



Erinfen Pty Ltd T/A  
Daily Fresh Food Service  
ABN 85 003 900 696  
353 Chisholm Road, Regents Park NSW 2143  
P: (02) 9644 0000  
E: salesadmin@dailyfresh.com.au  
W: www.dailyfresh.com.au

**CREDIT ACCOUNT APPLICATION - TRADE**

Complete all sections and read the Terms and Conditions of Trade attached.

Please be advised that a \$300 (ex-GST) weekday minimum order value applies to all Trade accounts for free delivery. Otherwise a delivery fee of \$30 +GST will apply.

A 1.5% surcharge applies to all payments made with credit cards including American Express cards.

Date

Company or Business Name

Trading Name

Representative's Full or Legal Name

Phone  Fax

Mobile  Email

Registered Office Address

Suburb  State  Postcode

**DELIVERY ADDRESS (if more than one site provide list)**

Suburb  State  Postcode

**DETAILS OF BUSINESS**

Sole Trader  Partnership  Proprietary Company  Trust  Other

ABN/ACN Number  Date Established

Credit Limit Request  Expected Weekly / Monthly Purchases

Credit Terms Requested COD  Weekly  Fortnightly

**DETAILS OF OWNER (SOLE TRADER) / PROPRIETORS (PARTNERSHIP) / DIRECTORS & GUARANTORS**

Full Name <input type="text"/>	Full Name <input type="text"/>
Home Address <input type="text"/>	Home Address <input type="text"/>
Suburb <input type="text"/>	Suburb <input type="text"/>
State <input type="text"/> Postcode <input type="text"/>	State <input type="text"/> Postcode <input type="text"/>
Date of Birth <input type="text"/>	Date of Birth <input type="text"/>
Driver's Licence Number <input type="text"/>	Driver's Licence Number <input type="text"/>
ID Witnessed by (Rep Sign) <input type="text"/>	ID Witnessed by (Rep Sign) <input type="text"/>
Home Phone <input type="text"/>	Home Phone <input type="text"/>
Mobile <input type="text"/>	Mobile <input type="text"/>
Email <input type="text"/>	Email <input type="text"/>

Has the applicant or anyone associated with the applicant been:

Bankrupt or used 'Part X' of the Bankruptcy Act? Yes  No

If Yes, please provide details

Involved with the management or control of a business which has been wound up, had a receiver, administrator or liquidator appointed or entered into a scheme for the benefit of creditors? Yes  No

If Yes, please provide details

### BUSINESS DETAILS

Are the business premises Owned  Leased  Period Occupied?

If Owned, who is the premises mortgaged to?

Credit Provider

Mortgage Amount Owning

If Leased, who is the premises leased to?

Lessor's Name

Home Address:

Suburb

State

Postcode

### TRADE REFERENCES

#### REFERENCE 1

Business Name

Address or A/C No

Phone

Fax

Contact Name

Credit Terms

#### REFERENCE 2

Business Name

Address or A/C No

Phone

Fax

Contact Name

Credit Terms

#### REFERENCE 3

Business Name

Address or A/C No

Phone

Fax

Contact Name

Credit Terms

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Erinfen Pty Ltd T/A Daily Fresh Food Service which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. ***I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Client I shall be personally liable for the performance of the Client's obligations under this contract.***

Client Signature

Witness Signature

Name

Name

Position

Position

Date

Date

## PERSONAL/DIRECTORS GUARENTEE AND INDEMNITY

IN CONSIDERATION of Erinfen Pty Ltd T/A Daily Fresh Food Service and its successors and assigns ("Daily Fresh") at the request of the Guarantor (as is now acknowledged) entering into this agreement and supplying and continuing to supply goods and/or services to

("The business") [Insert company name in box provided]

