantee is a principal obligation and shall be enforceable against me/us notwithstanding that any other securities shall, at the time of proceedings being taken against me/us on this guarantee, be outstanding or that the moneys guaranteed are irrecoverable from the Applicant.
6. No demand proceedings, actions, claims or suits shall be required by the Company against the Applicant as a prerequisite to the Company making a claim against the guarantors under this guarantee.
7. No changes in the constitution of the Company shall impair or discharge my/our liability under this guarantee.
8. In order to give effect to this guarantee I/We declare that the Company shall be at liberty to act as though I/We were the Applicant and I/We waive all and any of my/our rights as guarantor which may at any time be inconsistent with any of the above provisions and which I/We might otherwise be entitled to claim and enforce. I/We acknowledge that the enforceability of this guarantee will not be affected in any way by the failure of any person to sign this guarantee.

Name of Guarantor 1: _____

Name of Guarantor 2: _____

Guarantor's Address: _____

Guarantor's Address: _____

Guarantor's Phone No.: _____

Guarantor's Phone No.: _____

Signature: _____

Signature: _____

In the presence of: _____

In the presence of: _____

Name of Witness: _____

Name of Witness: _____

Date: _____

Date: _____