

TERMS AND CONDITIONS

These are the entire Terms and Conditions of Sale of all goods merchandise and services (the "goods") supplied by **BRAH SUPERFOOD SUPPLY (ABN 76 340 874 707)** and any associated or related body corporate or businesses (all of which are referred to as "**Brah**") to any person, firm or company placing an order with Brah for the purchase of any goods (the "Applicant"). Except as otherwise expressly agreed upon in writing between a duly authorised officer of Brah and the Applicant, these Terms and Conditions shall apply notwithstanding any provisions to the contrary which may appear on any order form or other document issued by any Applicant.

Payment terms

1. The terms of payment are prepayment before the date of invoice (or such other terms as nominated by Brah) and payment is due and payable by the date of invoice ("credit terms"). Brah and any related body corporate (as that term is defined in the Corporations Act 2001) may, at any time, unilaterally vary the credit terms in its absolute and unfettered discretion. The current credit terms can be found at <http://www.brahsuperfood.com> and placement on the website link is acknowledged by the Applicant as constituting sufficient notice and receipt of updated credit terms.
2. Should the Applicant not pay for the goods or services supplied by Brah in accordance with the credit terms, or as otherwise agreed in writing by Brah from time to time, Brah shall be entitled to charge an administration fee of 10% of the amount of the invoice payable per year, or part thereof, from the date the goods or services were supplied (and not the day when Brah' invoice was payable) until payment by the Applicant.
3. The granting of credit to a customer shall be at the absolute discretion of Brah and unless otherwise advised by Brah in writing, the Applicant shall make payment of all amounts payable within specified terms as advised by Brah to the Applicant in writing, or the date of the invoice whichever is the earlier.
4. Brah may at its absolute discretion withhold delivery of goods which are outside the credit terms.
5. Applicants having overdue accounts will be precluded from participating in any special deals, discounts, rebates, bonus payments, redemptions and all other incentive programs until their accounts are no longer overdue.

Jurisdiction

6. The Applicant acknowledges and agrees that this agreement shall be governed by the laws of Queensland, and the laws of the Commonwealth of Australia, which are in force in Queensland.
7. The Applicant acknowledges and agrees that any contract for the supply of goods or services between Brah and the Applicant is formed at the address of Brah.
8. The Applicant submits to the exclusive jurisdiction of the courts of Queensland and the relevant federal courts and courts competent to hear appeals from those courts.

Security/charges

9. The Applicant (whether by its Director, Partner or Sole Proprietor) charges in favour of Brah all of its estate and interest in any real property that the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged in full. The Applicant agrees to deliver up to Brah on demand any title deed in which it has an interest, although the failure to do so shall not vitiate any such charge.
10. The Applicant charges in favour of Brah all of its estate and interest in any personal property that the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged in full.
11. The Applicant appoints as its duly constituted attorney Brah' company secretary from time to time to execute in the Applicant's name and as the Applicant's act and deed any real property mortgage, or consent to any caveat Brah may choose to lodge against real property that the Applicant may own in any registry of titles in any state or territory of Australia, even though the Applicant may not have defaulted in carrying out its obligations hereunder.

Personal Property Security Act (2009) (Cth) (PPSA)

