



CULINARY  
EQUIPMENT  
& SUPPLIES™

# Customer Account Application & Agreement



This Customer Application (this "Application") is made to US Foods, Inc., doing business as US Foods, and all of its affiliates, divisions, subsidiaries and assigns (collectively the "Sellers") for the purpose of inducing Sellers to extend credit accommodations to the Applicant named below:

## SHIPPING AND BILLING INFORMATION

### SHIP TO:

Applicant Legal Name (INC,LLC,LP)

Trade Name/Doing Business As

Delivery Address (Attach Location Sheet If More Than One)

City State/Province Zip

County Country

Phone Number

### BILL TO:

Check Here If Billing Address Is Same As Delivery Address

Billing Address

City State/Province Zip

Country

Accounts Payable Contact Title Phone Number

E-mail Address Fax Number

C-Corporation   
  S-Corp   
  Limited Liability Company (LLC)   
  Limited Partnership (LP)   
  Proprietorship   
  Non-Profit   
  Government   
  Other  
 Government Funded?   
  Yes   
  No   
 \_\_\_\_\_% of Revenue Gov't Funded   
 Medicaid/Medicare Funded?   
  Yes   
  No   
 \_\_\_\_\_% of Revenue Med Funded  
 Building/Facility:   
  Owned   
  Leased  
 State of Formation: \_\_\_\_\_  
**Date Business Opened or Ownership Changed:** \_\_\_\_\_  
**Federal ID Number:** \_\_\_\_\_  
**D & B Number:** \_\_\_\_\_

**OWNER / OFFICER / AUTHORIZED CORPORATE AGENT INFORMATION**

_____	_____	_____
Name	Name	Name
_____	_____	_____
Social Security Number	Social Security Number	Social Security Number
_____	_____	_____
Title	Title	Title
_____	_____	_____
Home Address	Home Address	Home Address
_____	_____	_____
City, State, Zip	City, State, Zip	City, State, Zip
_____	_____	_____
Driver's License Number	Driver's License Number	Driver's License Number
_____	_____	_____
Home Phone Number	Home Phone Number	Home Phone Number
_____	_____	_____
Cell Phone Number	Cell Phone Number	Cell Phone Number

**WHO ELSE DO YOU DO BUSINESS WITH?**

_____	_____	_____	_____
Vendor Name (Present Food Supplier)	Account Number	City/State	Phone Number
_____	_____	_____	_____
Vendor Name	Account Number	City/State	Phone Number
_____	_____	_____	_____
Vendor Name	Account Number	City/State	Phone Number
_____	_____	_____	_____
Bank	City/State	Contact Name	Phone Number
_____	_____	_____	_____
Checking Account #	_____	Loan Account #	_____
_____	_____	_____	_____
DO YOU HAVE ANY OTHER EXISTING BUSINESSES? (Please attach list if more than one business)	<input type="checkbox"/> Yes <input type="checkbox"/> No	DO YOU HAVE EXISTING OR PRIOR US FOODS ACCOUNTS? (Please attach list if more than one business)	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____
Business Name	Business Name	Business Name	Business Name
_____	_____	_____	_____
Address	City/State	City/State	Account Number

**DOCUMENTATION REQUESTS**

- 1) RESALE OR EXEMPT TAX CERTIFICATE: TAX WILL BE CHARGED WITHOUT THESE DOCUMENTS**
- 2) US FOODS REQUESTS YOUR MOST RECENT TWO YEARS FINANCIAL STATEMENTS**

