



Suncoast Fresh Pty Ltd

ABN: 28 130 076 970

COMMERCIAL ACCOUNT APPLICATION

SUNSHINE COAST

49 Link Crescent, Coolum QLD 4573

Ph. 07 5440 2600

BYRON BAY

268 Ewingsdale Road, Byron Bay NSW 2481

Ph. 02 6680 8998

BRISBANE AND ALL OTHER AREAS

385 Sherwood Road, Brisbane Markets QLD 4106

Ph. 07 5440 2600

Please return all pages to accounts@suncoastfresh.com.au

CUSTOMER DETAILS

BUSINESS/TRADING NAME _____

REGISTERED NAME _____

ABN _____

ACN _____

OFFICE USE ONLY

CUST CODE	CREDIT LIMIT	TERMS	APPROVED BY	DATE INPUTTED



COMMERCIAL ACCOUNT APPLICATION – CUSTOMER DETAILS

BUSINESS STRUCTURE

- Sole Trader
- Partnership
- Private Company
- Co-operative
- Public Company
- Incorporated Association
- Trust
- Government Authority

BUSINESS TYPE _____ (Café, Restaurant etc.) DATE ESTABLISHED _____

BUSINESS DETAILS

POSTAL ADDRESS _____

SUBURB _____ STATE _____ POST CODE _____

DELIVERY ADDRESS _____

SUBURB _____ STATE _____ POST CODE _____

PHONE _____ MOBILE _____

EMAIL ADDRESS _____

ACCOUNTS CONTACT

PH _____ M _____

ACCOUNTS EMAIL _____

Tick for (Yes) to same email

Invoices by Email Required

CHEFS CONTACT _____ PH _____ M _____

CHEFS EMAIL _____

Tick for (Yes) to same email

Invoices by Email Required

TRADE REFERENCES (preferably food related and of similar credit limit being requested)

SUPPLIER NAME	EMAIL ADDRESS	PHONE
_____	_____	_____
_____	_____	_____
_____	_____	_____

ACCOUNT DETAILS

Terms over 7 days require further written approval by Suncoast Fresh

ACCOUNT TERMS With Order 7 Days **OTHER (please specify)** _____

ESTIMATED WEEKLY SPEND \$ _____ CREDIT LIMIT \$ _____

PAYMENT AUTHORISATION

The cardholder must sign where marked and complete and return the Card Authorisation Form

CARD TYPE VISA MASTERCARD AMEX **CARD LIMIT** \$ _____
Surcharge fees may apply

CARD NO. _____ _____ _____ _____

EXPIRY _____ CVC _____ CARDHOLDER'S NAME _____ CARDHOLDER'S SIGNATURE _____



COMMERCIAL ACCOUNT APPLICATION – ACKNOWLEDGEMENT & GUARANTORS [1]

If the Customer is a company, a corporate trustee of a trading trust or consists of a partnership of companies, all directors of the relevant entity/entities agree to guarantee the performance of the Customer’s obligations in accordance with Suncoast Fresh’s terms and conditions. Please provide details of the Director Guarantors below:

[THIS FIELD IS MANDATORY]

DIRECTOR GUARANTOR [1]		DIRECTOR GUARANTOR [2]	
NAME	.....	NAME	.....
ADDRESS	.....	ADDRESS	.....
PHONE	.....	PHONE	.....
D.O.B.	.....	D.O.B.	.....
DRIVER'S LICENCE	..... EXP DATE	DRIVER'S LICENCE	..... EXP DATE
EMAIL	.....	EMAIL	.....

ACKNOWLEDGEMENT

The Customer(s) and the Director Guarantor(s):

- a) certify that the information contained in the Application is true and correct;
- b) confirm that they have read and understood the Terms and Conditions;
- c) acknowledge that the Terms and Conditions, as amended from time to time, will govern any supply of Goods and Credit by Suncoast Fresh to the Customer(s) and are binding on the Customer(s) and the Director Guarantor(s) in respect of each supply of Goods and Credit;
- d) acknowledge that Suncoast Fresh may amend the Terms and Conditions at any time and without notice to them by publishing them on <https://www.suncoastfresh.com.au/>; and
- e) authorise Suncoast Fresh to arrange for payment of any Invoices and other outstanding amounts by debiting the Card details as specified in this Application (if applicable).