12. Brah and the Applicant hereby acknowledge that the PPSA applies to all transactions pursuant to these Terms and Conditions or otherwise.
13. The Applicant hereby acknowledges that it will grant a security interest in all present and acquired goods as security for all monies now and in the future owing by the Applicant.
14. The Applicant agrees to do all such things and sign all such documents as are necessary and reasonably required to enable Brah to acquire a perfected security interest in all goods supplied.
15. The Applicant hereby agrees to provide such information as is required to enable registration of a Purchase Money Security Interest ("PMSI") under the PPSA in favour of Brah.
16. The Applicant hereby acknowledges that a PMSI is granted in priority to all other creditors by the Applicant in favour of Brah and in all goods that are supplied from time to time, as security for the Applicant's obligations to Brah.
17. The Applicant hereby indemnifies Brah against any liability for any costs or registration, maintenance, enforcement or discharge or security interest and such other costs and expenses as Brah may incur.
18. The Applicant hereby agrees that it will not, without notice, change its name or initiate any change to any registered documentation, or act in any manner which would impact on the registered security interest of Brah.
19. The Applicant hereby agrees to waive or exclude such sections of the PPSA as Brah may require, subject to those sections being capable of exclusion.
20. Brah hereby reserves the right at any time in its sole discretion to make such amendments, alterations and additions to this Clause as it may in its sole discretion determine.
21. The Applicant appoints as its duly constituted attorney Brah' company secretary from time to time to execute in the Applicant's name and as the Applicant's act and deed any document that Brah may require to enable recording or registration of a PMSI, or other PPSA security even though the Applicant may not have defaulted in carrying out its obligations hereunder.

Purpose of credit

22. The Applicant acknowledges and agrees that the credit to be provided to the Applicant by Brah is to be applied wholly or predominantly for commercial purposes.

Assignment

23. The credit terms provided by Brah are not transferable by the Applicant (or available to any other party at the direction or request of the Applicant) without the prior written consent of Brah, which may be given or withheld in the absolute discretion of Brah.
24. Brah may assign this agreement to another party without prior notice to the Applicant. Brah will give the Applicant notice when the assignment has been effected.

Formation of contract

25. Quotations made by Brah do not bind Brah and shall not be construed as an offer or obligation to supply in accordance with the quotation. Brah reserves the right to accept or reject, at its discretion, any offer to purchase goods received by it. Only express written acceptance by Brah of the Applicant's offer to purchase goods shall complete a contract.
26. Placement of an order, either verbally or in writing, shall constitute acceptance of these terms and conditions.
27. If the Applicant cancels or alters any order or part order for custom made goods (made to the Applicant's specification or recipe) or standard goods with specific ingredients purchased particularly to satisfy such custom order, then Brah reserves the right to charge to the Applicant the costs of any special goods or ingredients already acquired for the order together with the labour and production costs of fulfilling such order.

Retention of title

28. Whilst the Applicant has not paid for the goods supplied in full at any time, the Applicant agrees that property and title in the goods shall not pass to the Applicant and Brah retains the legal and equitable title in those goods supplied and not yet sold by the Applicant.
29. Until payment in full has been made to Brah, the Applicant will hold the goods in a fiduciary capacity on behalf of Brah and agrees to store the goods properly and safely and in such a manner that they can be identified as the property of Brah, and shall not mix the goods with other similar goods.
30. The Applicant shall be entitled to sell the goods in the ordinary course of its business, but until full payment for the goods has been made to Brah, the Applicant shall sell as agent and bailee for Brah and the proceeds of sale of the goods shall be held by the Applicant on trust for Brah absolutely.
31. The Applicant's indebtedness to Brah, whether in full or in part, shall not be discharged by the operation of these terms and conditions unless and until the funds held on trust are remitted to Brah.
32. The Applicant agrees that whilst property and title in the goods remains with Brah, Brah has the right, with or without prior notice to the Applicant, to enter upon any premises occupied by the Applicant (or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy of the Applicant) to inspect the goods of Brah and to repossess the goods, or any of them, which may be in the Applicant's possession, custody or control when payment is overdue.
33. The Applicant will be responsible for Brah' costs and expenses in exercising its rights under these terms and conditions. Where Brah exercises any power to enter the premises, that entry will not give rise to any action of trespass or similar action on the part of the Applicant against Brah, its employees, servants or agents.
34. The Applicant agrees that where the goods have been retaken into the possession of Brah, Brah has the absolute right to sell or deal with the goods, and if necessary, sell the goods with the trademark or name of the Applicant on those goods, and the Applicant hereby grants an irrevocable licence to Brah to do all things necessary to sell the goods bearing the name or trademark of the Applicant.
35. Retaking of the goods by Brah does not relieve the Applicant of any obligation to Brah, until the amount owing to Brah is discharged in full.