**APPLICANT'S CERTIFICATIONS**

Applicant hereby certifies that the information furnished under this Application and Agreement and any other financial statements furnished in connection herewith, is true, correct, complete, and that this information is being furnished to Sellers for the purpose of inducing Sellers to extend credit and/or provide goods/services to Applicant, and understands that Sellers intend to rely upon such information. Applicant represents and warrants that it is solvent, generally able to pay its debts as such debts become due, and has capital sufficient to carry on its business. Applicant understands and agrees to be bound by the terms contained in this Application and Agreement and all invoices and other documents furnished by Sellers from time to time, all of which are incorporated herein by reference, and to promptly advise Sellers, in writing via certified mail, of any material change in the information provided herein, including, but not limited to, change of ownership, address or telephone. Applicant understands that Sellers will retain this Application and Agreement whether or not it is approved. [Applicant's Principals hereby authorize Sellers to check from time to time Applicant's Business and Principals' personal credit history and trade, bank and personal references (whether or not listed in this Application) for customary credit information, a copy (xerox, carbon photograph, etc.) of this authorization and signature(s) of the undersigned, shall be deemed to be the equivalent of the original and can be used as such to confirm the information contained on this Application and Agreement, including, but not limited to, sending a copy hereof to the trade, bank and personal references, and to release information to other creditors regarding Applicant's credit experience with Sellers. The Applicant hereby authorizes their bank(s)/lender(s) to release information about the Applicant, including date account(s) opened, average checking balance, account history, open loan(s) balance(s), line(s) of credit, availability under line(s) of credit, payment history, covenants and their status, and any security interests, along with any other information that may assist Sellers in establishing an open account and credit line. Sellers agree that information obtained will be kept in the strictest of confidence. THE UNDERSIGNED IS EXECUTING THIS APPLICATION IN HIS/HER CAPACITY AS AN OFFICER OF APPLICANT, AND INDIVIDUALLY FOR THE LIMITED PURPOSE OF AUTHORIZING SELLERS TO OBTAIN FROM TIME TO TIME A NON-BUSINESS CONSUMER CREDIT REPORT ON THE INDIVIDUAL UNDERSIGNED, IN ORDER TO FURTHER EVALUATE THE CREDITWORTHINESS OF SUCH INDIVIDUAL AS PRINCIPAL, PROPRIETOR AND/OR GUARANTOR IN CONNECTION WITH THE EXTENSION OF BUSINESS CREDIT. THE UNDERSIGNED, AS AN INDIVIDUAL, HEREBY KNOWINGLY CONSENTS TO THE USE OF SUCH CREDIT REPORT CONSISTENT WITH THE FEDERAL FAIR CREDIT REPORTING ACT AS CONTAINED IN 15 U.S.C.@1681, et. seq. APPLICANT UNDERSTANDS THAT THE TERMS AND CONDITIONS CONTAINED HEREINAFTER ARE MATERIAL HERETO AND SPECIFICALLY MADE A PART HEREOF.]

In consideration of the extension of credit by Seller to Applicant, or the delivery of goods and/or services, Applicant agrees to the following terms and conditions:

1. Upon approval of this Application and Agreement, Seller in its sole discretion, and notwithstanding any request of Applicant, will assign Applicant a maximum credit line (if applicable) and shall have the right to increase, decrease or terminate Applicant's credit privileges under this Application and Agreement 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 Seller will be made in accordance with the terms and conditions of this Application and Agreement, and any invoice, distributor agreement, and/or other documents evidencing Applicant's obligations to Seller (each, a "distributor agreement"), all of which are incorporated herein by this reference. To the extent Applicant is part of or subsequently becomes part of a national or regional pricing program governed by a distributor agreement, Applicant acknowledges and agrees that it shall be bound by the terms and conditions of any such distributor agreement, notwithstanding that Applicant is not and will not be a signatory to such agreement. Applicant further agrees to waive, release, forever discharge and hold harmless the Seller, its officers, directors, employees and agents, from any and all losses, damages, costs, expenses, rights, claims, demands, judgments, obligations, actions and causes of action, which Applicant may have arising out of or in connection with any dispute or disagreement regarding whether or not Applicant is bound by the terms of such distributor agreement. Applicant agrees and understands that this is a legally binding agreement, and that Seller, in its sole discretion, may change the terms and conditions of this Application and Agreement. Any such changes shall apply to all sales after such change is made. If Applicant is or subsequently becomes party to or bound by the terms of a distributor agreement, Applicant acknowledges and agrees that to the extent that there is any conflict between the terms and conditions set forth in this Application and Agreement and the distributor agreement, the terms and conditions of the distributor agreement shall control.

3. Title to all goods purchased from Seller shall pass upon delivery to the receiving dock of Applicant and acceptance by authorized signature, subject to rejection of certain items by notation on the invoice. Applicant shall have twenty-four (24) hours from the time of delivery to notify Seller (i) of any concealed damage or rejected goods or (ii) with respect to products not jointly checked in, of any shortages, damages, or rejected goods. Applicant shall make arrangements through Seller's sales department for any goods to be returned to Seller in accordance with Seller's return policy as in effect from time to time. Seller may terminate its obligations to provide product to Applicant pursuant to the terms of this Application and Agreement at any time, unless otherwise provided in a distributor agreement. Seller shall not be in default in the performance of its obligations under this Application and Agreement if such performance is prevented or delayed because of any cause beyond the reasonable control and without the fault or negligence of Seller.

4. Payment of the purchase price for goods and/or services

acquired from Seller shall be made pursuant to the terms set forth on each invoice, and Applicant agrees to pay all charges according to the payment terms established in said invoice. The entire outstanding balance due to Seller 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 1.5% per month, or the maximum rate that Applicant may lawfully contract to pay, whichever is less, and in all events calculated in accordance with applicable law, on any payment considered past due until collected. Applicant agrees to pay all costs of collection incurred by Seller, including reasonable attorneys' fees and expenses, should a default in payment or any other obligation of Applicant occur.

