



FOR OFFICE USE ONLY	
SALES REP	_____
TERRITORY NO	_____
ENTERED BY	_____
DATE	_____

ABN: 39 137 763 574 Liquor License: 880010110
 HEAD OFFICE: PO Box 7447 Bondi Beach N.S.W. 2026
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CUSTOMER CREDIT APPLICATION
 PLEASE PRINT AND COMPLETE IN FULL

1. FULL NAME OF CUSTOMER _____
 ABN _____ OWNER OF BUSINESS _____
2. BUSINESS NAME _____ (REG. NO) _____
3. DELIVERY ADDRESS _____
4. **DELIVERY INSTRUCTIONS:** _____
5. PHONE _____
 EMAIL _____
6. POSTAL ADDRESS _____ P/C _____
7. LIQUOR LICENCE _____
8. TYPE OF BUSINESS _____
9. DATE OF COMMENCEMENT OF BUSINESS _____
10. PERIOD OF OCCUPATION OF BUSINESS PREMISES _____
11. BANK, BRANCH & ACCOUNT NO _____
12. ANTICIPATED MONTHLY CREDIT _____
13. THREE CURRENT TRADE REFERENCES (wine companies only)
 1. NAME _____ PHONE _____
 2. NAME _____ PHONE _____
 3. NAME _____ PHONE _____
14. ACCOUNT CONTACT PERSON _____ PHONE _____ MOBILE _____

1. APPLICATION
 The abovenamed customer applies to Quality Estate Distributors NSW Pty Ltd (referred to in this credit application and the terms of supply as "the seller") for credit in relation to supply of goods. The customer acknowledges and accepts the "terms of supply" provided on the following pages and agrees to abide by those terms and conditions.
 The customer agrees that this credit application and the terms of supply become a binding agreement between the customer and the seller upon being signed by the customer.
 The customer undertakes to notify the seller in writing of any changes in the legal status of the customer.

Signature of customer or authorised representative	Printed name of customer or authorised representative
Title of customer or authorised representative	Date

2. GUARANTEE
 (i) Company Applicant
 I/We _____ (name) of _____ (address), company director/s of Applicant/Customer in consideration of the seller providing credit facilities to the customer, do hereby jointly and severally irrevocably guarantee to the seller:

1. the due and punctual payment to the seller of all monies due and debts owed by the Applicant/Customer to the seller pursuant to this Agreement (as defined in clause 1 of the Terms and Conditions of Trade herein); and
2. the punctual performance and observance by the Applicant/Customer of the provisions contained in or implied under the Agreement on the part of the Applicant/Customer to be respectively paid, observed and performed;
3. covenant and agree with the seller to be liable for and to indemnify and keep indemnified the seller from and against all actions, suits, claims, demands and losses which the seller may incur or be liable for as a result of any default, act or remission on the part of the Applicant/Customer under and pursuant to the provisions of the Agreement, and

4. acknowledge that the seller may recover from the Guarantors all monies due from the customer even though the customer is not in default or the seller has made no demand on the customer

SIGNED SEALED AND DELIVERED BY

_____ Print Guarantor's Name	_____ Signature of Guarantor
In the presence of	
_____ Print Witness Name	_____ Signature of Witness
_____ Date	
_____ Print Guarantor's Name	_____ Signature of Guarantor
In the presence of	
_____ Print Witness Name	_____ Signature of Witness
_____ Date	