Statement of Debt

36. A certificate signed by a Director, General Manager, Legal Officer, Financial Controller or Credit Manager of Brah, shall be conclusive evidence of the amount of indebtedness of the Applicant to Brah at that time, in the absence of manifest error.

Orders and Delivery

Orders

37. Brah reserve the right to accept or decline any offer to purchase in whole or in part.
38. The Goods will be delivered to the Applicant on the delivery date and in the quantities specified in the Sales Order. Where the Applicant has an account which requires payment on delivery or cash on delivery (POD/COD) and payment is not made on delivery, the Goods will not be delivered.

Delays

39. Any date or time quoted for delivery is an estimate only and Brah shall endeavor to effect delivery at the time or times required by the Applicant, but failure to do so shall not confer any right of cancellation or refusal of delivery on the Applicant or render Brah liable for any loss or damages directly or indirectly sustained by the Applicant as a result.
40. Brah will not be responsible for delays in delivery or failure to deliver due to causes beyond Brah' control including but not limited to acts of God, war, mobilisation, civil commotion, riots, embargoes, orders or regulations of governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or transportation, traffic delays howsoever caused, or shortages of or unavailability of raw materials.

Cancellations

41. You may not cancel any orders for goods due to delays in delivery without giving at least thirty (30) days prior written notice of your intention to do so and may in no event cancel orders after the goods have been dispatched from Brah' warehouse.

Deliveries

42. Unless otherwise expressly stated, Brah has the right to deliver the goods in instalments. All instalments shall be separately invoiced and paid as billed without regard to subsequent deliveries. Failure to pay for any instalment when due will excuse Brah from making future deliveries.
43. The obligation of Brah to deliver shall be discharged on arrival of the goods at the Applicant's nominated delivery destination, nominated transport company, nominated agent or the address appearing on the invoice. The Applicant shall unload the goods upon delivery, provided that if the Applicant is unable or unwilling to accept physical delivery of the goods when the goods are ready for delivery, then Brah shall be entitled to charge a fee in such amount as represents (in the opinion of Brah) the cost of any delay experienced or to arrange for the storage of the goods at the risk and cost of the Applicant including all transportation, storage and other consequential costs.

Pallets

44. When palletized product is delivered, the Applicant must exchange like pallets or authorise the de-hire to its pallet account. If the Applicant is unable to comply with either procedure, the Applicant must sign a pallet IOU and give it to the driver.

Defects

45. The Applicant is required to give written notice to Brah of any defect or other claim ascertainable upon reasonable inspection of the goods within seven (7) days after receipt of the goods. Brah shall be given reasonable opportunity to inspect the goods where any such notice is given. Failure to so inform Brah shall be conclusive evidence that Brah have satisfactorily performed.
46. The Applicant may return the Goods (the "Authorised Returns") but only with the prior written consent of Brah' representative.
47. Authorised Returns must be sent to Brah at 3/20 Energy Cres, Molendinar QLD 4214 and must be sent FREIGHT PAID. Any Authorised Returns not sent FREIGHT PAID may have the cost of freight deducted from the credit.

Limitation of Liability

48. Neither party excludes or limits the application of any provision of any statute (including the Competition and Consumer Act 2010 (Cth) as amended from time to time (the CCA), where to do so would contravene the CCA or cause any provision of these terms and conditions to be void. Nothing in these terms and conditions modifies or excludes the conditions, warranties, and undertakings and other legal rights under the Act and other laws which cannot be excluded. Except as expressly set out in these terms and conditions and the CCA, Brah makes no warranties or other representations under or in connection with these terms and conditions and Brah' liability in respect thereof, is limited to the fullest extent permitted by law.
49. In the case of goods supplied by Brah to the Applicant who is not a "consumer" as defined in the CCA, if the goods were defective or there is any other material breach by Brah of these terms and