5. This Application and all transactions between Applicant and Seller shall be governed by and interpreted in accordance with the laws and decisions of the State of Delaware.

6. Applicant hereby agrees to immediately notify Seller via certified mail of any sale of a significant portion of the assets or business of Applicant, or a sale of a substantial interest in the capital stock or other ownership interest of Applicant.

7. IF THIS APPLICATION AND AGREEMENT IS NOT APPROVED IN FULL OR IF ANY OTHER ADVERSE ACTION IS TAKEN WITH RESPECT TO APPLICANT'S CREDIT WITH SELLER, APPLICANT HAS THE RIGHT TO REQUEST WITHIN 60 DAYS OF SELLER'S NOTIFICATION OF SUCH ADVERSE ACTION, A STATEMENT OF SPECIFIC REASONS FOR SUCH ACTION, WHICH STATEMENT WILL BE PROVIDED WITHIN 30 DAYS OF SAID REQUEST. The federal Equal Credit Opportunity Act prohibits creditors from discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance programs; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning the creditor is the Federal Trade Commission, Washington, D.C.

8. Applicant irrevocably agrees and hereby consents and submits to the non-exclusive jurisdiction of any state or federal court located in the state where Seller's operating company which provided this Application and Agreement is located, without regard to the conflicts of law provisions thereof (the "Applicable State"), with regard to any actions or proceedings arising from, relating to or in connection with Applicant's obligations to Seller or this Application and Agreement. Applicant waives any right it may have to change the venue of any litigation brought against it by Seller.

9. Applicant agrees that all information as to source, quantity, and price of goods and services provided by Seller shall be maintained in confidence and shall not be released to any private third party for any reason whatsoever other than pursuant to a validly issued subpoena from a court or governmental authority having jurisdiction over Applicant, pursuant to the rules, regulations or requirements of any state or federal agency or department or pursuant to a discovery request made under applicable court rules and to which Applicant is required to respond.

10. WAIVER OF JURY TRIAL. APPLICANT HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THE SELLER AND THE APPLICANT MAY BE PARTIES, ARISING OUT OF OR IN ANY WAY PERTAINING TO (A) THIS APPLICATION AND AGREEMENT; AND (B) ANY OTHER GOVERNING DOCUMENTS INCLUDING INVOICES AND DISTRIBUTOR AGREEMENTS. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS APPLICATION AND AGREEMENT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY THE APPLICANT AND THE APPLICANT HEREBY REPRESENTS AND WARRANTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT.

11. Applicant hereby (a) agrees that Seller may, at Seller's sole option, require Applicant to arbitrate any controversy or claim arising out of or relating to this Application and Agreement, any credit extended by Seller to Applicant or any other issue with the American Arbitration Association or any other recognized arbitration group in accordance with its Commercial Arbitration rules, and any judgment or award rendered in connection therewith shall be entered in any court having jurisdiction thereof; and (b) consents to the Arbitration in the Applicable State, and to the application of Delaware law with the exception of Delaware conflicts of laws rules; and (c) agrees to pay all cost and expenses in connection with the arbitration, including, but not limited to, arbitrators' fees, administration fees and attorneys' fees.

12. To secure the full and timely payment by Applicant to Seller of all now existing and hereafter arising amounts due Seller, Applicant hereby grants to Seller a priority (purchase money) security interest and lien in and to all goods, inventory, equipment and fixtures sold to Applicant by Seller from time to time, and a separate security interest in all other assets of Applicant, including, without limitation, all of Applicant's now existing or owned hereafter arising or acquired (a) accounts; (b) goods for sale, lease or other disposition which have given rise to Accounts and have been returned to or repossessed or stopped in transit by Applicant; and (c) goods, including, without limitation, inventory, equipment, fixtures, trade fixtures and vehicles. Applicant hereby authorizes Seller to file and perfect any and all statutory lien rights and any rights under indemnity or performance bonds at any time regardless of whether payment is due to Seller under Seller's payment terms with Applicant. Applicant hereby authorizes Seller to prepare and file any Uniform Commercial Code ("UCC") financing statements, amendments to UCC financing statements and any other filings or recordings in all jurisdictions where Seller determines appropriate without Applicant's signature, and authorizes Seller to describe the collateral in such financing statements in any manner as Seller determines appropriate.