EXECUTED as a deed poll in favour of Suncoast Fresh

[SIGN HERE IF COMPANY – SIGNATURE IS MANDATORY]

EXECUTED by the Customer(s)		*delete whichever is not applicable
Legal Name	_____	ACN
Director [1] Name in [BLOCK LETTERS]	_____	Director [1] Signature
Director [2] Name in [BLOCK LETTERS]	_____	Director [2] Signature
Date Signed	_____	
		Signature of director/secretary/ sole director/sole director & secretary*
		Signature of director/secretary/ sole director/sole director & secretary*

[SIGN HERE IF INDIVIDUAL / SOLE TRADER – SIGNATURE IS MANDATORY]

SIGNED SEALED AND DELIVERED by the Customer	
Individuals Name in [BLOCK LETTERS]	Individuals Signature
In the presence of Witness Name in [BLOCK LETTERS]	Witness Signature
Witness Address	Date Signed



COMMERCIAL ACCOUNT APPLICATION – ACKNOWLEDGEMENT & GUARANTORS [2]

[DIRECTORS TO SIGN]

SIGNED SEALED AND DELIVERED by Director Guarantor [1]

Individual [1] Name in [BLOCK LETTERS]	_____	Individuals Signature [1]	_____
In the presence of Witness Name in [BLOCK LETTERS]	_____	Witness Signature	_____
Witness Address	_____	Date Signed	_____

SIGNED SEALED AND DELIVERED by Director Guarantor [2]

Individual [2] Name in [BLOCK LETTERS]	_____	Individuals Signature [2]	_____
In the presence of Witness Name in [BLOCK LETTERS]	_____	Witness Signature	_____
Witness Address	_____	Date Signed	_____

1.0 DEFINITIONS

The following definitions apply in this document and the Application:

- 1.1 "ACL" means the Australian Consumer Law contained in Schedule 2 of the CCA as amended, re-enacted or replaced, and includes any subordinate legislation.
- 1.2 "Application" means an application submitted by the Customer to Suncoast Fresh for Credit in relation to the supply of Goods, incorporating the terms and conditions set out in this document, as amended from time to time.
- 1.3 "Business Day" means a day on which banks are open for retail banking, other than a Saturday, Sunday or public holiday, in Brisbane, Australia.
- 1.4 "CCA" means the *Competition and Consumer Act 2010* (Cth) as amended, re-enacted or replaced, and includes any subordinate legislation.
- 1.5 "Contract" means a contract between the Customer and Suncoast Fresh for the supply of Credit and/or Goods on the terms set out in this document.
- 1.6 "Credit" means the supply of Goods by Suncoast Fresh prior to Suncoast Fresh receiving payment in full for the Goods and otherwise on the terms and conditions set out in this document.
- 1.7 "Customer" means the person specified in the Application that is requesting Credit for the supply of Goods from Suncoast Fresh.
- 1.8 "Delivery" has the meaning given to that term in clause 6.1 of this document.
- 1.9 "FTA" means the *Fair Trading Act 1989* (Qld) or the *Fair Trading Act 1987* (NSW) (as the context requires) as amended, re-enacted or replaced and includes any related or subordinate legislation.
- 1.10 "Goods" means the goods sold by Suncoast Fresh to the Customer, pursuant to these terms and conditions.
- 1.11 "GST" means the goods and services tax as determined in accordance with the A New Tax System (Goods and Services) Act 1999 (Cth).
- 1.12 "Guarantors" or "Director Guarantors" means the person or persons specified as "Director Guarantor" of the Customer in the "COMMERCIAL ACCOUNT APPLICATION – ACKNOWLEDGEMENT & GUARANTORS" section of the Application.
- 1.13 "Invoice" means an invoice delivered by Suncoast Fresh to the Customer for the provision of Goods.
- 1.14 "National Credit Code" means Schedule 1 of the *National Consumer Credit Protection Act 2009* (Cth).
- 1.15 "PPSA" means the *Personal Property Securities Act 2009* (Cth).
- 1.16 "Price" means the amount determined in accordance with clause 4.0.
- 1.17 "Suncoast Fresh" means, as the context requires, Suncoast Fresh Pty Ltd ACN 130 076 970, or any of their successors and assigns or any person acting on behalf of and with the authority of Suncoast Fresh.