- conditions, then, provided that the goods are preserved intact and made available for inspection by a representative of Brah in the same order and condition as that in which they were delivered, Brah' total liability to the Applicant pursuant to this clause is limited at Brah' option to re-supplying or replacing the goods in respect of which any loss or damage has occurred.
50. Should the Applicant seek indemnity from Brah in respect of any claim by a consumer of the Applicant as a result of a breach of condition or warranty implied by the CCA in a contract for the supply of goods by the Applicant to that consumer then the previous clause 49 will not apply and in respect of goods that are a kind ordinarily acquired for personal, domestic or household use or consumption ("consumer goods") Brah' liability is limited to indemnifying the Applicant in accordance with the CCA limited to a liability to pay to the Applicant an amount equal to the cost of replacing the goods, supplying equivalent goods, paying the cost of replacing or obtaining equivalent goods, or the cost of having the goods repaired, whichever is elected by Brah.
51. In the case of goods supplied by Brah to the Applicant who is a consumer under the CCA, clauses 49 and 50 will not apply and in respect of goods that are a kind ordinarily acquired for personal, domestic or household use or consumption ("consumer goods") Brah' liability is limited to indemnifying the consumer in accordance with the CCA limited to a liability to pay to the Applicant an amount equal to the cost of replacing the goods, supplying equivalent goods, paying the cost of replacing or obtaining equivalent goods, or the cost of having the goods repaired, whichever is elected by Brah.
52. Except for those conditions and warranties implied by the CCA or other sale of goods or consumer protection legislation which may not be excluded, the Applicant agrees that:
- (a) It has not relied on any inducement, representation or statement made by or on behalf of Brah in purchasing the goods and there are no implied conditions or warranties herein and no collateral contracts in connection herewith (except such as may be in writing and signed by a duly authorised representative of Brah); and
- (b) This clause sets out the entire liability of Brah in respect of its liability under the CCA or otherwise in respect of liabilities to a consumer for a breach of a condition or warranty with respect to the sale of goods. In the case of goods supplied to an Applicant who is not a "consumer" as defined under the CCA, neither party has any liability to the other for consequential or indirect damages arising out of or in relation to the goods, any delay or other failure in supplying the goods, even if the party to these terms and conditions, knew such damages were possible or foreseeable, including without limitation, loss of profits and damages suffered as a result of claims by the Applicant or any third party, such as customer of the Applicant.
- Subcontracting**
53. Brah may subcontract or licence the performance of the whole or any part of this Agreement to any person.
- Cancellation of terms of credit**
54. Brah reserves the right to withdraw credit and cancel the credit terms at any time, whether the Applicant is in default under the terms of this agreement or not.
55. Upon cancellation with or without notice all liabilities incurred by the Applicant become immediately due and payable to Brah.
56. If the Applicant fails to comply with any of these terms and conditions or being a natural person or persons commits any act of bankruptcy, or being a corporation passes a resolution for winding up or liquidation (other than for the purposes of reorganization or reconstruction) or administration or enters into any composition or arrangement with creditors or if a receiver or manager or administrator or controller is appointed for any property or assets or a petition is presented for its winding up, or if a liquidator or provisional liquidator or administrator is appointed, Brah may, in addition to exercising all or any of its rights against the Applicant, suspend any further deliveries and immediately recover possession of any goods not paid for in accordance with these terms and conditions.
- Indemnity**
57. The Applicant agrees to indemnify Brah and keep Brah indemnified against any claim relating in any way to anything arising from or contemplated by these terms and conditions or the supply, or non supply of the goods. This indemnity includes, without limitation, any legal fees and expenses Brah incurs in order to enforce or protect its rights, on an indemnity basis.
- Provision of further information**
58. The Applicant undertakes to comply with any request by Brah to provide further information for the purpose of assessing the Applicant's creditworthiness, including an updated credit application.
59. If the Applicant is a corporation (with the exception of a public listed company), it must advise Brah of any alteration to its corporate structure (for example, by changing directors, shareholders, or its constitution). In the case of a change of directors or shareholders Brah may ask for new guarantors to sign a guarantee and indemnity.
60. Failure by the Applicant to comply with this provision may result in the withdrawal of credit and credit terms at the discretion of Brah.
- Corporations**
61. If the Applicant is a corporation, the Applicant warrants that all of its directors have signed this agreement and that all of its directors will enter into a guarantee and indemnity with Brah in relation to the Applicant's obligations to Brah, on the terms required by Brah.
- Trustee capacity**
62. If the Applicant is the trustee of a trust (whether disclosed or known to Brah or not), the Applicant warrants to Brah that:
- a. the Applicant enters into this agreement in both its capacity as trustee and in its personal capacity;
- b. the Applicant has the right to be indemnified out of trust assets;
- c. the Applicant has the power under the trust deed to enter in to or sign this agreement; and
- d. the Applicant will not retire as trustee of the trust or appoint any new or additional trustee without first advising Brah.
63. The Applicant must give Brah a copy of the trust deed upon request.
- Partnership**
64. If the Applicant enters into this agreement as partners, the Applicant warrants that all of the partners have signed this agreement and that all of the partners will enter into a guarantee and indemnity with Brah in relation to the Applicant's obligations to Brah, and as such acknowledge that they are jointly and severally liable for any liabilities arising to Brah. If the Applicant is a partnership, it must not alter its partnership (for example, adding or removing partners or altering its partnership agreement) without first advising Brah. In the case of a change of partners, Brah may ask for new guarantors to sign a guarantee and indemnity.
- Insolvency**
65. The Applicant's directors, officers or partners are personally liable in their personal capacity under this agreement for payment of all liabilities incurred by the Applicant.
66. If the Applicant becomes insolvent, the Applicant's directors, officers or partners are and remain personally liable for payment of all liabilities incurred by the Applicant. The Applicant remains liable under this agreement even if Brah receives a dividend or payment as a result of the Applicant being insolvent.
- Waiver**
67. A waiver by Brah of any provision or breach of this agreement is ineffective unless made by an authorised officer of Brah in writing. A waiver of any provision or breach of this agreement by the Applicant must be made by the Applicant's authorised officer in writing.