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

**1. GUARANTEE** the due and punctual payment to Daily Fresh of all monies which are now owing to Daily Fresh by the Client and all further sums of money from time to time owing to Daily Fresh by the Client in respect of goods and services supplied or to be supplied by Daily Fresh to the Client or any other liability of the Client to Daily Fresh, and the due observance and performance by the Client of all its obligations contained or implied in any contract with Daily Fresh, including but not limited to the Terms & Conditions of Trade signed by the Client and annexed to this Guarantee and Indemnity. If for any reason the Client does not pay any amount owing to Daily Fresh the Guarantor will immediately on demand pay the relevant amount to Daily Fresh. In consideration of Daily Fresh agreeing to supply the Goods to the Client, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ("PPSA") and unequivocally consents to Daily Fresh registering any interest so charged. The Guarantor irrevocably appoints Daily Fresh and each director of Daily Fresh as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which Daily Fresh may reasonably require to:

- (a) Register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register
- (b) Register any other document required to be registered by the PPSA or any other law; or
- (c) Correct a defect in a statement referred to in clause 1(a) or 1(b).

### **2. The Guarantor/s:-**

**(a) HOLD HARMLESS AND INDEMNIFY** Daily Fresh on demand as a separate obligation against any liability (including but not limited to damages, costs, losses, expenses, payments and any legal fees calculated by a solicitor and own client basis) incurred by, or assessed against, Daily Fresh in connection with or arising from:

- i. the supply of goods and/or services to the Client; or
- ii. the recovery of monies owing to Daily Fresh by the Client including the enforcement of this Guarantee and Indemnity, and including but not limited to Daily Fresh's nominees contract default fees and legal costs; or
- iii. monies paid by Daily Fresh with the Client's consent in settlement of a dispute that arises or results from a dispute between, Daily Fresh, the Client, and a third party or any combination thereof, over the supply of goods and/or services by Daily Fresh to the Client; or
- iv. any breach or default by the Client of any of its obligations under the terms and conditions and this agreement.

**(b) MUST PAY ON DEMAND** any money due to Daily Fresh under this indemnity.

**3. All Guarantors are jointly and severally liable with each other and with the Applicant to Daily Fresh for:-**

- (a) The performance by the Client of its obligations under these terms and conditions; and
- (b) Any damage incurred by Daily Fresh as a result of the Client's failure to perform any of its obligation under these terms and conditions or the termination of this agreement by Daily Fresh; and
- (c) Any and all losses, costs and expenses incurred or suffered by Daily Fresh in respect of Daily Fresh's exercise or attempted exercise of any right under this clause, under these terms and conditions.

### **I/WE FURTHER ACKNOWLEDGE AND AGREE THAT:**

**4. I/We have received, read and understood Daily Fresh's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**

**5. This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of monies owing to Daily Fresh by the Client and all obligations herein have been fully paid satisfied and performed.**

**6. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on Daily Fresh's part (whether in respect of the Client or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Client's obligations to Daily Fresh, each Guarantor shall be a principal debtor and liable to Daily Fresh accordingly.**

7.If any payment received or recovered by Daily Fresh is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and Daily Fresh shall each be restored to the position in which they would have been had no such payment been made.

8. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.

9. If the Applicant makes any payment owing to Daily Fresh and such amount is later clawed back by a liquidator, then such amount is still owing to Daily Fresh and must be paid by the Guarantor.

10. This guarantee and indemnity may be enforced against the guarantor without Daily Fresh first taking action against the Client, or pursuing any other available recourse, and may be enforced despite any neglect or omission to enforce any rights against the Client, or if any of the agreements between the Client and Daily Fresh are wholly, or partially unenforceable.

11. **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Client to Daily Fresh.**

12. I/we irrevocably authorise Daily Fresh to obtain from any person or company any information which Daily Fresh may require for credit reference purposes. I/We further irrevocably authorise Daily Fresh to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with Daily Fresh as a result of this Guarantee and Indemnity being actioned by Daily Fresh.

13. The above information is to be used by Daily Fresh for all purposes in connection with Daily Fresh considering this Guarantee and Indemnity and the subsequent enforcement of the same

Note: 1. If the Client is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).

