



# **ANACAPRI FOOD SUPPLY, INC.**

## TERMS AND CONDITIONS

1. Upon approval of this Application, Anacapri Food Supply, Inc. ("Anacapri"), in its sole discretion, and notwithstanding any request of Applicant, shall have the right to terminate Applicant's credit privileges under this Application at any time without prior notice to Applicant, except as otherwise provided by law.
2. All purchases by Applicant of goods and/or services from Anacapri will be made in accordance with the terms and conditions of this Application and the terms of any invoices are incorporated herein by reference.
3. The entire outstanding balance due to Anacapri on all invoices shall become due in full immediately upon default in the payment of any invoice. Applicant agrees to pay interest in the amount of 2.0% per month, or the highest rate permitted by law, whichever is less, on any past due amounts until collected and Applicant agrees to pay all costs of collection incurred by Anacapri, including reasonable attorneys' fees and expenses, should a default in payment or any other obligation of Applicant to Anacapri occur. The Application is subject to approval by Anacapri in its sole discretion.
4. This Application and all transactions between Applicant and Anacapri shall be governed by and interpreted in accordance with the laws and decisions of the State of New Jersey and all actions and proceedings arising from, relating to or in connection with this Application shall be brought in New Jersey. The Applicant hereby expressly consents to personal jurisdiction in New Jersey of any action arising out of this Agreement.
5. Applicant expressly agrees that Anacapri shall not be responsible for any product nonconformity as to quantity, quality, or price, unless noted on the original delivery receipt at the time of delivery or unless Anacapri is notified in writing of any such nonconformity within three (3) days of delivery by certified mail return receipt requested.
6. Except as to quantity of goods ordered, no terms and conditions set forth in any purchase order or other form of Applicant will apply to sales by Anacapri to Applicant.
7. The terms of this Agreement shall be binding upon Applicant's successors and assignees
8. In the event this application is approved, as collateral security for the prompt and complete payment and performance of all Applicant's obligations and liabilities to Anacapri, Applicant hereby grants to Anacapri a continuing security interest in: all (i) goods, delivered on credit to Applicant pursuant to this Credit Agreement now or hereafter, (ii) Applicant inventory, (iii) Applicant equipment and all other assets of Applicant now owned or of hereafter acquired. Applicant hereby irrevocably authorizes Anacapri at any time to file in any filing office in any Uniform Commercial Code ("UCC") jurisdiction any initial financing statements describing the Collateral as all assets of Applicant and any continuation statement or amendment thereto

## GUARANTEE

Each and every term and provision of the Terms and Conditions set forth above are incorporated in this Guarantee by reference including choice of law and consent to jurisdiction. The undersigned ("Guarantor"), having a financial interest in Applicant and benefitting from the transactions contemplated by the Application, hereby personally guarantees the payment by Applicant to Anacapri of all amounts due and owing now, and from time to time hereafter from Applicant to Anacapri (the "Liabilities"). Guarantor expressly waives notice from Anacapri of its acceptance and reliance on this Guarantee, notice of sales made to Applicant and notice of default by Applicant. No set-off, counterclaim or reduction of any obligation, or any defense of any kind or nature which Guarantor has or may have against Applicant or Anacapri shall be available hereunder to

Guarantor against Anacapri. In the event of a default by Applicant on its obligations to Anacapri, Anacapri may proceed directly to enforce its rights hereunder and shall have the right to proceed first against Guarantor without proceeding with or exhausting any other remedies. Guarantor, in consideration of Anacapri extending financial accommodations to Applicant, hereby waives and relinquishes any rights of indemnification, contribution, reimbursement or exoneration which may be asserted against Applicant if Guarantor performs his or her obligations under this Guarantee and Guarantor understands the benefit of such rights. Guarantor agrees to pay all fees, costs and expenses, including reasonable attorneys' fees, costs and expenses, which may be incurred by Anacapri in enforcing this Guarantee or protecting its rights following any default on the part of

Guarantor. This Guarantee shall be binding upon Guarantor and Guarantor's representatives, heirs, successors and assigns and shall inure to the benefit of Anacapri and may be assigned by Anacapri without notice to Guarantor. If executed by more than one person, the obligations of Guarantor shall be joint and several and all references to the singular shall be deemed in the plural. This Guarantee of payment will remain in full force and effect until and unless Anacapri agrees, in a writing signed by an authorized agent of Anacapri, to release Guarantor from future obligations but, even if released, Guarantor shall remain personally liable for the amount due up to the date of such release. USE OF A CORPORATE TITLE SHALL IN NO WAY LIMIT THE PERSONAL LIABILITY OF THE PERSONAL GUARANTEE SIGNATORY.

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**Print Name / Guarantor**

**SIGNATURE & DATE**

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**Print Name - (Witness)**

**SIGNATURE & DATE**

## AUTHORIZATION FOR CREDIT REPORT

The undersigned is executing this Authorization for Credit Report individually for the purpose of authorizing Anacapri to obtain a consumer credit report from time to time on the undersigned individual(s) through credit and consumer reporting agencies or other sources, in order to further evaluate the creditworthiness of such individuals in connection with the credit evaluation process and the proposed extension of business credit to the Applicant. The undersigned, as an individual, hereby knowingly consents to the use of such credit report in accordance with the federal fair credit reporting act as contained in 15 U.S.C. 1681, et seq., as amended from

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**Print Name / Guarantor**

**SIGNATURE & DATE**

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