Costs

68. The Applicant must pay for its own legal, accounting and business costs and all costs incurred by Brah relating to any default by the Applicant. The Applicant must also pay for all stamp duty and other taxes payable, or which become payable, on this agreement (if any).
69. The Applicant will pay Brah' costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the Applicant, including debt recovery fees and legal costs on an indemnity basis. Such costs and disbursements will be due and payable by the Applicant to Brah irrespective of whether pursuit of the recovery action, claim or remedy is successful.
- Taxes and duty**
70. The Applicant must pay GST on any taxable supply made by Brah to the Applicant under this agreement. The payment of GST for a taxable supply is in addition to any other consideration payable by the Applicant.
71. If as a result of:
- a. any legislation becoming applicable to the subject matter of this agreement, or
- b. any changes in legislation or its interpretation by a court of competent jurisdiction or by any authority charged with its administration,
- Brah becomes liable to pay any tax, duty, excise or levy in respect of the amounts received from the Applicant, then the Applicant must pay Brah these additional amounts on demand.

Interest rates

72. Brah may add an interest charge at the rate of one point seven five percentum (1.75%) per month on a cumulative basis on all overdue amounts (including late payment fees and charges and amounts other than the price) calculated on a day to day basis on any monies due but unpaid, such interest charge to be computed from the due date for payment AND both the Applicant and Brah agree that such interest charge is not a penalty but is a genuine measure of damages incurred by Brah. Payments received from or to the account of the Applicant will be credited first against any interest charge and all such fees shall be payable on demand.

Set-off

73. All payments required to be made by the Applicant under this agreement will be made free of any set-off, or counterclaim and without deduction or withholding.
74. Any amount due to Brah from time to time may be deducted from any monies which may be or may become payable to the Applicant by Brah.

