

**PLEASE READ THIS FIRST**

The Customer must be the **LEGAL** entity which conducts the business. If in doubt, the Customer should ask their accountant or solicitor. The Customer **MUST NOT** just be the business name.

The Customer must be either:

- a company (ie the name ends in Ltd/Limited) - in which case:
the name of the company is to be inserted as the Customer in A1 below (at the)
the details of **ALL** directors are to be inserted in B1 below (at the)
- a partnership - in which case:
the name of the partnership is to be inserted as the Customer in A1 (at the)
the details of **ALL** partners are to be inserted in B1 (at the)
- an individual person - in which case:
that person's full name is to be inserted as the Customer both in A1 (at the) and B1 (at the)
ALL items must be completed. Leave no blanks.

To: George Weston Foods (NZ) Limited ("Supplier")

A PARTICULARS OF CUSTOMER

- 1 Full Name of Customer _____
- 2 Trading Name/Business Name (if different to 1) _____ Business Name Registration No _____
- 3 Business Address _____ Postcode _____
- 4 Postal Address (if different to 3) _____ Postcode _____
- 5 Address for Deliveries (if different to 3) _____ Postcode _____
- 6 Telephone Nos: Bus () _____ Fax () _____ Mobile () _____ After Hrs () _____
- 7 GST No _____ - - - - - 8 Accounts Contact Person _____
- 9 Business Type _____

B OTHER INFORMATION

- | 1 Names of Directors/
Partners or Individuals | Private Residential Address | Private Telephone No | Driver's Licence No | Date of Birth |
|--|-----------------------------|----------------------|---------------------|---------------|
| <input type="checkbox"/> (1) _____ | _____ | () _____ | _____ | _____ |
| (2) _____ | _____ | () _____ | _____ | _____ |
| (3) _____ | _____ | () _____ | _____ | _____ |
- 2 Do/Have any of you conduct/ed an account with this Branch or any other Branch or Division of Weston Milling? Yes No (please tick)
If yes, Name of the Branch(es) or Division(s): _____
- 3 Who was your previous supplier? _____
- 4 Date commenced operating the business for which credit is sought: ____ / ____ / ____
- 5 Estimated monthly purchases: \$ _____ per month
- 6 How is the drawer shown on the cheque which the Customer will use to pay accounts? _____
(copy out exactly what is on the cheque)
- 7 Bank Details (Principal Bank if more than one)
- | Name of Bank | Branch | Account No |
|--------------|--------|------------|
| _____ | _____ | _____ |
- 8 Trade References (provide details for 4 referees with whom the Customer is currently trading on an account basis i.e. not COD)
- | Name | Contact Person | Phone No | Fax No |
|---------|----------------|-----------|-----------|
| 1 _____ | _____ | () _____ | () _____ |
| 2 _____ | _____ | () _____ | () _____ |
| 3 _____ | _____ | () _____ | () _____ |
| 4 _____ | _____ | () _____ | () _____ |
- 9 Business Premises (please tick) Owned Leased/Rented Name of Landlord _____
- 10 Name and Phone No of the Customer's Accountants: Name _____ Ph. () _____

C USE OF INFORMATION PRIVACY ACT

1 Authority to Obtain Information

The Customer, by signing this application, authorises Weston Milling to make credit and other enquiries about the Customer within its normal procedures and to obtain information about the Customer from any credit agency.

2 Authority to Use Information

The Customer acknowledges that the information it has provided to Weston Milling may be used by Weston Milling:

- (a) for the purpose of administering this and any subsequent contract between the parties;
- (b) for the purpose of marketing goods and services provided by Weston Milling; and
- (c) to provide the information to any person (including any employee or agent of Weston Milling in the ordinary course of business) for the foregoing purposes, and the Customer, by signing this application, authorises Weston Milling to retain and use the information for these purposes.

