

PERSONAL GUARANTEE, INDEMNITY & CAVEATABLE INTEREST CLAUSE

To: FREMANTLE CHOCOLATE PTY LTD-Trading as *Fremantle Chocolate / Sweet Soul Sisters*

and / or THE FUDGE COMPANY PTY LTD-Trading as *Margaret River Fudge Factory*

(hereinafter referred to as "the Supplier"), In consideration of the Supplier supplying goods or services to the Customer referred to at the bottom of this form, the Guarantor(s) and indemnifier(s) set out below hereby Guarantee and Indemnify to the Supplier due and punctual payment by the Customer of all monies which are now payable or may in the future become payable by the Customer to the Supplier for goods & services or both supplied from time to time by the Supplier to the Customer, and all damages payable by the Customer to the Supplier, (the secured moneys")

AND it is hereby further agreed as follows:

1. The secured moneys shall include collection fees and legal costs incurred by the Supplier in connection with the default by the Customer.
2. The Supplier is at liberty without notice to us at any time and without in any way discharging us from any liability hereunder to grant time, waver, release or other indulgence to the Customer and to accept from the Customer payment in cash, cheque, EFT or otherwise.
3. Nothing in this Guarantee and Indemnity is binding or conditional upon the Supplier continuing to supply goods or services or both to the Customer.
4. That the Supplier may exercise its rights under this Guarantee and Indemnity at any time and the Guarantor(s) and Indemnifier(s) shall pay the amount of any indebtedness of the Customer account to the date of any demand, forthwith upon receipt of a written demand, or its delivery to the last known address of each or all Guarantor(s) and Indemnifier(s). It shall not be a condition precedent to the issue of any such demand that the Supplier shall have exercised or exhausted its legal rights against the Customer.
5. The Guarantor(s) and Indemnifier(s) hereby guarantee and indemnify the Supplier against any losses or expenses whatsoever directly or indirectly arising from or by virtue of any default whatsoever on the part of the Customer with respect to the secured moneys.
6. This Guarantee and Indemnity shall not be considered wholly or partially discharged by the payment at any time hereafter of any of the secured moneys or by any settlement of account and shall apply to the present and any future balance of the secured moneys.
7. This Guarantee and Indemnity shall be a continuing Guarantee and Indemnity to the Supplier for all debts whatsoever and wheresoever contracted with the Customer in respect of the goods or services or both supplied or to be supplied to the Customer.
8. The Guarantor(s) and Indemnifier(s) may revoke this Guarantee and Indemnity at any time. Such revocation shall be effective only upon its delivery to the Secretary of the Supplier at its registered address and shall become effective at the time of written acknowledgment by the Secretary of its receipt. Such notice of revocation shall only operate to discharge the Guarantor(s) and Indemnifier(s) from liability as to future dealing by the Customer with the Supplier after the said date of written acknowledgment.
9. That the Supplier shall be entitled at any time to assign its rights under this Guarantee and Indemnity to its successors, nominated transferees or assigns, (including but not limited to the principal contract), & further vary the Trading Terms and Conditions originally attached to the Commercial Credit Application of the Customer nominated below, without notice to the Guarantor(s) and Indemnifier(s), & that this Guarantee and Indemnity shall not be in any way affected or discharged pursuant to such assignment or variation.
10. That the terms of this Guarantee and Indemnity are binding (if more than one) jointly on us & severally on each of us & shall not be affected not withstanding that one or more of the intended co-guarantor(s)/indemnifier(s) have not executed this Guarantee and Indemnity or that the Guarantee and Indemnity has been held to be ineffective or unenforceable against one or more of the Guarantor(s) and Indemnifier(s)
11. That in the event that the Customer is a company and the Guarantor(s) and Indemnifier(s) are not directors then the Guarantor(s) and Indemnifier(s) certify that they have obtained independent commercial financial & legal advice prior to signing this personal Guarantee & Indemnity.
12. **CAVEATABLE INTEREST CLAUSE. In the event of default by the Customer**, and the Supplier exercises its rights under this Guarantee and Indemnity then the Guarantor(s) and Indemnifier(s) hereby charge all their property(ies) owned/partly owned, or may be acquired in the future, solely or jointly by the Guarantor(s) and Indemnifier(s) in favour of the Supplier, to better secure any or all monies owing to the Supplier as of the date of the default by the Customer, with the due & punctual observances and performances of all of the obligations of the Guarantor(s) and Indemnifier(s) hereunder. The Guarantor(s) and Indemnifier(s) acknowledges that the Supplier will at its discretion register a Caveat on such property in respect of the interest conferred on it under this clause. The Guarantor(s) and Indemnifier(s) further grant to the Supplier the right to appoint a Receiver to sell the property(ies).
13. The Guarantor(s) and Indemnifier(s) agree that the Supplier will seek from a Credit Reporting Agency, a Credit Report containing personal information about me/us to assess whether to accept me/us as a Guarantor(s) and Indemnifier(s) for Commercial Credit applied for, or provided to, the Customer.
14. I/We agree that if the Supplier approves the Customer's application for Commercial Credit, this agreement to seek credit reports from time to time, remains in force until the Commercial Credit facility covered by the Customer's application ceases.

This is to Certify that I/We have read, understood and accept the terms and conditions of this Personal Guarantee and indemnity and without undue pressure or unfair tactic append my/our Signature hereunto. I/We acknowledge having received a copy of this said Personal Guarantee and Indemnity.

CUSTOMER NAME: _____

EXECUTED AS A DEED THIS DAY _____ **OF** _____ **YEAR** _____

SIGNED BY GUARANTOR: _____

NAME (print): _____

ADDRESS: _____

SIGNED BY WITNESS: _____

NAME (print): _____

ADDRESS: _____

SIGNED BY GUARANTOR: _____

NAME (print): _____

ADDRESS: _____

SIGNED BY WITNESS: _____

NAME (print): _____

ADDRESS: _____