Miscellaneous

75. Brah is not liable for any loss caused to the Applicant by reason of strikes, lockouts, fires, riots, war, embargoes, civil commotions, acts of God or any other activity beyond Brah' control.
76. In relation to the supply of goods, Brah' liability is limited to:
- a. replacing the goods or supplying similar goods;
- b. repairing the goods;
- c. providing the cost for replacing the goods or for acquiring equivalent goods;
- and
- d. providing the cost for having the goods repaired.
77. In relation to the supply of services, Brah' liability is limited to:
- a. supplying the service again; or
- b. providing for the cost of having the services supplied again.
78. Brah is not liable, whether claims are made or not, for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Applicant.

Severance

79. If any provision of this agreement is not enforceable in accordance with its terms, other provisions which are self-sustaining are, and continue to be, enforceable in accordance with their terms.
80. If any part of this agreement is invalid or unenforceable, that part is deleted and the remainder of the agreement remains effective.

Variation

81. The Applicant agrees that these terms and conditions may be varied, added to, or amended by an authorised officer of Brah at any time by written notice to the Applicant.
82. Any proposed variation to these terms and conditions by the Applicant must be requested in writing. Brah may refuse any such request without providing reasons either orally or in writing.
83. Current applicable credit terms are available at <http://www.brahsuperfood.com> and placement on the website link of the current credit terms is acknowledged by the Applicant as constituting sufficient notice and receipt of updated credit terms as per Clause 1 herein.

Electronic Communications

84. In addition to delivery in person, via post and via facsimile, the Applicant agrees to have invoices and statements sent via email.
85. The Applicant agrees that communications from Brah to the Applicant or the Applicant to Brah constitute an "electronic communication" within the meaning of the Electronic Transactions Act 2000 (QLD) ("ETA").
86. The Applicant agrees that in agreeing to receive invoices via email, and the service of notices under the ETA, or any like or similar legislation that may be applicable in the State or Territory where the goods were delivered to the Applicant via email, the Applicant is in both instances designating an information system within the meaning of the ETA.
87. The Applicant agrees that evidence of the "dispatch" (within the meaning of the ETA) by Brah of an email is also prima facie evidence of the "receipt" of the email by the Applicant within the meaning of the ETA. Unless the contrary is proven the time of receipt will be deemed to be twenty (20) seconds after the time of dispatch of the email.

Entire agreement

88. This agreement constitutes the entire agreement between the parties relating in any way to its subject matter. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this agreement are merged in this agreement and are of no further effect. No oral explanation or information provided by a party to another affects the meaning or interpretation of this agreement or constitutes any collateral agreement, warranty or understanding.

Privacy Act

89. The Applicant hereby grants permission in accordance with the Privacy Act, 1988 to Brah to carry out such credit enquiries as Brah may in its sole discretion determine and to provide such information concerning the Applicant to any other parties as Brah may in its sole discretion determine and the Guarantor further hereby indemnifies Brah in respect of any claims or actions arising out of the obtaining or providing of information concerning the Guarantor in exercise of its discretion as outlined herein.

Goods to be Supplied

90. The Applicant and Brah agree that the goods supplied by Brah in accordance with the credit terms include but are not limited to the following:
- a. frozen sorbet;
- b. frozen fruit pulps;
- c. frozen fruits;
- d. granola; or
- e. other associated items.

The goods supplied for each order will be particularized in the corresponding invoice.

DEED OF GUARANTEE & INDEMNITY

To BRAH SUPERFOOD SUPPLY (ABN 76 340 874 707)

Address 10/1045 Gold Coast Highway, Palm Beach, 4221 QLD - Australia

Applicant Name		Address	
Guarantor Name		Address	
Guarantor Name		Address	

(the Guarantors)

The **Guarantor(s)** hereby covenant and undertake and if more than one, jointly and severally, as follows:

Jurisdiction

- The Guarantor(s) acknowledge and agree that this Guarantee and Indemnity is governed by the laws of Queensland, and the laws of the Commonwealth of Australia which are in force in Queensland.
- The parties to this Guarantee and Indemnity submit to the exclusive jurisdiction of the courts of Queensland and the relevant federal courts and courts competent to hear appeals from those courts.