13. This Agreement may be delivered by electronic transmission or facsimile which shall be deemed to be an original.

Applicant ("Customer") Legal Name (Inc., LLC, etc.) \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Sales Associate: \_\_\_\_\_ Terms Requested: \_\_\_\_\_ Terms Approved: \_\_\_\_\_

For Office Use Only:

[Empty rectangular box for office use only]

The undersigned, hereinafter referred to individually or collectively as "Guarantor", having a financial interest in Applicant, and benefiting from the transactions contemplated by this Agreement, hereby personally and unconditionally guaranties the payment by Applicant to Sellers of all amounts due and owing now, and from time to time hereafter ("Liabilities"), from Applicant to Sellers. Guarantor expressly waives notice from Sellers of its acceptance and reliance on this Personal Guaranty (this "Guaranty"), notice of sales made to Applicant, and notice of default by Applicant. The obligations of Guarantor hereunder shall not be affected, excused, modified or impaired upon the happening, from time to time, of any event. No set-off, counter-claim or reduction of any obligation, or any defense of any kind or nature which Guarantor has or may have against Applicant or Sellers shall be available hereunder to Guarantor against Sellers. In the event of a default by Applicant on its obligations to Sellers, Sellers may proceed directly to enforce their rights hereunder and shall have the right to proceed first against Guarantor, without proceeding with or exhausting any other remedies it may have. Guarantor (i) hereby acknowledges that he or she may have rights of indemnification, contribution, reimbursement or exoneration from Applicant if Guarantor performs his or her obligations under this Guaranty (collectively the "Rights"); (ii) understands the benefits of having such Rights. Guarantor authorizes Sellers to obtain from time to time a consumer credit report and asset/lien search, in order to further evaluate the credit worthiness of Guarantor in connection with extension of credit under this Guaranty. Guarantor

irrevocably agrees to provide personal financial statements, historical tax return or other similar financial documents as requested from Sellers from time to time, for continuing and ongoing consideration for extension of credit under this Guaranty. Guarantor agrees to pay all costs, expenses and fees, including reasonable attorneys' fees and expenses, which may be incurred by Sellers in enforcing this Guaranty or protecting their rights following any default on the part of Guarantor. Guarantor agrees that an interest charge of one and one-half (1+1/2%) percent per month, or the maximum rate that Guarantor may lawfully contract to pay, whichever is less, and in all events calculated in accordance with applicable law, shall be assessed on any amount due and owing to Sellers by Guarantor under this Guaranty until collected. This Guaranty shall be binding upon Guarantor, Guarantor's heirs, successors, assigns, and representatives and survivors, and shall inure to the benefit of Sellers, and each of them, jointly and severally, their successors, assigns, affiliates and shareholders and may be assigned by Sellers without notice to Guarantor. This Guaranty shall be governed by and interpreted with the laws and decisions of the State of Delaware. Guarantor irrevocably agrees, and hereby consents and submits to the non-exclusive jurisdiction of any state or federal court located in the state where Sellers' operating company which provided this Guaranty is located, without regard to the conflicts of law provisions thereof (the "Applicable State"), with regard to any actions or proceedings arising from, relating to or in connection with the Liabilities, this Guaranty or any collateral or security therefor. Guarantor hereby waives any

right Guarantor may have to transfer or change the venue of any litigation brought against it by Sellers and further waives any right to trial by jury. If more than one, the obligations of the undersigned shall be joint and several. This Guaranty may only be terminated upon the prior written notice of Guarantor delivered to Sellers via certified mail or upon the termination of the relationship of Applicant with Sellers provided that such notice of termination shall not release or affect any of Guarantor's liabilities existing as of the date Sellers receive such notice of termination. Guarantor hereby (a) agrees that Sellers may, at Sellers' sole option, require Guarantor to arbitrate any controversy or claim arising out of or relating to this Guaranty or any other issue with the American Arbitration Association in accordance with its Commercial Arbitration rules and any judgment or award rendered in connection therewith shall be entered in any court having jurisdiction thereof, (b) consents to the arbitration in the Applicable State, and to the application of Delaware law with the exception of Delaware conflicts of laws rules, and (c) agrees to pay all costs and expenses in connection with the arbitration, including, but not limited to, arbitrators' fees, administration fees and attorneys' fees. If there are more than one of the undersigned, each shall remain liable on this Guaranty until each has given separate written notice delivered via certified mail to Sellers. Guarantor shall immediately notify Sellers, in writing via certified mail, in the event of any sale of a significant portion of Guarantor's interest in the capital stock or other ownership interest of Applicant.

X \_\_\_\_\_ (Signature) (Print Name) (Social Security Number) (Home Address) (Date)
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X \_\_\_\_\_ (Signature) (Print Name) (Social Security Number) (Home Address) (Date)
X \_\_\_\_\_ (Signature) (Print Name) (Social Security Number) (Home Address) (Date)

(USE OF A CORPORATE TITLE SHALL IN NO WAY LIMIT THE PERSONAL LIABILITY OF THE SIGNATORY)