2. If the Client is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member

**WARNING: THIS IS AN IMPORTANT DOCUMENT YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT**

**GUARANTOR -1**

SIGNED

FULL NAME

HOME ADDRESS

DATE OF BIRTH

SIGNATURE OF WITNESS

NAME OF WITNESS

PRESENT ADDRESS

EXCECUTED as a Deed this \_\_\_ day \_\_\_\_\_ of 20\_\_

**GUARANTOR-2**

SIGNED

FULL NAME

HOME ADDRESS

DATE OF BIRTH

SIGNATURE OF WITNESS

NAME OF WITNESS

PRESENT ADDRESS

EXCECUTED as a Deed this \_\_\_ day \_\_\_\_\_ of 20\_\_

**OFFICE USE ONLY**

**ACCOUNT MANAGER**

Has the Customer completed all fields on the credit application? Yes  No

Name  Signature  Date

Comments

**ACCOUNTS**

Approved By  Signature  Date

Payment Terms  Veda Check Yes  Creditor Watch Check Yes

# DAILY FRESH FOOD SERVICE TERMS & CONDITIONS OF TRADE

- Definitions**
    - "Daily Fresh" means Eriufen Pty Ltd T/A Daily Fresh Food Service, its successors and assigns or any person acting on behalf of and with the authority of Eriufen Pty Ltd T/A Daily Fresh Food Service.
    - "Client" means the person/s buying the Goods as specified in any invoice document or order, and if there is more than one Client is a reference to each Client jointly and severally.
    - "Goods" means all Goods or Services supplied by Daily Fresh to the Client at the Client's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).
    - "Price" means the Price payable for the Goods as agreed between Daily Fresh and the Client in accordance with clause 6 below.
  - Acceptance**
    - The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Goods or Goods are supplied to you by Daily Fresh.
    - These terms and conditions may only be ended with Daily Fresh's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and Daily Fresh.
  - Change in Control**
    - The Client shall give Daily Fresh not less than fourteen (14) days prior written notice of any proposed change of control or ownership or office holding of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by Daily Fresh as a result of the Client's failure to comply with this clause.
    - In the event of a change, pursuant to clause 3.1 above, Daily Fresh may require that the Client enter into a new Credit Account Application and may, at its sole discretion, require the Client or any other reasonable person to sign a Guarantee and Indemnity.
  - Electronic Transactions Act 2000**
    - Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.
  - Online Ordering**
    - The Client acknowledges and agrees that:
      - Daily Fresh does not guarantee the websites performance or availability of any of its Goods; and
      - online ordering may be unavailable from time to time for regularly scheduled maintenance and/or upgrades; and
      - there are inherent hazards in electronic distribution and as such Daily Fresh cannot warrant against delays or errors in transmitting data between the customer and Daily Fresh including orders, and you agree that to the maximum extent permitted by law, Daily Fresh will not be liable for any losses which the Client suffers as a result of online ordering not being available or for delays or errors in transmitting orders.
    - Daily Fresh does not accept any responsibility or liability for orders not received by Daily Fresh.
    - Daily Fresh reserves the right to reject or refuse, in its absolute discretion, any order made for Goods at any time.
    - Daily Fresh reserve the right to terminate your order if it learns that you have provided false or misleading information, interfered with other users or the administration of Daily Fresh Food Service, or violated these terms and conditions.
  - Price and Payment**
    - At Daily Fresh's sole discretion the Price shall be either:
      - as indicated on any invoice provided by Daily Fresh to the Client; or
      - the Price as at the date of delivery of the Goods according to Daily Fresh's current price list; or
    - Daily Fresh's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
    - Daily Fresh reserves the right to change the Price at any time and without prior notice:
      - a variation to the Goods which are to be supplied is requested; or
      - in the event of increases to Daily Fresh in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond Daily Fresh's control.
    - At Daily Fresh's sole discretion a non-refundable deposit may be required.
    - Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by Daily Fresh, which may be:
      - on delivery of the Goods;
      - before delivery of the Goods;
      - by way of instalments/progress payments in accordance with Daily Fresh's payment schedule;
      - if thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices;
      - the date specified on any invoice or other form as being the date for payment; or
      - failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by Daily Fresh.
    - Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to three and a half percent (3.5%) of the Price applicable to AMEX cards only), or by any other method as agreed to between the Client and Daily Fresh.
    - Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to Daily Fresh an amount equal to any GST Daily Fresh must pay for any supply by Daily Fresh under this or any other agreement for the sale of the Goods. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
    - Daily Fresh reserves the right to impose a credit limit on your account by giving you prior notice.
  - Delivery of Goods**
    - Delivery ("Delivery") of the Goods is taken to occur at the time that:
      - the Client or the Client's nominated carrier takes possession of the Goods at Daily Fresh's address; or
      - Daily Fresh (or Daily Fresh's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.
    - At Daily Fresh's sole discretion the cost of delivery is either included in the Price or is in addition to the Price.
    - The Client must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as arranged then Daily Fresh shall be entitled to charge a reasonable fee for redelivery and/or storage.
    - Daily Fresh may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
    - Any time or date given by Daily Fresh to the Client is an estimate only. The Client must still accept delivery of the Goods even if late and Daily Fresh will not be liable for any loss or damage incurred by the Client as a result of the delivery being late.
  - Risk**
    - Responsibility, risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.
    - If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, Daily Fresh is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Daily Fresh is sufficient evidence of Daily Fresh's rights to receive the insurance proceeds without the need for any person dealing with Daily Fresh to make further enquiries.
    - If the Client requests Daily Fresh to leave Goods outside Daily Fresh's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.
  - Title**
    - Daily Fresh and the Client agree that ownership of the Goods shall not pass until:
      - the Client has paid Daily Fresh all amounts owing to Daily Fresh; and
      - the Client has met all of its other obligations to Daily Fresh.
    - Receipt by Daily Fresh of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
    - It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 9.1:
      - the Client is only a bailee of the Goods and must return the Goods to Daily Fresh on request.
      - the Client holds the benefit of the Client's insurance of the Goods on trust for Daily Fresh and must pay to Daily Fresh the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
      - the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for Daily Fresh and must pay or deliver the proceeds to Daily Fresh on demand.
      - the Client shall not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of Daily Fresh and must sell, dispose of or return the resulting product to Daily Fresh as its directors.
      - the Client irrevocably authorises Daily Fresh to enter any premises at any reasonable time where Daily Fresh believes the Goods are kept in order to recover possession of the Goods and/or inspect, remove or remove the Goods.
  - Daily Fresh may recover possession of any Goods in transit whether or not delivery has occurred.
    - the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Daily Fresh.
    - Daily Fresh may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.
  - Personal Property Securities Act 2009 ("PPSA")**
    - In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
    - Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods that have previously been supplied and that will be supplied in the future by Daily Fresh to the Client.
    - The Client undertakes to:
      - promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Daily Fresh may reasonably require to;
        - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
        - register any other document required to be registered by the PPSA; and
        - correct a defect in a statement referred to in clause 10.3(a)(i) or 10.3(a)(ii);
      - indemnify, and upon demand reimburse, Daily Fresh for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA to release any Goods charged to the Client;
      - not register a financing change statement in respect of a security interest without the prior written consent of Daily Fresh;
      - 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 the prior written consent of Daily Fresh;
    - immediately advise Daily Fresh of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
    - To the extent the law permits:-
      - for the purposes of sections 115(1) and 115(7) of the PPSA:-
        - Daily Fresh need not comply with sections 95, 96, 118, 121(4), 125, 130, 132(3)(d) and 132(4); and
        - sections 142 and 143 of the PPSA are excluded; and
        - for the purposes of section 115(7) of the PPSA, Daily Fresh need not comply with sections 132 and 137(3).
      - To the extent the law permits, the Client and each of the Guarantors waives:-
        - its rights to receive any notice that is required by:-
          - any provision of the PPSA (including a notice of a verification statement; or
          - any other law before Daily Fresh or a receiver exercises a right, power or remedy; and
          - any time period that must otherwise lapse under any law before Daily Fresh or a receiver exercises a right power or remedy.
        - if a law which required a period to notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period for the law allows to be agreed (whichever is the longer). However, nothing in this clause prohibits Daily Fresh or any receiver from serving a notice under the PPSA or pursuant to any other law.
    - The Client must unconditionally ratify any actions taken by Daily Fresh under clauses 10.3 to 10.5.
    - Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
    - The Client acknowledges that Daily Fresh has the right to register the Goods on the Personal Property Securities Register (PPSR).
    - The Client agrees to provide all relevant information to enable Daily Fresh to register the Goods on the PPSR and generally to maintain, obtain, register and enforce the security interests created pursuant to these terms and conditions.