Consideration

- In consideration of Brah providing goods or extending or agreeing to extend credit or further credit to the Applicant at the Guarantor(s)' request (as evidenced by the Guarantor(s)' execution of this agreement) for goods sold or to be sold from time to time, the Guarantor(s) guarantee the due and prompt payment to Brah of all money which is now or may at any time in the future become due or payable to Brah by the Applicant on any account or accounts whether now existing or which may in the future be opened or in any manner whatsoever, including but not limited to amounts payable by the Applicant to Brah arising out of a relationship of trustee and beneficiary.

Guarantee and indemnity

- The Guarantor(s) agree to guarantee and indemnify Brah against all losses damages or expenses that Brah may suffer or incur as a result, either directly or indirectly, of any failure by the Applicant to make due payment of any money owing to Brah whether for goods sold or otherwise or to observe the terms of any agreement between the Applicant and Brah, including costs on an indemnity basis of any attempt or attempts to recover from the Applicant or any Guarantor(s) and whether successful or not or whether frustrated by the Applicant or Guarantor(s) or by operation of law and including costs ordered by a Court to be paid by Brah to the Applicant or to any Guarantor(s) including the costs of lodging and withdrawing caveats and/or obtaining injunctions and enforcing any security over real and personal property given to Brah.
- This Guarantee and Indemnity shall be a continuing Guarantee and Indemnity and shall not be considered as wholly or partially satisfied or discharged by any money which may at any time or times in the future be received or applied by Brah to the credit of any account of the Applicant or the Guarantor(s), or deemed to be held on trust by the Applicant for Brah, and shall be available as a Guarantee and Indemnity for the whole of the money referred to in clauses 3 and 4 of this guarantee and indemnity.
- Where two or more persons execute this Guarantee and Indemnity, the guarantees, covenants and obligations in this Guarantee and Indemnity given or undertaken by the Guarantor(s) shall be deemed to bind the Guarantor(s) jointly and each of the Guarantor(s) severally and Brah shall be entitled to seek payment in full from any one or more of the Guarantor(s) without seeking payment from the other Guarantor(s).
- Brah shall have the right to proceed against the Guarantor(s) under the Guarantee and Indemnity, irrespective of default of the Applicant to pay and with or without notice to the Applicant, as if the primary liability for any money owing was the Guarantor(s)' own. Further Brah shall have the right to proceed and recover against the Guarantor(s) notwithstanding any other rights it may have in relation to the recovery of the amounts hereby guaranteed.
- This Guarantee and Indemnity shall continue in force until such time as Brah releases the Guarantor(s) in writing, and notwithstanding the fact that the Guarantor(s) are not, or are no longer directors, shareholders or owners of the Applicant, nor having given any notice of such disposal of their company or business.
- This Guarantee and Indemnity is without prejudice to and shall not be affected by nor shall the rights or remedies of Brah against the Applicant or the Guarantor(s) or any of the Guarantor(s) be in any way prejudiced or affected by:
 - any security taken by Brah from the Applicant or from any other person;
 - any waiver or indulgence, whether as to time or otherwise, given to the Applicant or to the Guarantor(s) or any one or more of the Guarantor(s);
 - by any other act, matter or thing which under the law relating to sureties would or might but for this provision release the Guarantor(s) or any of the Guarantor(s) from all or any part of the Guarantor(s) obligations contained in this Guarantee and Indemnity;
 - The applicant failing to sign or give effect to any agreement or understanding with Brah;
 - The fact that any agreement with the Applicant is or may be unenforceable for any reason;
 - The failure by Brah to do, or refrain from doing, any thing or
 - any person named in this Guarantee and indemnity as Guarantor(s) failing to execute this Guarantee and Indemnity or failing or ceasing to be bound by the terms of this Guarantee and Indemnity.

Right of subrogation

- In the event of the Guarantor(s) and/or the other Guarantor(s) making any payment in respect to an obligation of the Applicant whether under a guarantee or indemnity or otherwise, the Guarantor(s) shall not exercise any rights of subrogation against any other Guarantor(s) or the Applicant unless and until Brah has been paid in full.
- In the event of the Applicant going into liquidation, the Guarantor(s) shall be prohibited from proving in competition with Brah unless and until Brah has been paid in full, on any account whatsoever.