TERMS OF SUPPLY

1. Goods will be supplied to the customer only on these terms and conditions and the terms contained in invoices from the seller provided that these terms shall prevail in the event of inconsistency.
2. The seller may withdraw credit at any time and may vary the Terms of Supply at any time.
3. Prices contained in quotations are valid for thirty days only. Quotations are not offers but invitations to treat only. A contractual relationship shall only arise upon acceptance by the seller of the customer's order. Any contract between the seller and the customer will be evidenced solely by the order and acceptance. All other documents, drawings, conversations, acts, facts matters or things shall not be incorporated in or form part of the contract.
4. Goods supplied by the seller are described by reference to their physical attributes and not by reference to their output or performance.
5. Failure by the customer to supply required information entitles the seller to vary the price and/or the date of delivery.
6. Unless quotations by the seller specifically state to the contrary, all prices contained in quotes are not fixed and may be varied by the seller at any time. Prices invoiced by the seller to the customer shall be those current at the date of invoice unless otherwise agreed.
7. Any variation between date of quotation and date of order in the cost to the seller of freight, marine transit risk and other insurances, shipping expenses, exchange, customs duty, sub-contractor's costs or the cost of any component parts purchased by the seller from others, shall be payable by the customer to the seller.
8. Interest at the rate of 1.5% per month is payable by the customer on any amounts not paid when falling due.
9. The seller will supply the customer from available stocks as soon as practicable after receipt of order. In the event of stock shortages the seller may allocate available stocks between the customer and other customers from whom orders have been received.
10. Goods will be invoiced to the customer on dispatch of goods by the seller. The customer will pay the amount invoiced on the thirtieth day after invoice.
11. The seller reserves the right to accept any order in whole or part or to decline any order.
12. Acceptance by the customer of delivery of the goods shall be deemed acceptance of these conditions if not previously acknowledged by the customer.
13. To the extent permitted by law:
 - 13.1 All conditions and warranties which are or may otherwise be implied in relation to the supply of goods are excluded and negated.
 - 13.2 The liability of the seller to the customer or any person supplied by the customer for any loss or damage occasioned to any person arising directly or indirectly out of supply or use of the goods is limited to the lowest of the cost of replacement. The customer releases and indemnifies the seller against any liability arising out of the failure of the customer to properly notify others as to the suitability or manner of using the goods.
14. The seller shall only consider any claims by the customer in relation to the goods if made in writing to the seller's representative and received by the seller within seven days of the date of delivery of the goods to the customer (refer to following page for Claims Procedure). If the customer does not notify the seller within seven days of delivery of any claims the customer shall be deemed to have accepted the goods.
15. Intellectual property in any design documents, machinery or equipment produced by the seller in order to supply goods to the customer shall at all times remain vested in the seller. The customer indemnifies and holds the seller harmless in respect of any infringement, or alleged infringement, of patents, trade marks, copyright or other protected rights in respect of any specifications or documents supplied by the customer to the seller.
16. The customer will not alter or remove any label, insignia or mark attached to the goods which bears the name of the seller or any trade marks or trade names used in relation to the goods.
17. A certificate signed by an officer of the seller shall be conclusive evidence as to details of the goods delivered to the customer and the status of payment for those goods by the customer.
18. The customer acknowledges that:
 - 18.1 title in the goods does not pass to the customer until the purchase price for the goods is taken to be fully and finally paid;
 - 18.2 if the customer sells or otherwise disposes of the goods before the purchase price for the goods has been fully and finally paid, it does so as the seller's fiduciary agent and the proceeds of such sale or other disposal are also property of the seller and are held by the customer on trust for the seller.
 - 18.3 the supply of goods under this agreement gives rise to a Security Interest in the goods in favour of the seller being a PMSI and
 - 18.4 the seller's rights and interest in Proceeds derived from the sale of the goods constitute a PMSI in such proceeds.
19. The customer represents and warrants to the seller that all information provided to it in respect of each Security Interest arising under this document (including, without limitation, the identity particulars of the customer) is complete, accurate and up to date as at the date of this document.
20. If the customer becomes aware of any change or proposed change in the information referred to in clause 21, it must provide the seller with written notice of the details of that change within ten (10) business days of becoming aware of the change.
21. The customer agrees to indemnify the seller against any claims or liability which may arise as a result of the information being provided by the customer in respect of the Security Interest being false, misleading, deceptive or inaccurate.
22. The parties acknowledge that the Security Interest provided for by this document in the goods secures all of the purchase price for the goods and is a PMSI in respect of such money.
23. The seller may, at the customer's expense, register any Security Interest granted under this agreement on the PPS Register in any manner it chooses. The Customer must provide the seller with any information it requires for the purposes of effecting such registration.