2.0 FORMATION OF CONTRACT

- 2.1 An order given by a Customer to Suncoast Fresh is binding on the Customer and Suncoast Fresh, if:
 - 2.1.1 a written acceptance of that order is communicated to the Customer for and on behalf of Suncoast Fresh; or
 - 2.1.2 Goods are supplied by Suncoast Fresh to the Customer in accordance with the Customer's order.
- 2.2 No order given by a Customer to Suncoast Fresh is binding on Suncoast Fresh until Suncoast Fresh accepts the order in accordance with clause 2.1.
- 2.3 An acceptance of an order by Suncoast Fresh is deemed to be an acceptance of the terms and conditions set out in this document, as amended from time to time, by each of Suncoast Fresh, the Customer and the Guarantors.
- 2.4 The Customer and Suncoast Fresh agree that these terms and conditions take precedence over any terms and conditions contained within, or contemplated by, the Customer's order and any terms and conditions contained within, or contemplated by, the Customer's order unless Suncoast Fresh agrees otherwise in writing.
- 2.5 The Customer and each Guarantor warrant to Suncoast Fresh that the information contained in the Application is true and correct.
- 2.6 The Customer and each Guarantor acknowledges and agrees that:
 - 2.6.1 Suncoast Fresh may be any one or more of the entities specified in clause 1.17;
 - 2.6.2 any one or more of the entities specified in clause 1.17 may supply the Client with Credit from time to time;
 - 2.6.3 any one or more of the entities specified in clause 1.17 may supply the Customer with Goods from time to time;
 - 2.6.4 Suncoast Fresh may, in its absolute discretion, elect which of the entities specified in clause 1.17 supplies Credit or Goods to the Customer; and
 - 2.6.5 all supplies of Credit and Goods to the Customer provided by any of the entities specified in clause 1.17 will be made on the terms & conditions set out in this document and the Application, as amended from time to time.

3.0 SUPPLY OF CREDIT

- 3.1 The Customer has made an application to Suncoast Fresh to supply Goods to the Customer on Credit on the terms set out in the Application and this document.
- 3.2 The Customer and each Guarantor acknowledge that all supplies of Credit to the Customer will be provided on the terms set out in the Application and this document, as amended from time to time.
- 3.3 Despite the Customer specifying an Account Limit in the Application, the Customer and each of the Guarantors acknowledge and agree that Suncoast Fresh may supply the Customer with any amount of Credit it determines in its absolute discretion.
- 3.4 Suncoast Fresh's agreement to supply any Goods on Credit do not entitle the Customer to Credit on any future supplies of Goods.

- 3.5 Suncoast Fresh may cease to provide a Customer with Credit, in its absolute discretion, at any time and without notice to the Customer.
- 3.6 If Suncoast Fresh elects not to supply Credit to a Customer, despite any other provision of this document, the payment terms of all Goods supplied by Suncoast Fresh to the Customer are payment is to be made on or before each order for Goods is made.
- 3.7 The Customer declares that the Credit provided by Suncoast Fresh is to be applied wholly or predominantly for business purposes and to the extent permissible by law, disclaims the application of the National Credit Code to the supply of Credit by Suncoast Fresh to the Customer.

4.0 PRICE

- 4.1 The Price for the Goods is as specified in the Invoice.
- 4.2 GST and other taxes and duties that may be applicable shall be added to the Price, except when they are expressly noted in the Invoice as included in the Price.
- 4.3 The Price does not include freight or insurance costs, except when they are expressly noted in the Invoice as being included in the Price.
- 4.4 The Customer acknowledges and agrees that for orders of \$50 or less, Suncoast Fresh may:
 - 4.4.1 decline acceptance of that order; or
 - 4.4.2 charge a handling fee as determined by Suncoast Fresh.

5.0 PAYMENT

- 5.1 Payment of an Invoice for Goods supplied by Suncoast Fresh on Credit must be made within 7 days of the date the Invoice was issued by Suncoast Fresh to the Customer unless otherwise agreed in writing by Suncoast Fresh.
- 5.2 All payments must be made free of any set-off or counterclaim and without deduction or withholding whatsoever.
- 5.3 Suncoast Fresh reserves the right to charge the Customer a fee on any payment by the Customer that attracts any transaction fee for Suncoast Fresh. The Customer consents to Suncoast Fresh charging, and recovering from, the Customer any transaction fee that Suncoast Fresh may incur as result of the payment mechanism utilised by the Customer.
- 5.4 Payment shall be deemed to be made when it has been received by Suncoast Fresh as cleared funds.
- 5.5 Any amount that the Customer owes Suncoast Fresh that is not paid when due will incur interest at a rate of 2.5% per calendar month accruing daily, until paid in full. Interest will be calculated monthly (or part thereof) and will capitalised to any amount owed by the Customer to Suncoast Fresh.
- 5.6 Invoices must be paid by depositing cleared funds into Suncoast Fresh's nominated bank account, card or any other method agreed between Suncoast Fresh and the Customer in writing.
- 5.7 Where the Customer has provided Suncoast Fresh with its card details in the Application, the Customer irrevocably authorises Suncoast Fresh to charge to that card:
 - 5.7.1 an amount equal to the Price where an Invoice is not paid by the due date specified in the Invoice; and
 - 5.7.2 any other amount payable under these terms and conditions set out in this document.