Insolvency of Applicant

- No sum of money which the Applicant pays to Brah and Brah later pays, is obliged to pay, allows in account or is obliged to allow in account to a liquidator, administrator, receiver or trustee in bankruptcy of the Applicant by reason of the Corporations Act 2001, Bankruptcy Act 1966 or otherwise shall, for the purpose of this Guarantee and Indemnity, be considered as discharging or diminishing the Guarantor(s)' liability and this Guarantee and Indemnity shall continue to apply as if the said sum(s) had at all times remained owing by the Applicant.

Costs

- Brah is at liberty from time to time to charge the account of the Applicant with all costs, charges and expenses, legal or otherwise that Brah incurs in connection with:
 - the account of the Applicant;
 - this Guarantee and Indemnity;
 - any other security in respect of the indebtedness of the Applicant to Brah;
 - the preparation, completion and stamping of this deed; or
 - the exercise or attempted exercise of any right, power or remedy conferred on Brah under or by virtue of this deed;and the same shall be part of the monies secured by this deed.
- The Guarantor(s) agree to pay Brah' costs and disbursements incurred in recovering monies secured by this deed, including debt recovery agency fees and legal costs on an indemnity basis.
- The Guarantor(s) appoint as their duly constituted attorney Brah' company secretary from time to time to execute in the Guarantor(s)' names and as the Guarantor(s)' act and deed any real property mortgage, or consent to any caveat Brah may choose to lodge against real property that the Guarantor(s) may own in any registry of land titles in any state or territory of Australia, even though the Guarantor(s) may not have defaulted in carrying out their obligations hereunder.

Variation

- The Guarantor(s) authorise Brah to give time or any other indulgence or consideration to the Applicant in respect of compliance with its obligations to Brah, even if giving time or any other indulgence or consideration has the effect of increasing the Guarantor(s)' liability under this Guarantee and Indemnity.
- The Guarantor(s) agree that this Guarantee and Indemnity shall not be avoided, released or affected by Brah giving time or any other indulgence or consideration to the Applicant or making any variation or alteration in the terms of its agreement(s) with the Applicant, even if such matter, variation or alteration has the effect of increasing the Guarantor(s)' liability under this Guarantee and Indemnity.

Severance

- If any provision of this Guarantee and Indemnity is not enforceable in accordance with its terms, all other provisions are, and continue to be, enforceable in accordance with their terms.

Security/charge

- The Guarantor(s) charge in favour of Brah all of their estate and interest in any real property that the Guarantor(s) own at present and in the future with the amount of their indebtedness hereunder until discharged in full, such indebtedness to include all amounts due and payable under this Guarantee and Indemnity.
- The Guarantor(s) charge in favour of Brah all of their estate and interest in any personal property that the Guarantor(s) own at present and in the future with the amount of their indebtedness hereunder until discharged in full, such indebtedness to include all amounts due and payable under this Guarantee and Indemnity.
- This Guarantee and Indemnity secures the repayment of all monies owed by the Applicant whatsoever, and this deed constitutes the entire guarantee.

Privacy Act

- The Guarantor(s) hereby grant permission in accordance with the Privacy Act, 1988 to Brah to carry out such credit enquiries as Brah may in its sole discretion determine and to provide such information concerning the Applicant to any other parties as Brah may in its sole discretion determine and the Guarantor(s) further hereby indemnifies Brah in respect of any claims or actions arising out of the obtaining or providing of information concerning the Guarantor(s) in exercise of its discretion as outlined herein.

Signed, sealed and delivered by the Guarantor(s)

Signature		Name (Print)	
Date		Position	
Witness Signature		Name (Print)	
Date			

Signed, sealed and delivered by the Guarantor(s)

Signature		Name (Print)	
Date		Position	
Witness Signature		Name (Print)	
Date			