D AGREEMENT

The Customer:

- (a) applies to Weston Milling for a (or a continuation of a) credit facility and, if written approval is given by Weston Milling;
- (b) agrees to comply with the attached Terms and Conditions of Supply (on the last page);
- (e) agrees that Weston Milling may withdraw further credit at any time without notice.

E SIGNATURE



PLEASE READ THIS BEFORE SIGNING

- If the Customer is a company, a director of the Customer must sign, and warrants that he/she binds the Company.
- If the Customer is a partnership, a partner of the Customer must sign, and warrants that he/she binds the Partnership.
- If the Customer is an individual person, that person must sign.

Signature _____ Date ____/____/____

Full Name of Director/Partner/Individual _____

Witness (sign here) _____

Full Name of Witness _____

OFFICE USE ONLY

Comments _____

Approved by: *(please indicate)*

Credit Manager Sales Manager General Manager Divisional Chief Executive

Sign here _____ Date ____/____/____

Approved Credit Limit: \$ _____ Letter of Approval Sent to Customer on ____/____/____

Payment Terms: _____

New Account No: _____

GUARANTEE BY COMPANY DIRECTORS



PLEASE READ THIS FIRST

- It is only necessary to complete this Guarantee if the Customer is a company.
- This Guarantee must be completed, if the Customer is a company, by all of its directors.
- This Guarantee is given in favour of all divisions, branches, business units and subsidiaries of George Weston Foods (NZ) Limited, which might at any time supply goods or services to the Customer.
- If the Customer already owes money to Weston Milling, this Guarantee is given both for what is already owing and for what will become owing in future.

TO: GEORGE WESTON FOODS (NZ) LIMITED and its related companies (as defined in the Companies Act 1993) (referred to as "you" in this Guarantee).
 In consideration of you at our request agreeing to supply or continue to supply goods and services to

_____ ("Customer")
(insert full name of company customer)

(1) _____
 (2) _____

(insert full name and address of each guarantor)

hereby agree with you as follows:

- 1 We guarantee the punctual payment to you of all money which is now or in the future owing to you by the Customer in connection with the supply of goods or services by you to the Customer, and interest payable on that money ("Guaranteed Money").
- 2 We will pay to you immediately when you demand that we do, any amount of the Guaranteed Money which the Customer has not paid by its due date.
- 3 We agree that:
 - a) this document is a continuing Guarantee for the whole of the Guaranteed Money;
 - b) our liability for the Guaranteed Money is joint and several;
 - c) you may act against each one of us as though we were the principal debtor in place of the Customer; and
 - d) we waive all our rights as surety which are inconsistent with this document.
- 4 Our obligations and liabilities under this document are not affected by:
 - a) any agreement between you and the Customer being wholly or partly unenforceable;
 - b) any release of the Customer by you;
 - c) any variation to the amount or the terms on which you provide credit or of any agreement between you and the Customer;
 - d) you granting any time to pay or other indulgence to the Customer;
 - e) negligence or mistake by you;
 - f) you taking, discharging, dealing with or losing any security for the Guaranteed Money;
 - g) you refusing to supply further goods or services to the Customer;
 - h) anything else which might prejudice or discharge our liability under this document.
- 5 Any one of us may only revoke our guarantee for further transactions by giving prior notice forwarded by prepaid post addressed to the directors of George Weston Foods (NZ) Limited at its registered office in Auckland and such notice shall only take effect one month after it has actually been received by the directors.
- 6 All dividends and other payments received by you from the Customer (whether in liquidation or otherwise) shall be taken and applied by you as payments in gross and the right of any one of us to be subrogated to you shall not arise until you have received the full amount of the Guaranteed Money.
- 7 This Guarantee will render each of us liable to reimburse you for any monies which you may have to pay or elect to pay to any liquidator or administrator of the Customer in response to any claim they may make against you.
- 8 This Guarantee shall bind each of us and take effect as a deed immediately that we sign it, regardless of whether or not others who we may have understood were to sign this Guarantee (including any persons named above) actually ever do so.
- 9 I/We authorise you to obtain from a credit reporting agency, a credit report containing personal information about me/us to assess whether to accept me/us as a guarantor for credit applied for, or provided to, the Customer. I/We agree that if you approve the Customer's application, this authorisation remains in force until the credit facility covered by the Customer's application ceases.