6.0 DELIVERY

- 6.1 Delivery occurs:
 - 6.1.1 in respect of Goods collected by the Customer or its carrier or agent - at Suncoast Fresh's premises if the Goods are to be collected by the Customer or the Customer has made its own arrangements for a carrier or agent organised by the Customer to collect the Goods;
 - 6.1.2 in respect of Goods delivered by Suncoast Fresh or its carrier or agent - at the address nominated by the Customer at the time of the order if Suncoast Fresh agreed to deliver the Goods and/or Services at the time of the order (**Delivery**).
- 6.2 Any date and/or time agreed for the delivery of the Goods and/or Services by Suncoast Fresh is an estimate only. Suncoast Fresh is not responsible for any loss suffered by the Customer caused by the delay of delivery of the Goods.
- 6.3 Deliveries of Goods by Suncoast Fresh to the Customer are subject to suitable access, firm standing, storage, unloading and manoeuvring spaces, as determined by Suncoast Fresh and Suncoast Fresh is not liable for, and the Customer will indemnify Suncoast Fresh against any claims for damages to access ways, storage areas, plant, equipment or works during delivery.
- 6.4 Suncoast Fresh may deliver the Goods to the Customer by instalments in any sequence and quantity.
- 6.5 Any non-delivery of an instalment of Goods in accordance with clause 6.4 does not repudiate or invalidate the Contract and does not give the Customer the right to reject the Goods.

7.0 CANCELLATION

- 7.1 Suncoast Fresh may cancel any Contract by providing written notice to the Customer prior to making Delivery.
- 7.2 If a Customer cancels a Contract prior to receiving Delivery, the Customer is liable to reimburse Suncoast Fresh for any and all losses incurred as a result of the cancellation, including a loss of profit.

8.0 CONSUMER GUARANTEES AND WARRANTIES

- 8.1 The Goods come may with guarantees and warranties that cannot be excluded under the CCA, ACL and the FTA. The Customer acknowledges that no other guarantees or warranties are given by Suncoast Fresh in respect of the Goods.
- 8.2 The Customer must notify Suncoast Fresh in writing no later than 24 hours after receiving a Delivery of any damage or defects with the Goods. All notices must be accompanied by copies of the Invoice and/or delivery docket. The Customer must allow Suncoast Fresh the opportunity to inspect the Goods within a reasonable time of providing