24. The customer undertakes and agrees to take such steps as the seller reasonably requires to perfect and otherwise ensure the enforceability and first ranking priority of any Security Interest granted to it under this agreement, including by:
- 24.1 obtaining consents;
 - 24.2 signing and producing documents;
 - 24.3 getting documents completed and signed;
 - 24.4 supplying information;
 - 24.5 ensuring that the Security Interests are enforceable, perfected and otherwise effective;
 - 24.6 enabling the seller to apply for any registration, or give any notification, in connection with a Security Interest created under this agreement so that the Security Interest has the priority required by the seller (including, if that Security Interest is a PMSI, registering that Security Interest on the PPS Register as a PMSI within the relevant time set out in section 62 of the PPSA);
 - 24.7 enabling the seller to exercise its rights in connection with the Security Interest; and
 - 24.8 providing more effective security over the goods.
25. To the extent that this agreement gives rise to a Security Interest which secures payment or performance of an obligation, the parties agree that, for the purposes of section 115 of the PPSA, the following sections of the PPSA will not apply to any Collateral which is subject to that Security Interest:
- | | |
|-----------------------|----------------|
| (a) S. 95 | (b) S. 118 |
| (c) S. 121(4) | (d) S. 125 |
| (e) S. 129(2) and (3) | (f) S. 130 |
| (g) S. 132(3)(d) | (h) S. 132(4) |
| (i) S. 135 | (j) S. 138B(4) |
| (k) S.142, and | (l) S. 143. |
26. In paragraphs 18-25 of these terms of supply the following terms have the following meanings:
- "Collateral" has the meaning given in the PPSA;
 "PMSI" means Purchase Money Security Interest and has the meaning given in the PPSA;
 "PPSA" means the *Personal Property Securities Act 2009* (Cth);
 "PPS Register" means the Personal Property Securities Register established under section 146 of the PPSA;
 "Security Interest" has the meaning given in the PPSA.
27. In the event of a breach of this agreement by the customer the seller may, without demand, retake possession of the goods and may without notice sell the goods on such terms and in such manner as it determines and will be entitled to deduct all expenses incurred. For the purposes of recovering possession and without limiting the generality of the foregoing, the customer irrevocably authorises and licenses the seller and its servants and agents to enter any premises where any goods may be stored and to take possession of the goods. The customer agrees that in the event that any damage is caused to the customer's property during the recovery of the goods by the seller, the customer will not hold the seller liable for such damage and furthermore agrees to indemnify and keep indemnified the seller in respect of any costs or expenses incurred by the seller in the exercise of such rights.
28. The customer and the guarantors shall notify the seller of any change in the beneficial ownership of the customer or of the death, insolvency, liquidation, dissolution, administration, official management or bankruptcy of the customer. The customer and the guarantors jointly and severally indemnify the seller against any losses resulting from the delivery of goods by the seller prior to receiving such written notice.
29. The customer shall meet all costs incurred by the seller and occasioned by the default of the customer in performance of any of these Terms of Supply.
30. Pursuant to the Privacy Act 1988 (as amended) the customer and each of the guarantors authorises the seller to give to and obtain from another credit provider or credit reporting agency for the purpose of assessing this application for credit or for the purpose of notifying other credit providers of default, a credit report containing personal information about the customer and/or each of the guarantors or a report containing information concerning the commercial activities or commercial creditworthiness of the customer and/or each of the guarantors. This authority remains in force for so long as credit is provided by the seller to the customer.
31. If the customer is a trustee and, in that capacity, orders supply of goods by the seller, then the customer warrants that it has a right of indemnity from the assets of the trust fund to meet all amounts due to the seller.
32. Any provision of this agreement that may, wholly or in part, be deemed invalid shall to the extent of the invalidity be severed from this agreement without prejudice to the continuing force and validity of the remaining provisions.
33. This agreement shall be governed by the laws of the State of New South Wales.
34. In this clause:-
- 34.1 "GST Act" means A New Tax System (Goods & Services Tax) Act 1999 (as amended). "GST" means GST within the meaning of the GST Act.
 - 34.2 Unless express agreement is made to the contrary between the seller and the customer, the price payable by the customer for a taxable supply made by the seller represents the value of the taxable supply for which payment is made.
 - 34.3 If Quality Estate Distributors Pty Ltd makes a taxable supply to the customer then; the customer must pay to the seller on the date of supply the amount of any GST payable in respect of the taxable supply.
 - 34.4 The customer shall not be obliged to pay GST on a taxable supply until the seller provides a valid Tax Invoice for that supply.

CLAIMS PROCEDURE

1. Report all claims in writing to your representative.
2. Any claims of whatever nature must be reported in writing to you representative within 7 days after receipt of goods or the purchaser is deemed to forfeit any claims for damages or set off against the seller. Please quote invoice number, account name, delivery address and date, as well as all other relevant details pertaining to your claim, without exception.
3. Ullages:
 - (a) The seller will accept faulty stock (including label damage, dry breaks, leakers or short fills etc) for replacement only if seals on bottles are still intact.
 - (b) Damaged stock found after delivery must be returned in original carton for replacement
 - (c) Restaurant returns are only acceptable if product is out of condition. (?)
 - (d) In all cases, stock must be viewed and returned through the seller's Area Managers of Delivery staff. Supply invoice number and delivery date must be provided in order to action replacement or credit.
 - (e) No replacement or credit will be forthcoming on stock broken or damaged on the Customer's premises
4. Return of Stock: A Sales Representative of the seller must view all stock offered for return for whatever reason. Invoice number and delivery date must be quoted, before any returns will be accepted for credit and authorisation is required from the Sales Manager.

NOTICE OF DISCLOSURE OF YOUR CREDIT REPORTING TO A CREDIT REPORTING AGENCY

Under the Privacy Act, Quality Estate Distributors NSW Pty Ltd is allowed to give a Credit Reporting Agency personal information about your credit application.

The information which may be given to an Agency is covered by Section 18E (1) of the Act and includes:

1. Identity particulars (as permitted by the privacy Commissioner's determination issued under Section 18E (3)).
2. The fact that you have applied for credit and the amount.
3. The fact that the seller is a current credit provider to you.
4. Payments which become overdue more than sixty (60) days and for which collection action has commenced.
5. Advice that payments are no longer overdue.
6. Cheques drawn by you which have been dishonoured more than once.
7. In specified circumstances, that in the opinion of the seller you have committed a serious credit infringement.
8. That credit provided to you by the seller has been paid or otherwise discharged.