



REGAL SEAFOODS

Seafood · Meats · Poultry · Foodservice

APPLICATION FOR CREDIT

Please fax back to 9645 0680

Applicant

Full Legal Name: _____
Trading Name: _____
Entity Type: Sole Trader Partnership Company Trust
Credit Terms: 7 Days
Type of Business: _____
Previous Trading Names: _____

Applicant Contact Details

Trading Address: _____
Postal Address: _____
ACN: _____ ABN: _____
Telephone: _____ Facsimile: _____
Accounts Contact: _____
Contact email address: _____ Contact Mobile No: _____

References

Bank: _____	Branch: _____
Contact: _____	Telephone: _____
Accountant: _____	Address: _____
Contact: _____	Telephone: _____
Supplier (1): _____	Address: _____
Contact: _____	Telephone: _____
Supplier (2): _____	Address: _____
Contact: _____	Telephone: _____
Supplier (3): _____	Address: _____
Contact: _____	Telephone: _____

Signatures

Signature: _____	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Partner	<input type="checkbox"/> Director
Name: _____	_____		
Address: _____	_____		
Driver License No.: _____	Date of Birth: _____	_____	
Signature: _____	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Partner	<input type="checkbox"/> Director
Name: _____	_____		
Address: _____	_____		
Driver License No.: _____	Date of Birth: _____	_____	
Signature: _____	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Partner	<input type="checkbox"/> Director
Name: _____	_____		
Address: _____	_____		
Driver License No.: _____	Date of Birth: _____	_____	

Deed of Guarantee, Indemnity and Charge

This DEED is made on the day of , 20 .

And given to the Supplier by the Guarantor in consideration of the Supplier, at the request of the Guarantor, supplying goods to the Customer, extending credit or continuing to extend credit to the Customer or not commencing or postponing legal proceedings against the Customer to recover any monies owing to the Supplier by the Customer.

OPERATIVE PART

1. Definitions and Interpretation

1.1 Definitions

- (1) **Contract** shall include all agreements between the Supplier and the Customer for the supply of Goods by the Supplier to the Customer and shall also include any agreement between the Supplier and the Customer pursuant to which the Supplier extends credit to the Customer.
- (2) **Costs** shall include the Supplier's legal costs on a full indemnity basis
- (3) **Customer** means the person in Item 2 of the schedule
- (4) **Deed** means this Deed of Guarantee, Indemnity and Charge
- (5) **Guarantor** means the person in item 3 of the schedule
- (6) **Secured Monies** means all money (and any part of that money) which directly, indirectly, actually or contingently, or otherwise at any time is or becomes due by the Customer to the Supplier or the Guarantor under this Deed.
- (7) **Supplier** means the person in item 1 of the schedule

1.2 Interpretation

- (1) Reference to one gender includes the others;
- (2) the singular includes the plural and the plural includes the singular;
- (3) a person includes a body corporate; and
- (4) a party includes the party's executors, administrators, successors and permitted assigns,
- (5) "Including" and similar expressions are not words of limitation.
- (6) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (7) Headings are for convenience only and do not form part of this deed or affect its interpretation.
- (8) A provision of this deed must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the deed or the inclusion of the provision in the deed.

1.3 Parties

If a party consists of more than 1 person this deed binds each of them separately and any 2 or more of them jointly.

2. Guarantee

2.1 The Guarantor guarantees to the Supplier:

- (1) the payment of the Secured Monies; and
- (2) the performance of all the obligations of the Customer to the Supplier under any Contract; and
- (3) the payment of all damages suffered by the Supplier (including interest Costs and expenses) arising from any breach of this Deed or breach or termination of any Contract.

2.2 If the Customer does not pay an amount payable to the Supplier in accordance with any Contract, the Guarantor must immediately pay that amount to the Supplier.

3. Indemnity

If the Customer is not bound by some or all of the Customer's obligations under any Contract or if for any other reason the Guarantee is not effective, the Guarantor agrees, by way of indemnity and principal obligation, to pay to the Supplier the amount

which would have been payable by the Guarantor to the Supplier under the guarantee in clause 3 had the guarantee been effective and the Customer been bound,

4. Principal Debtor

Each Guarantor is liable under the Contracts as if the Guarantor were named in it as the Customer.

5. Matters Not Affecting Guarantor's Liability

6.1 Things Supplier May Do Without Affecting Guarantor's Liability

The liability of a Guarantor under this deed is not discharged or in any way limited or diminished because the Supplier does any of the following things without the consent of the Guarantor:

- (1) gives any time or other indulgence to the Customer or a Guarantor;
- (2) agrees with the Customer or a Guarantor to grant any time or other indulgence;
- (3) makes any compromise, composition or arrangement with, or releases from liability, the Principal or a Guarantor;
- (4) varies, novates, renews or assigns a Contract even though this increases the liability of the Customer, and the liability of the Guarantor under this Deed;
- (5) consents to the Customer novating or assigning the Customer's rights under a Contract; or
- (6) accepts a breach of a Contract by the Customer as terminating the Contract

6.2 No Notice of Default Required

The liability of a Guarantor under this deed is not discharged nor in any way limited or diminished because the Supplier does not give the Guarantor notice of any default by the Customer or demand for payment or a notice of default or demand for payment omits particulars of the default.