- a notice under this clause to assess the damage or the defects to the Goods.
- 8.3 To the extent permitted by the CCA, ACL and the FTA, if it is determined that the Goods are damaged or defective on Delivery or Suncoast Fresh has breached a statutory guarantee or warranty under the CCA, ACL and the FTA (if applicable), Suncoast Fresh may remedy by taking any one or more of the following courses of action, in its absolute discretion:
- 8.3.1 refunding to the Customer the Price paid for the Goods (excluding costs of delivery, if that amount is able to be excluded at law);
- 8.3.2 providing the Customer with replacement Goods;
- 8.3.3 providing the Customer with a credit for future Goods ordered by the Customer from Suncoast Fresh.
- 8.4 Notwithstanding any other term of this document, to the extent permissible under the CCA, ACL and the FTA, Suncoast Fresh is not required to remedy any damage or defects in the Goods:
- 8.4.1 if the Customer has not complied with this clause 8.0;
- 8.4.2 if the damage or defects to the Goods is as a result of the Customer failing to maintain or storage of any Goods;
- 8.4.3 if the damage or defects to the Goods is as a result of the Customer failing to use the Goods for the purpose that they were intended;
- 8.4.4 if the damage or defects to the Goods is as a result of an accident or an act of God;
- 8.4.5 the Customer continued to use the Goods after the damage or defect became apparent to the Customer or should have become apparent to the Customer.
- 8.5 Nothing in these terms and conditions is intended to have the effect of contracting out of any applicable provisions of the CCA, ACL or the FTA, except to the extent permitted by those Acts as applicable.
- 8.6 Notwithstanding anything contained in this clause, if Suncoast Fresh is required to accept a return of the Goods under any law, it will only accept a return of the Goods on the terms set out in the relevant law.
- 9.0 RISK**
- 9.1 Unless otherwise agreed in writing, risk in the Goods passes to the Customer immediately upon Delivery, even if the Delivery occurs by leaving the Goods at the Customer's nominated address without a representative of the Customer being present.
- 9.2 The Customer must take out and maintain a suitable insurance policy/ies to cover any damage or loss that may occur to the Goods with effect from Delivery.
- 10.0 CHARGE AND INDEMNITY**
- 10.1 The Customer charges all of their present and after acquired real and personal property in favour of Suncoast Fresh to secure the payment of all monies and the performance of all obligations under these terms and conditions.
- 10.2 The Customer agrees to indemnify, and keep indemnified, on a full indemnity basis, Suncoast Fresh for all losses and costs incurred by Suncoast Fresh by reason of a failure of the Customer to comply with its obligations under this document, including but not limited to all enforcement costs incurred by Suncoast Fresh in procuring the performance of either the Customer's or any Guarantor's obligations under this document, including but not limited to referral to a debt collection agency, solicitor's and court costs, costs incurred taking possession of the Goods or the Customer or a Guarantor's personal property or any other enforcement costs that Suncoast Fresh determines is required.
- 11.0 RETENTION OF TITLE**
- 11.1 The title to all Goods supplied by Suncoast Fresh to the Customer remains with Suncoast Fresh until payment for the Goods is received in full.
- 11.2 Any monies received by the Customer for the sale of the Goods must be held for the benefit of Suncoast Fresh and paid to Suncoast Fresh until the Goods are paid for in full.
- 11.3 If the Customer fails to make payment for the Goods when due, then Suncoast Fresh or its authorised agent may enter the premises where the Goods are located and seize those Goods and, at Suncoast Fresh's discretion, sell the Goods to recover the amount of the debt owing by the Customer.
- 11.4 The retention of title arrangement described in this clause 11.0 constitutes the grant of a purchase money security interest by the Customer in Suncoast Fresh's favour in respect of all present and after-acquired Goods supplied by Suncoast Fresh to the Customer.
- 12.0 GUARANTEE AND INDEMNITY**
- 12.1 In consideration of Suncoast Fresh providing Credit or Goods to the Customer, each Guarantor hereby unconditionally:
- 12.1.1 guarantees the due and punctual payment of moneys now and hereafter to be owing by the Customer to Suncoast Fresh for all Goods from time to time supplied to the Customer;
- 12.1.2 guarantees the performance of all of the Customer's other obligations under this document; and
- 12.1.3 agrees to indemnify, and keep indemnified, Suncoast Fresh for all losses and costs incurred by Suncoast Fresh as a result of a breach of this document by either the Customer or any Guarantor including but not limited to all enforcement costs incurred by Suncoast Fresh in procuring the performance of either the Customer's or any Guarantor's obligations under this document, including but not limited to referral to a debt collection agency, solicitor's and court costs, costs incurred taking possession of the Goods or the Customer or a Guarantor's personal property or any other enforcement costs that Suncoast Fresh determines is