GUARANTOR*

DATE

INDEPENDENT WITNESS**

 Guarantor's Signature Full Name (Print)

 / /

 Witness's Signature Full Name (Print)

 Guarantor's Signature Full Name (Print)

 / /

 Witness's Signature Full Name (Print)

 Guarantor's Signature Full Name (Print)

 / /

 Witness's Signature Full Name (Print)

*The Guarantee must be signed by the individual directors.

**The witness must be fully independent. The witness cannot be an employee or representative of Weston Milling, or another Guarantor.

TERMS AND CONDITIONS OF SUPPLY FOR CREDIT ACCOUNTS

1 Definitions and interpretation

1.1 In these Conditions, unless the context otherwise requires:

Contract means the contract entered into between GWF and the Customer on the supply of Goods or Services by GWF;

Goods means any goods to be supplied to the Customer by GWF;

Loss means any damage, loss, liability, cost, charge, expense, penalty, outgoing or payment (whether direct or indirect, consequential or incidental) including legal costs and expenses on a full indemnity basis;

Price means the price of the Supplies excluding GST;

Services means services to be supplied by GWF to the Customers; and

Supplies means the Goods and/or Services (as the case may be).

1.2 Specifying anything in these Conditions after the words "including" or "includes" or similar expressions does not limit what else is included unless there is express wording to the contrary.

2 Orders and Specifications

2.1 No order for Goods or Services submitted by any Customer is deemed to be accepted by GWF until confirmed in writing, or otherwise, by GWF at its discretion.

2.2 The Customer agrees that these Conditions apply to the Contract to the exclusion of any other terms and conditions, including any contained on printed documents issued by the Customer at any time. The Conditions are in addition to all other rights which GWF may have at law. Any waiver by GWF of any right is not a waiver of any other or future rights GWF may have.

2.3 If Goods are to be manufactured and any process is to be applied to Goods by GWF in accordance with a specification submitted by a Customer, the Customer indemnifies GWF against any Loss GWF pays, suffers, incurs or is liable for in connection with any claim as a result of GWF's use of the Customer's specifications.

2.4 GWF may make any changes to the specification of the Supplies to conform to safety or other statutory requirements or, where the Supplies are to be supplied to GWF's specifications, which do not materially affect their quality or performance.

2.5 No order which has been accepted by GWF may be cancelled by the Customer except with the written agreement of GWF and on terms that the Customer indemnifies GWF against any Loss GWF pays, suffers, incurs or is liable for as a result of cancellation.

3 Price

3.1 Unless varied by GWF pursuant to clause 3.4 or required by law, the Price is as stated on the front of these Conditions and is exclusive of any goods and services tax (GST) and the Customer shall pay GST on all Supplies made.

3.2 Any rebates, discounts, allowances or other reductions in price calculated by reference to the sales value to which the Customer is entitled or which are granted by GWF (Discounts) are to be calculated on the GST exclusive Price as stated on the front of these Conditions.

3.4 GWF may vary the Price by giving notice of variation to the Customer.

4 Delivery

4.1 Delivery of Goods to the Customer occurs:

(a) in the case of Goods to be collected by the Customer at GWF's premises, at the agreed time for collection; or

(b) in the case of Goods to be delivered other than at GWF's premises, at the time of delivery, or, if the Customer fails to take delivery of the Goods, the time when GWF tendered delivery of the Goods.

4.2 The Customer will be responsible for all costs associated with the provision of the Supplies including any government taxes, duties or imposts payable in respect of the Supplies, unless stated otherwise on the front of these Conditions.