6. No Release of Liability Until Payment in Full

The guarantee and indemnity given by this deed are irrevocable and the Guarantor's liability ceases only when the Customer gives written notices that it seeks to end the Guarantee, the Supplier receives all money owing to with respect of the trading of the Customer and in the reasonable opinion of the Supplier any payment towards the satisfaction of money owing pursuant to the Contract is not void, voidable or otherwise unenforceable or refundable.

7. Charge

For the purpose of better securing the payment of the Secured Monies the Guarantor:

- (a) Hereby charges to the Supplier with the payment of the Secured Monies all his right title and interest in any real property which he may now own or acquire after the date of this Deed and wheresoever situate; and
- (b) Consents to the Supplier lodging a Caveat with the Registrar of Titles with respect to the Guarantor's interest in any real property; and
- (c) Agrees to execute and deliver to the Supplier within five (5) days of written demand a Memorandum of Mortgage in registrable form over all the Guarantor's right title and interest in any real property which the Guarantor is the registered as the proprietor as at the date of the such written demand and such Memorandum of Mortgage to incorporate the covenants contained in Memorandum of Common Provisions AA698 registered at the Land Registry Victoria.

8. Certificate as Prima Facie Evidence

A certificate from the Supplier stating the amount owing by the Guarantor under this deed is prima facie evidence of the facts stated.

9. Legal Advice

The Guarantor acknowledges that prior to signing this Deed the Supplier recommended that he seek, and afforded him the opportunity to seek, independent legal advice as to the Guarantor's obligations under this deed.

Privacy Authorisation

The Guarantor hereby authorises the Supplier to provide personal identifying information and details of the Guarantor’s Guarantee to seek information to assist the Supplier to determine and verify the Guarantor’s credit worthiness from that agency.

The Guarantor hereby authorises the Supplier to provide personal identifying information and details of the Guarantee’s defaults to a Credit Reporting Agency to notify that agency of any default under the terms of the Guarantee by the Guarantor that subsist for longer than six (6) weeks and any satisfaction of such default.

SCHEDULE AND EXECUTION

Item 1

Supplier

.....

Item 2

Customer

.....

Item 3

Guarantor

Name and Address

Signature

Signed Sealed and Delivered by the Guarantors

1.

.....

2.

.....

3.

.....

4.

.....

In the presence of:

.....
Witness

.....
Name

.....
Address

Terms and Conditions for Supply of Goods, Credit and Charge

1. Definitions and Interpretation

1.1 Definitions

Application for Credit means the application for credit form attached to this document.

Credit Period means the approved period of credit notified to the Customer by the Supplier and as varied from time to time.

Customer means the person described as the applicant in the application for credit.

Supplier means Regal Seafoods Pty Ltd ACN 051 233 259

1.2 Interpretation:

- (1) Reference to one gender includes the others;
- (2) the singular includes the plural and the plural includes the singular;
- (3) a person includes a body corporate; and
- (4) a party includes the party's executors, administrators, successors and permitted assigns,
- (5) "Including" and similar expressions are not words of limitation.
- (6) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (7) Headings are for convenience only and do not form part of this document or affect its interpretation.
- (8) A provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the document or the inclusion of the provision in the document.

1.3 Parties

If a party consists of more than 1 person an obligation created by this document binds each of them separately and any 2 or more of them jointly.

2. Contracts, Orders and Cancellations

Each supply of goods made by the Supplier shall incorporate the Terms and Conditions set out in this document and shall form a separate Contract for the supply of goods.

The Supplier will, if requested by the Customer, use reasonable endeavours to supply goods as ordered by the Customer from time to time.

The customer may not cancel any order without giving at least 24 hours notice of cancellation. No cancellations will be accepted after orders have been processed or despatched for delivery.

3. Delivery

Unless otherwise agreed prices quoted to the Customer shall be inclusive of delivery to the Customer's business premises set out in the Application for Credit.

The Customer carries the risk of the Goods immediately after delivery.

4. Inspection and returns

Goods will only be accepted for return if they are not of merchantable quality, do not accord with their description

or specification or are supplied in excess of ordered quantity.

Due to the perishable nature of the goods supplied by the Supplier, the customer must complete their inspection of the goods upon delivery, acknowledge receipt of the goods by signing a delivery docket and as soon as practicable upon becoming aware of circumstances which permit the Customer to request a return, but in any case not later than 6 hours after receipt of delivery, notify the Supplier in writing by email or facsimile of the return request.

5. Terms of Payment

Where the Supplier has approved for the Customer a Credit Period, the Supplier shall issue a trading statement at the end of each month. The Customer must make payment of the amount shown on such trading statement within the Credit Period.