    - The Client hereby consents to the execution, registration and perfection of each and every security interest and the Client agrees that any security interest created will have priority in respect of the secured property.
    - Notwithstanding anything to the contrary, the Client agrees that the Client's obligations under this clause 10.11 are not limited to the extent permitted by the PPSA, the parties agree not to disclose any information of a kind referred to in section 275(1) of the PPSA to an interested person or any other person. You waive any right you have to authorise disclosure of the above information.
  - Security and Charges**
    - In consideration of Daily Fresh agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
    - The Client indemnifies Daily Fresh from and against all Daily Fresh's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Daily Fresh's rights under this clause.
    - The Client irrevocably appoints Daily Fresh and each director of Daily Fresh as the Client's legal attorneys to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf.
  - Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)**
    - The Client must inspect the Goods on delivery and must within twenty-four (24) hours being applicable to fresh foods, or within seven (7) days for dry foods, of delivery notify Daily Fresh in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods as soon as reasonably practicable after any such defect becomes evident. Upon such notification the Client must allow Daily Fresh to inspect the Goods.
    - Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
    - Daily Fresh acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
    - Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Daily Fresh makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Daily Fresh's liability in respect of these warranties is limited to the fullest extent permitted by law.
      - if the Client is a consumer within the meaning of the CCA, Daily Fresh's liability is limited to the extent permitted by section 64A of Schedule 2.
      - If Daily Fresh is required to replace the Goods under this clause or the CCA, but is unable to do so, Daily Fresh may refund any money the Client has paid for the Goods.
      - If the Client is not a consumer within the meaning of the CCA, Daily Fresh's liability for any defect or damage in the Goods is:
        - limited to the value of any express warranty or warranty card provided to the Client by Daily Fresh at Daily Fresh's sole discretion;
        - limited to any warranty to which Daily Fresh is entitled, if Daily Fresh did not manufacture the Goods;
        - otherwise negated absolutely.
    - Subject to this clause 12, returns will only be accepted provided that:
      - the Client has complied with the provisions of clause 12.1; and
      - Daily Fresh has agreed that the Goods are defective; and
      - the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and
      - the Goods are returned in as close a condition to that in which they were delivered as is possible.
    - Notwithstanding clauses 12.1 to 12.8 but subject to the CCA, Daily Fresh shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
      - the Client failing to properly maintain or store any Goods;
      - the Client using the Goods for any purpose other than that for which they were designed;
      - the Client continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
      - the Client failing to follow any instructions or guidelines provided by Daily Fresh;
      - fire wear and tear, any accident, or act of God.
    - Daily Fresh may in its absolute discretion accept non-defective Goods for return in which case Daily Fresh may require the Client to pay handling fees of up to ten percent (10%) of the value of the returned Goods plus any freight costs.
    - Notwithstanding anything contained in this clause if Daily Fresh is required by a law to accept a return then Daily Fresh will only accept a return on the conditions imposed by that law.
  - Default and Consequences of Default**
    - Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Daily Fresh's sole discretion such interest shall compound monthly at such rate) after as well as before any judgment.
    - If the Client owes Daily Fresh any money the Client shall indemnify Daily Fresh from and against all costs and disbursements incurred by Daily Fresh in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Daily Fresh's contract default fees, and bank dishonour fees).
  - The Client will be in breach and default of these terms and conditions if the Client:-
    - fails to pay any of its accounts with Daily Fresh on time and in accordance with the payment terms pursuant to these terms and conditions or if in Daily Fresh's opinion the Client will be unable to make a payment when it falls due;
    - breach or default on any of its obligations under these terms and conditions;
    - the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
    - a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
  - Without prejudice to any other remedies Daily Fresh may have, if at any time the Client is in breach or default of any of these terms and conditions or of any obligation (including those relating to payment) under these terms and conditions Daily Fresh:
    - may suspend or terminate the supply of Goods to the Client. Daily Fresh will not be liable to the Client for any loss or damage the Client suffers because Daily Fresh has exercised its rights under this clause.
    - shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Daily Fresh shall, whether or not due for payment, become immediately payable.
  - On breach or default of these terms and conditions or of any of the Client's obligations under these terms and conditions, the Client irrevocably permits Daily Fresh, or a person authorised by Daily Fresh, to enter any premises at any reasonable time to recover and remove any Goods charged in your possession.
  - The Client also indemnifies and holds Daily Fresh harmless for any and all losses, costs, damages, and expenses incurred or suffered directly or indirectly by Daily Fresh as a result of:-
    - Daily Fresh recovering the Goods held in the Client's possession;
    - Daily Fresh exercising or attempting to exercise its rights under this clause or exercising or attempting to exercise any other right under these terms and conditions as a result of the Client's failure or neglect to observe and comply with its obligations under these terms and conditions.
  - Any breach or default of these terms and conditions or any other agreement the Client has with Daily Fresh.
- Cancellation**
  - Daily Fresh may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice Daily Fresh shall repay to the Client any money paid by the Client for the Goods. Daily Fresh shall not be liable for any loss or damage whatsoever arising from such cancellation.
  - In the event that the Client cancels delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by Daily Fresh as a direct result of the cancellation (including, but not limited to, any loss of profits).
  - Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.
- Privacy Act 1988**
  - The Client agrees for Daily Fresh to obtain from a Client in relation to a credit report containing personal credit information about the Client in reporting to credit provided by Daily Fresh.
  - The Client agrees that Daily Fresh may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency f or the following purposes:
    - to assess an application by the Client; and/or
    - to notify other credit providers of a default by the Client; and/or
    - to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
    - to assess the creditworthiness of the Client.
  - The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.
  - The Client consents to Daily Fresh being given a consumer credit report to collect overdue payment on commercial credit (Section 18X(1)(h) Privacy Act 1988).
  - The Client agrees that personal credit information provided may be used and retained by Daily Fresh for the following purposes (and for other purposes as shall be agreed between the Client and Daily Fresh or required by law from time to time):
    - the provision of Goods; and/or
    - the marketing of Goods by Daily Fresh, its agents or distributors; and/or
    - analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods; and/or
    - processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
    - enabling the daily operation of the Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Goods.
  - Daily Fresh may give information about the Client to a credit reporting agency f or the following purposes:
    - to obtain a consumer credit report about the Client;
    - to allow the credit reporting agency to create or maintain a credit information file containing information about the Client.
  - The information given to the credit reporting agency may include:
    - personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
    - details concerning the Client's application for credit or commercial credit and the amount requested;
    - advice that Daily Fresh is a current credit provider to the Client;
    - advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
    - advice that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
  - information that, in the opinion of Daily Fresh, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Client's credit obligations);
  - advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once;
  - that credit provided to the Client by Daily Fresh has been paid or otherwise discharged.
- General**
  - The failure by Daily Fresh to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Daily Fresh's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable for the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
  - These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which Daily Fresh has its principal place of business, and are subject to the jurisdiction of the Parramatta courts in New South Wales.
  - Subject to clause 12, Daily Fresh shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Daily Fresh of these terms and conditions (alternatively Daily Fresh's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
  - The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Daily Fresh nor to withhold payment of any invoice because part of that invoice is in dispute.
  - Daily Fresh may license or sub-contract all or any part of its rights and obligations without the Client's consent.
  - These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which Daily Fresh has its principal place of business, and are subject to the jurisdiction of the Parramatta
  - The Client agrees that Daily Fresh may amend these terms and conditions at any time. If Daily Fresh makes a change to these terms and conditions, then that change will take effect from the date on which Daily Fresh notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for Daily Fresh to provide Goods to the Client.
  - Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
  - The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations o