- required..
- 12.2 Each Guarantor:
- 12.2.1 charges and creates a security interest in its real and personal property in favour of Suncoast Fresh as security for performance of the Guarantor's obligations under this document and agrees that this document constitutes a security agreement as defined in the PPSA;
- 12.2.2 agrees that its guarantee is not limited to any amount;
- 12.2.3 agrees that its guarantee extends to all changes of terms of trading between Suncoast Fresh and the Customer;
- 12.2.4 agrees the guarantee may be enforced against it without Suncoast Fresh being required to exhaust any remedy it may have against the Customer or to enforce any security it may hold with respect to the Customer;
- 12.2.5 agrees that Suncoast Fresh may seek from any credit reporting agency, a credit report containing personal information about the Guarantor to assess whether to accept the Guarantor as a guarantor for Credit or Goods applied for, or provided to, the Customer;
- 12.2.6 acknowledges that Suncoast Fresh has recommended that the Guarantor obtain independent legal and accounting advice before agreeing to guarantee the obligations of the Customer;
- 12.2.7 where there is more than one Guarantor, agrees that their obligations are joint and several, and that Suncoast Fresh may enforce this guarantee against all or any of them and this guarantee remains binding on the other guarantor(s) even if any guarantor fails to sign this guarantee and/or this guarantee is not binding on any one or more of them; and
- 12.2.8 agrees that it is irrevocably bound by the terms and conditions set out in the Application and this document, as amended from time to time.
- 12.2.9 agrees that the guarantee and indemnity provided by it is enforceable against it, despite the obligations under this document not being enforceable against either the Customer or any other Guarantor.
- 13.0 PERSONAL PROPERTY SECURITIES**
- 13.1 Terms in this clause have the same meaning as in the PPSA.
- 13.2 The Customer and each Guarantor acknowledges and agrees that these terms and conditions:
- 13.2.1 constitutes a security agreement for the purposes of the PPSA; and
- 13.2.2 where Suncoast Fresh supplies the Customer with Goods, creates a security interest in all Goods supplied (whether already supplied or to be supplied) by Suncoast Fresh to the Customer, the proceeds of the sale of all Goods (whether already supplied or to be supplied) by the Customer; and all of the Customer's present and after acquired property, to secure payment of all monies (including but not limited to, the Price payable for the Goods provided, and any interest and/or other monies unpaid) owing by the Customer to Suncoast Fresh from time to time under these terms and conditions and under any other agreement or arrangement between the Customer and Suncoast Fresh.
- 13.3 The Customer and each Guarantor acknowledges that Suncoast Fresh may:
- 13.3.1 register its security interest as a purchase money security interest to the extent that it secures payment of all or part of the Price or any other amount payable under the terms of this document;
- 13.3.2 register its security interest as a general security interest to the extent that it secures payment of all or part of the Price or any other amount payable under the terms of this document; and/or
- 13.3.3 register its security interest as a purchase money security interest to the extent that it secures payment of all or part of the Price or any other amount payable under the terms of this document.
- 13.4 The Customer and each Guarantor undertakes to:
- 13.4.1 promptly execute any further document and/or do such further acts and things and provide such further information (such information to be completed, accurate and up-to-date in all respects) which Suncoast Fresh may reasonably require to:
- 13.4.1.1 register a financing statement or financing change statement in relation to a security interest and otherwise do all things necessary and required by Suncoast Fresh to ensure that any security interest registered by Suncoast Fresh is a perfected security interest under the PPSA;
- 13.4.1.2 register any document on any register reasonably necessary to secure Suncoast Fresh's interest under these terms and conditions;
- 13.4.1.3 register any other document required to be registered under the PPSA; or
- 13.4.1.4 correct a defect in a statement referred to in sub-clauses 13.4.1.1, 13.4.1.2 or 13.4.1.3;
- 13.4.2 indemnify, and upon demand reimburse, Suncoast Fresh for all expenses incurred in registering a financing statement or financing change statement or releasing any Goods that are the subject of a security interest;
- 13.4.3 not make any amendment demand in respect of a security interest, apply to the Registrar to register a financing change statement in respect of a security interest, without Suncoast Fresh's prior written consent; and

- 13.4.4 not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without Suncoast Fresh's prior written consent.
- 13.5 The Customer, each Guarantor and Suncoast Fresh agree that section 96, 116, 125, the second sentence only of 126(2) of the PPSA do not apply to the security interest created by these terms and conditions.
- 13.6 The Customer and each Guarantor hereby waives its rights to receive notices, information or statements (as the case may be) under sections 95, 118, 120, 121(4), 123(2), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA and the Customer's rights as a grantor and/or a customer under section 142 and 143 of the PPSA.
- 13.7 Unless otherwise agreed in writing by the Customer or each Guarantor (as the context requires) and Suncoast Fresh, the Customer and each Guarantor waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 13.8 The Customer and each Guarantor acknowledges that Suncoast Fresh has a caveatable interest in any real property of the Customer or the Guarantor under this clause and may lodge a caveat of the Customer's real property.
- 13.9 The provisions of this clause 13.0 survive termination of these terms and conditions or any other agreement between the Customer, Guarantor and Suncoast Fresh for the supply of Goods.

14.0 ELECTRONIC COMMUNICATIONS

- 14.1 A Customer or Guarantor may communicate acceptance of the terms and conditions set out in this document by signing (including using an electronic signature) the Application and returning the original or a copy to Suncoast Fresh, including by email at accounts@suncoastfresh.com or using any online portal established or used by Suncoast Fresh for the purpose of receiving and processing an Application. A party communicating acceptance of the terms and conditions set out in this document is taken to have consented to the terms and conditions set out in this document and intends for this document to be binding on them from signing this document (including using an electronic signature).
- 14.2 Where a Customer or Guarantor signs an Application and communicates acceptance of the terms and conditions set out in this document by completing and returning the Application in accordance with clause 14.1, Suncoast Fresh may request a copy of an identification document containing a signature for that person to verify that they have accepted the terms and conditions set out in this document.