4.3 Any time which GWF quotes for delivery of the Goods is an estimate only.

4.4 GWF may cancel any order, without liability to the Customer, if it determines that it will be unable to deliver the Goods within a reasonable time.

4.5 The Customer must accept, in fulfillment of its order, delivery of plus or minus 10% of the quantity specified in its order and must pay for the quantity actually delivered.

4.6(a) Any containers used for the delivery of the Goods, including any baskets, doleys, pallets, pallets, crates or tanks (Containers) owned by GWF at all times remain the property of GWF and title does not pass in any circumstances. The Customer acknowledges GWF has a security interest in the Containers pursuant to the *Personal Property Securities Act 1999 (PPSA)* and clauses 6.5 to 6.11 shall apply with necessary modifications.

(b) The Customer must ensure that the Containers are kept clean, not damaged and are returned (at the request of GWF) to GWF in good condition.

5 Payment

5.1 Where GWF has agreed to extend credit to the Customer, the Customer must pay for the Supplies in full within 30 days from the end of the month in which the Supplies were supplied, unless stated otherwise on the front of these Conditions.

5.2 GWF may require the Customer to pay cash in full prior to delivery.

5.3 If the Customer has not paid in full by the due date GWF may, without limiting any other rights it may have:

(a) charge the Customer interest on the overdue moneys at the cash rate, displayed at or about 11.00 am (Auckland time) on the date of delivery on the Reserve Bank of New Zealand website, plus 2%, from the date of delivery of the Supplies until paid in full; and

(b) pursue an action against the Customer for the Price for which payment has not been made, even though property in the Goods remains with GWF.

5.4 Agreed Discounts will be credited to the Customer by GWF. The Customer cannot deduct any Discounts from moneys owing by it to GWF.

5.5 The Customer must pay GWF in full for the Supplies delivered even if there was a delay in the delivery of the Supplies, or if the Customer disputes the quality, quantity or condition of the Supplies delivered or provided.

5.6 GWF is entitled to set off any sums owed by it to the Customer under a Contract or otherwise against the Price.

6 Risk, Title & PPSA

6.1 Risk of loss or damage to the Goods passes to the Customer on delivery.

6.2 Until the Customer has paid for the Goods in full and also paid all other moneys due and payable to GWF by the Customer:

(a) property in the Goods remains with GWF;

(b) the Customer holds the Goods as bailee of GWF; and

(c) the Customer must ensure that at all times the Goods are properly stored, separate from all other goods, protected, readily identifiable, clearly marked as owned by GWF and fully insured for an amount not less than the Price payable to GWF.

6.3 If the Customer sells the Goods or any goods incorporating or processed using the Goods (Processed Goods) to its customers the Customer, in its position as fiduciary, assigns to GWF the benefit of any claim against the customers and will hold on trust in a separate identifiable account, and account to GWF for, all proceeds of sale (or, in the case of Processed Goods, such part of the proceeds of sale as is equivalent to the Price of the Goods incorporated or used in the Processed Goods).

6.4 The Customer grants a security interest to GWF in all present and after acquired Goods (including Processed Goods), and proceeds.

6.5 On GWF's request, the Customer shall promptly execute any documents and do anything else required by GWF to ensure that the security interest created under these Conditions constitutes a first ranking perfected security interest over the Goods and proceeds. The Customer will also provide GWF with any information GWF may reasonably require to complete a financing statement.

6.6 The Customer:

(a) shall immediately notify GWF in writing of any change in the Customer's name; and

(b) shall immediately notify GWF of any other information GWF may need in order to complete a financing change statement.

6.7 The Customer will waive any right to receive a copy of a verification statement under the PPSA.

6.8 GWF will pay all costs, expenses and other charges incurred, expended or payable by GWF in relation to the filing of a financing statement or financing change statement.

6.9 The Customer agrees that nothing in sections 114(1)(a), 117(1)(c), 133 and 134 of the PPSA shall apply to these Conditions.

6.10 The Customer agrees that its rights as debtor in sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA shall not apply to these Conditions.