Please note that a larger print version of these terms and conditions is available from Daily Fresh on request.

## PAYMENT OPTIONS

Payments can be made using any of the following payment methods. Please ensure you include your customer code.

### CREDIT CARD PAYMENTS

Reference Number  Customer Code

Card Type  Visa  MasterCard  American Express

Card Number

Expiry Date  /  CSV  Amount \$

Name on Card

Date  Signature

### ELECTRONIC FUNDS TRANSFER

Quote Reference  Account Name

BSB  Account Number  Bank

### BPAY

Our BPAY Biller Code is 229492

Your reference number will be issued once account code is set up

### BY POST (MONEY ORDER / CHEQUE)

Quote Reference

Post To: Daily Fresh Food Service  
353 Chisholm Road  
Regents Park NSW 2413

### ACCOUNTS - INVOICES

First Name  Surname  Position

Phone  Fax  Mobile

Email

Other Information

### ACCOUNTS - STATEMENTS

Contact details are the same as above Yes  No  (if no please complete the below)

First Name  Surname  Position

Phone  Fax  Mobile

Email

Other Information

**CUSTOMER DETAILS FORM**

Please enter the details requested below to ensure correct staff members are contacted for each department

**OWNER / DIRECTOR**

First Name  Surname  Position   
Phone  Fax  Mobile   
Email  Do you wish to receive marketing Material? Yes  No   
Out of stock contact Yes  No  After Hours Contact Yes  No

**PURCHASING – FOOD AND BEVERAGE MANAGER**

First Name  Surname  Position   
Phone  Fax  Mobile   
Email  Do you wish to receive marketing Material? Yes  No   
Out of stock contact Yes  No  After Hours Contact Yes  No

**KITCHEN – EXECUTIVE CHEF (1<sup>ST</sup> POINT OF CONTACT)**

First Name  Surname  Position   
Phone  Fax  Mobile   
Email  Do you wish to receive marketing Material? Yes  No   
Out of stock contact Yes  No  After Hours Contact Yes  No

**KITCHEN – HEAD CHEF (2<sup>ND</sup> POINT OF CONTACT)**

First Name  Surname  Position   
Phone  Fax  Mobile   
Email  Do you wish to receive marketing Material? Yes  No   
Out of stock contact Yes  No  After Hours Contact Yes  No

**REQUIRED DELIVERY DAYS AND SPECIAL INSTUCTIONS**

Required Delivery Days Monday  Tuesday  Wednesday  Thursday  Friday

\*Weekday \$300 (ex GST) minimum order value applies for free delivery otherwise a delivery fee of \$30 (ex-GST) will be charged

Hours of operation (Please state times a staff member is available onsite to take delivery)

Monday – Friday Open  Closed

Special Instructions (For Example: Loading dock, Entry Instructions, etc.)

**OFFICE USE ONLY – OPERATIONS DEPARTMENT**

Required delivery days approved? Yes  No

Manager Approving  Signature

Comments