15.0 AMENDMENT

Suncoast Fresh reserves the right to review these terms and conditions at any time from time to time, and if, following any such review, there is to be any change, those changes it will take effect from the date on which Suncoast Fresh makes such change and publishes the same on its website (<https://www.suncoastfresh.com.au/>) or provides a copy to the Customer. Each Guarantor agrees that these terms and conditions may be amended without notice to them.

16.0 DISPUTE RESOLUTION

- 16.1 Suncoast Fresh, the Customer or a Guarantor may not commence legal proceedings, except proceedings seeking urgent interlocutory relief, in respect of any disputes in relation to this document without first complying with the dispute resolution procedures in this clause 16.0.
- 16.2 If a dispute arises, then the parties to the dispute undertake in good faith to use all reasonable endeavours to settle the dispute by negotiation.
- 16.3 If the dispute is not settled by the parties to the dispute in accordance with clause 16.2 within a reasonable time of notification of dispute by either party, then the parties to the dispute must endeavour to settle the dispute by mediation using the following process:
 - 16.3.1 either party can send notification to the other party stating that the dispute has not been resolved and therefore the dispute should be referred to mediation; and
 - 16.3.2 within 14 days of receipt of notice under clause 16.3.1, the parties agree to select a mediator and, if none can be agreed, then the parties agree to the appointment of the mediator by the Chair of Resolution Institute, (ACN 008 651 232, Level 2, 13-15 Bridge Street, Sydney NSW 2000; telephone: (02) 9251 3366, email: infoaus@resolution.institute) or the Chair's designated representative.
- 16.4 The parties to the dispute will share the cost of the mediator equally but will each be responsible for their own costs of mediation.
- 16.5 If the dispute cannot be resolved in accordance with clause 16.3, either party may, by notice in writing of not less than 14 days to the other, refer the dispute to legal action. Service of a notice under this clause 16.5 is a condition precedent to the commencement of any litigation proceedings in respect of such dispute.
- 16.6 This clause survives termination of this document.

17.0 ATTORNEY

- 17.1 The Customer and each Guarantor appoints Suncoast Fresh (and any of its directors or employees) to act as its duly constituted attorney from time to time to:
 - 17.1.1 do such acts;
 - 17.1.2 execute in the Customer/Guarantor's name such documents which in Suncoast Fresh's opinion (acting reasonably) are necessary to give effect to any right, power or remedy conferred on Suncoast Fresh by these terms and conditions or the PPSA;
 - 17.1.3 register any security arising in Suncoast Fresh's favour under these terms and conditions or granted by the Customer/Guarantor to Suncoast Fresh

- 17.1.4 under these terms and conditions; and to give effect to the matter contemplated by these terms and conditions, even though the Customer may not have defaulted in carrying out the Customer's obligation under these terms and conditions.
- 17.2 Any attorney appointed pursuant to this clause 17.0 must not act unless and until the Customer/Guarantor has been requested to do the relevant act and the Customer/Guarantor has not complied within two Business Days of that request.

18.0 TIME IS OF THE ESSENCE

Time for payment of an Invoice is of the essence in accordance with the terms of this document. Time is not of the essence in respect of all other obligations set out in this document.

19.0 GOVERNING LAW

These terms & conditions are governed by and construed in accordance with the laws of Queensland, Australia and, where applicable, the Commonwealth of Australia. Suncoast Fresh, the Customer and each Guarantor submit to the non-exclusive jurisdiction of the courts of Queensland.

20.0 ASSIGNMENT

- 20.1 The Customer and a Guarantor may only assign its rights and obligations under this document with the prior written consent of Suncoast Fresh.
- 20.2 Suncoast Fresh may assign its rights and obligations under this document without the consent of the Customer or any Guarantor.

21.0 SEVERABILITY

The invalidity or unenforceability of any provision of these terms and conditions shall not affect the validity of enforceability of any other provision of these terms and conditions, which shall remain in full force and effect.

22.0 LIABILITY

- 22.1 Where the Customer is a partnership, each partner is jointly and severally liable for the performance of the Customer's obligations under this document.
- 22.2 Where the Customer is the trustee of a trust, each co-trustee is liable jointly and severally for the performance of the Customer's obligations under this document both in its personal capacity and in its capacity as co-trustee of the relevant trust.
- 22.3 Where there is more than one Guarantor, the Guarantors are jointly and severally liable for the performance of the Guarantors' obligations under this document.
- 22.4 The entities that form Suncoast Fresh are not jointly and severally liable for Suncoast Fresh's obligations under this document.