6.11 The Customer will not allow a security interest to be created or registered over the Goods in priority to the security interest held by GWF.

7 Right of Entry, Resale and Termination

7.1 If the Customer:

(a) (being a natural person) dies or commits an act of bankruptcy;

(b) (being a corporation) does anything which entitles anyone to apply to wind it up or a liquidator or receiver or receiver and manager of the Customer is appointed; or

(c) breaches any of these Conditions,

GWF may, without affecting its accrued rights and obligations, take possession of and resell the Goods or terminate, without GWF incurring any liability whatsoever to the Customer, any Contract immediately by notice to the Customer and withhold or suspend any deliveries of Goods or performance of Services pursuant to a Contract.

7.2 The Customer authorises GWF and any person authorised by GWF to enter premises where the Goods may be located to take possession of the Goods. The Customer indemnifies GWF against any Loss GWF pays, suffers, incurs or is liable for in connection with GWF retaking possession of the Goods or otherwise exercising its rights under this clause 7.

8 Shortfall, Damaged and Defective Goods

8.1(a) The Goods will be considered to have been delivered in full in good condition unless the Customer notifies GWF in writing of the shortfall, damage or defect within 2 business days of receiving the Goods.

(b) If the Customer gives GWF notice under clause 8.1(a), it must also:

(1) preserve the Goods in the state in which they were received for 14 days after it gives GWF the notice (except for any normal deterioration due to the passing of time); and

(2) at GWF's option, allow GWF or its authorised representative to inspect the Goods or return some or all of the Goods to GWF (at GWF's expense) in the same condition as when received by the Customer (except for any normal deterioration due to the passing of time).

8.2 GWF is not obliged to accept the return of or allow any credit for Goods not sold by the Customer by the use-by date for the Goods.

9 Limitation of Liability

9.1 Subject to clause 9.2, all conditions and warranties, express or implied, by law, custom or otherwise, and whether as to the condition, suitability, quality, fitness for any purpose or title to the Supplies or included or referred to in any order, delivery, receipt or other document of the Customer, are expressly negated and excluded.

9.2 The Customer shall be deemed to have acquired the Supplies for the purposes of a business and accordingly the *Consumer Guarantees Act 1993* shall not apply. Where the Customer supplies Goods to another person in the course of trading, the Customer must not give or make any undertaking, assertion, or representation in relation to the Goods without GWF's prior written approval. The Customer shall include a provision in its conditions of sale to the effect that the *Consumer Guarantees Act 1993* shall not apply where a customer is acquiring the Goods for the purposes of a business. The Customer agrees to indemnify GWF against any Loss incurred by GWF if the Customer makes such a representation or fails to include such a provision.

9.3 Except to the extent that any legislation prevents GWF from limiting its liability for a breach of any term, condition or warranty in these Conditions, then GWF's maximum liability for such breach, will be limited, at GWF's option, to:

(1) in the case of Goods, either replacement of the Goods, the supply of products equivalent to the Goods, or the cost of replacing the Goods or acquiring products equivalent to the Goods; and

(2) in the case of Services, the supply of the Services again or the payment of the cost of having the Services supplied again.

9.4 To the extent permitted by law, GWF will not be liable for any Loss which the Customer pays, suffers, incurs or is liable for for any reason, including as a result of delay, negligence or any act, matter or thing done or permitted or omitted to be done by GWF, its employees or agents in any way connected with or arising out of these Conditions.

9.5 The Customer indemnifies GWF against any Loss which GWF pays, suffers, incurs or is liable for in connection with any breach of these Conditions, or negligence, by the Customer.

10 Variation

GWF may at any time vary these Conditions by notice to the Customer.

11 Governing law

These Conditions will be governed by and construed in accordance with the laws of New Zealand (but expressly excluding the Sale of Goods (United Nations Convention) Act 1994) and each party irrevocably submits to the non-exclusive jurisdiction of the courts of New Zealand.