Where the Customer fails to make payment in full at the end of the Credit Period after the issue of each monthly trading statement the supplier will charge a \$50 late payment fee to meet the Suppliers internal administrative charges.

Payments made by the Customer shall be applied first to any late payment fee, secondly to any accrued interest and lastly to any other amount outstanding.

6. Interest

Where payment of any amount is outstanding by the Customer to the Supplier at the end of the Credit Period the Customer must pay to the Supplier, without the need for any demand, interest at a rate of 4% higher than the rate for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 computed on all money owing to the Supplier to the Customer.

The Customer agrees that the interest rate provided is not a penalty but a genuine pre-estimate of the loss and damage incurred by the Supplier as a consequence of the Customer's late payment.

7. Supplier's liability

The Supplier's maximum liability under any contract made incorporating these Terms and Conditions shall be limited to the lesser of cost of replacing or resupplying goods or the price paid by the Customer for the Goods under that Contract.

The Supplier's liability under any contract made incorporating these Terms and Conditions, under any applicable statute, in tort (including negligence) and for any direct or consequential loss is excluded to the fullest extent permitted by law. The Customer forever discharges the Supplier from any such liability.

8. Notices

A notice under a Contract must be given in writing to the party's contact details contained in the application for Credit or otherwise as notified to the other party from time to time.

A Notice may only be given:

- (a) Personally

- (b) By registered post (such notice deemed to be received at the time it would be delivered in the ordinary course of post)
- (c) By facsimile transmission
- (d) By email

9. Charge – Real Property

For the purpose of better securing the payment of all money due to the Supplier by the Customer, the Customer:

- (a) Hereby charges to the Supplier with the payment of all money due to the Supplier by the Customer all his right title and interest in any real property which he may now own or acquire after the date of this Deed and wheresoever situate; and
- (b) Consents to the Supplier lodging a Caveat with the Registrar of Titles with respect to the Guarantor's interest in any real property; and
- (c) Agrees to execute and deliver to the Supplier within five (5) days of written demand a Memorandum of Mortgage in registrable form over all the Guarantor's right title and interest in any real property which the Guarantor is the registered as the proprietor as at the date of the such written demand and such Memorandum of Mortgage to incorporate the covenants contained in Memorandum of Common Provisions AA698 registered at the Land Registry Victoria.

10. Charge – All property

The customer charges with the payment of all money owing by it to the supplier the whole of the undertaking property and assets of the Customer both present and after acquired property.

If requested by the Supplier the Customer must sign anything the Supplier requires to register this Charge in accordance with the Personal Property Securities Act 2009 (Cth) "PPSA". The Customer authorises the Supplier to effect registration of this Charge on its behalf on the Register of Security Interest created under the PPSA. The Customer hereby waives the right to receive all notices to a grantor of a security interest under the PPSA including sections 95, 118, 121(4), 130, 132(3)(d), 132(4), 135 and 157.

11. Default

If the Customer defaults in the payment of any moneys due under the terms of this document or any contract made under this document, or is otherwise in default under the terms of this document or any contract made under this document the Supplier may:

- (a) treat such default as a repudiation of all contracts between the Supplier and the Customer;
- (b) refuse to supply any further goods to the Customer; and
- (c) refuse to extend any further credit to the Customer.

If the Customer defaults in the payment of any money due to the Supplier all monies owing to the Supplier shall be immediately due and payable without the need for demand and the Customer agrees pay all costs charges and expenses incurred by the Supplier (including legal costs on

a full indemnity basis) in enforcing any Contract made under the terms of this document and recovering any money owing by the Customer to the Supplier. A certificate from the Supplier stating the amount owing by the Customer to the Supplier is prima facie evidence of the facts stated.

12. Variation and Assignment

The Supplier may unilaterally vary these terms and conditions from time to time and such varied terms and conditions shall be operative after 30 days of written notice of variation to the Customer.

The Customer cannot vary these terms and conditions unless the Supplier agrees to any variation in writing. The Customer may not assign the benefits or burden of any contract made under this document. The supplier may assign the benefit and burden of any contract made under this document and assignment will become effective upon notification to the Customer.

13. Severability

Any provision in this document which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

14. Non-merger

Any provision of this document which is capable of taking effect after completion of any Contract made under it will not merge on completion but instead will continue in full force and effect.

15. Waiver

The non-exercise of or delay in exercising any power or right of the Supplier does not operate as a waiver of that power or right, nor does any single exercise of the power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, and signed by the Supplier.

16. Applicable Law and Jurisdiction

This document and any Contract made under this shall be construed in accordance with the law of the State of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria.

17. Privacy Authorisation

The Customer hereby authorises the Supplier to provide personal identifying information and details of the Customer's Application for Credit to a Credit Reporting Agency to seek information to assist the Supplier to determine and verify the Customer's credit worthiness from that agency.

The Customer hereby authorises the Supplier to provide personal identifying information and details of the Customer's trading to a Credit Reporting Agency to notify that agency of any default under the terms of any Contract by the Customer that subsist for longer than six (6) weeks and any satisfaction of such default.