23.0 FORCE MAJEURE

Suncoast Fresh shall not be liable for any failure or delay to supply Goods due to a cause beyond Suncoast Fresh's control including, but not limited to, acts of God, strikes, lock-outs or other industrial disturbances, fire, flood, explosion, civil riot and government interference.

24.0 NOTICES

Any written notice to be provided under this document may be provided by:

- a) Handing the notice to the person, or an employee or officer of that person;
- b) by leaving it at the address stated in the Application;
- c) by sending it by registered post to the Address stated in the Application;
- d) by email to the last known email address of that person.

25.0 PRIVACY

- 25.1 The Customer and each Guarantor authorises Suncoast Fresh to obtain a credit report from any credit-reporting agency containing credit information about the Customer/Guarantor in relation to Credit provided by Suncoast Fresh to the Customer.
- 25.2 To the maximum extent permitted by law, the Customer and each Guarantor authorises Suncoast Fresh to exchange information about the Customer/Guarantor with credit providers that may be named in a consumer credit report issued by a reporting agency for the following purposes:
 - 25.2.1 to assess any Application by the Customer;
 - 25.2.2 to notify other credit providers of a default by the Customer/Guarantor;
 - 25.2.3 to exchange information with other credit providers as to the status of the Customer's account, where the Customer in default with other credit providers; and
 - 25.2.4 to assess the Customer/Guarantor's credit worthiness.
- 25.3 The Customer and each Guarantor authorises Suncoast Fresh to give personal or commercial information about the Customer/Guarantor to credit reporting agency for the following purpose:
 - 25.3.1 to obtain a consumer credit report about the Customer/Guarantor; and/or
 - 25.3.2 to allow the credit reporting agency to create or maintain a credit information file containing information file containing information about the Customer/Guarantor.
- 25.4 The Customer authorises Suncoast Fresh to retain the Customer's card details provided in the Application in any form authorised by law for the purpose of using those details to pay any amounts owed by the Customer to Suncoast Fresh in accordance with the terms and condition set out in this document.
- 25.5 The Customer authorises Suncoast Fresh to make a request at any time to the Customer for revised card details and the Customer agrees that Suncoast Fresh may retain the Customer's card details provided in any form authorised by law for the purpose of using those details to pay any amounts owed by the Customer to Suncoast Fresh in accordance with the terms and condition set out in this document.
- 25.6 The Customer acknowledges and agrees that Suncoast Fresh has a

legitimate business reason to store all card data provided by the Customer whether in the Application or otherwise for the purpose of processing payments of Invoices or other amounts owed by the Customer pursuant to the terms of this document. The Customer consents to Suncoast Fresh storage of the Customer's card details in electronic and paper format.

- 25.7 To the maximum extent permitted by law, the Customer and each Guarantor consents to Suncoast Fresh retaining and using all information provided by the Customer and each Guarantor for the authorised purposes set out below. Suncoast Fresh holds information provided by a Customer and each Guarantor for a variety of different purposes relation to the performance of its functions and activities, which include:
- 25.7.1 to establish and maintain our relationship with the Customer and each Guarantor;
 - 25.7.2 to asses and process and Application and any order given by a Customer;
 - 25.7.3 to provide Goods to the Customer and keep a record of them, and process any payments the Customer makes to Suncoast Fresh;
 - 25.7.4 to provide Credit to the Customer;
 - 25.7.5 to accept payment by the Customer or Guarantor, including sharing with Suncoast Fresh's service providers to allow it to accept payment;
 - 25.7.6 to respond to queries by the Customer or a Guarantor;
 - 25.7.7 to perform Suncoast Fresh's internal and external administrative functions;
 - 25.7.8 to enable Suncoast Fresh to perform its business activities and functions;
 - 25.7.9 to enforce Suncoast Fresh's legal rights and to obtain professional advice;
 - 25.7.10 to comply with any law, industry standard or internal or external policy that affects Suncoast Fresh;
 - 25.7.11 to communicate with a Customer or Guarantor;
 - 25.7.12 providing the Customer or Guarantor with promotional and marketing information about Suncoast Fresh;
 - 25.7.13 to conduct market research;
 - 25.7.14 to deal with any complaints or enquiries;
 - 25.7.15 to respond to any request for information from any government authority;
 - 25.7.16 to perform, or supply, trade references in respect of a Customer or a Guarantor.
- 25.8 In addition to this clause, Suncoast Fresh's privacy policy (as amended from time to time) applies to all information provided by a Customer or Guarantor, or received by Suncoast Fresh in respect of a Customer or Guarantor. A copy of Suncoast Fresh's privacy policy can be obtained at www.suncoastfresh.com.au.