

CREDIT APPLICATION FORM

CREDIT APPLICATION FORM- Heart & Soul Productions Pty Ltd trading as 2ME

Heart & Soul Productions Pty Ltd Trading as 2ME

ABN 34 065 705 946



WARNING: if you do not understand this document, you should seek independent legal advice. Please do not use correction fluid or tape as this is a legal document. Any corrections should be crossed out and initialised.

Section 1- Application Details (Enter all details relevant to your business)

Name (Company Name/ Partnership/ Sole Trader)

ACN

Trust Name (If a Trust)

Trading As (Registered Business Name)

ABN

Company ☐ Sole Proprietor ☐ Partnership ☐ Trustee ☐ Government/ Statutory Authority ☐

Nature of Business

Date of company registration (dd/mm/yy) / /

Street Address (Not a PO Box)

State

Postcode

Postal Address (If different)

State

Postcode

Telephone Number

Fax Number for invoices

Mobile Number

Email Address for invoices

Partner, Sole Trader, Director or Trustee Details

	Name of Directors (if company) Partner or Sole Trader	Residential Address	Date of Birth (dd/mm/yy)
1			/ /
2			/ /
3			/ /
4			/ /

Section 2- Credit Limit Required (Enter the estimated amount required equivalent to two (2) months purchases)

Live Cross \$

Live Broadcast \$

Add Space \$

☐ Tick if you would like to be contacted to purchase other products. Please complete the required product with corresponding \$.

Other (specify) _____ \$

All \$

Section 3- Details of Assets and Liabilities (Please provide details of all assets and liabilities owned by the Applicant and Guarantors)

Assets

	Address or Description	Value (\$)
1		
2		
3		
4		

Liabilities/ Loans

	Description	Value (\$)
1		
2		
3		
4		

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Section 4- Credit Account Terms and Conditions

1. Definitions and Interpretation

Heart & Soul Productions Pty Ltd means Heart & Soul Productions Pty Ltd trading as 2ME.
ABN 34 065 705 946

Conditions means these Credit Account Terms and Conditions.

Consequential Loss means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing cost, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract tort (including negligence), statute or otherwise.

Customer means the party making this application for credit.

Goods means any goods supplied by the Supplier being radio advertising..

Insolvency Event means, for the Customer, as applicable, being in liquidation or provisional liquidation, bankruptcy, or under administration, having a controller (as defined in the Corporations Act 2011) analogous person appointed to the Customer or any of the Customer's property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay the Customer's debts, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing the Customer's own affairs for any reason, taking any step that could result in the Company becoming insolvent under administration (as defined in section 9 of the Corporations Act 2001), entering into a compromise or arrangement with, or assignment for the benefit of, any of the Customer's members or creditors, or any analogous event.

Loss means any expense, cost or damage of any kind and includes Consequential Loss and a fine or penalty imposed by a statutory or other authority.

New Heart & Soul Productions Pty Ltd Entity means an entity that becomes a Related Body Corporate of Heart & Soul Productions Pty Ltd after this application for credit is made by the Customer.

Real Property means all real property interests held by the Customer now or in the future.

Related Bodies Corporate has the same meaning as in the Corporations Act 2001.

Services means any services provided by the Supplier being supply of building or construction services, the supply of building or construction products and all related or ancillary services.

Supplier means, in connection with the supply of any Goods or Services, the Heart & Soul organisation making the supply to customers.

Supplier Ts&Cs means any terms and conditions of quotation and supply, however described, notified by the Supplier to the Customer (whether on an invoice, quote, through the Supplier's website, docket, or otherwise), or supply agreement (however described) in the Supplier's form entered into in writing between the Supplier and Customer.

Singular words include the plural and vice versa. A mention of anything after include, includes or including, does not limit what else might be included.

2. Structure of this Document

(a) These Conditions are intended to regulate key trading terms including the extension of credit in connection with the supply of Goods, Airtime Advertising and Services by Heart & Soul Productions Pty Ltd to the customers.

(b) The terms set out in Part A of these Conditions are incorporated by reference as part of the Supplier Ts&Cs. Those terms are legally binding between the Supplier and the Customer and should be read together with the Supplier Ts&Cs. To the extent of any inconsistency, the Supplier Ts&Cs (excluding the incorporated Part A of these Conditions) prevail over these Conditions.

(c) The terms set out in Part B form an agreement directly between the Customer and Heart n Soul Productions Pty Ltd. Those terms are legally binding between the Customer and Heart & Soul Productions Pty Ltd.

Part A

3. Customer Obligations

(a) These Conditions apply if the Supplier accepts any order for Goods or Services or both from the Customer, whether for cash or on credit. The Customer has no entitlement to credit, unless in the Supplier's sole discretion the Supplier extends credit to the Customer. If in a particular case, the Supplier's sole discretion the Supplier extends credit to the Customer. If in a particular case, the Supplier gives the Customer credit, the Supplier still reserves the right at any time and for any reason in the Supplier's sole discretion to refuse to supply any further Goods, Airtime Advertising and Services to the Customer and to refuse to supply any Goods, Airtime Advertising or Service to the Customer on credit terms. If the Supplier does decline to give the Customer further credit then that decision does not affect the credit terms which apply to amounts the Customer then owes to the Supplier.

(b) If the Customer fails to comply with any of the terms of these Conditions or in respect of any obligation to pay money to Heart & Soul Productions Pty Ltd when due, suffers insolvency Event or makes any misrepresentation to Heart & Soul Productions Pty Ltd, the balance of the Customer's account to the Supplier will become due and payable immediately.

(c) The Customer agrees that it must:

(i) Pay, without any deduction or setoff, the price charged by the Supplier for the Goods, Airtime Advertising or Service's supplied to the Customer on delivery or performance, or, if credit terms are offered, within 30 days following the end of the month during which the goods or services were supplied or provided.

(ii) Pay any stamp duty assessed on this document or fee to register or maintain any security interest geld by the Supplier in respect of Goods, Airtime Advertising or Service's supplied to the Customer.

(iii) Advise the Supplier in writing of the occurrence of any insolvency Event, any change in its name, ownership or control, or any step being taken to sell an asset or assets (separately or together having a value being greater than 20% in value of its gross assets) as soon as practicable as not later than within two business days of such event, change or step the Customer remains liable to pay the price for all Goods, Airtime Advertising or Service's supplied.

4. Overdue accounts and Security

(a) Any amount not paid by the due date will incur in a interest rate of 5% above the Reserve Bank of Australia Cash Rate calculated daily and compounded monthly but in no circumstances will the interest charged exceed 20% per annum.

(b) The Customer agrees to pay all cost and expenses (including legal costs, commissions paid by the Supplier or its Related Bodies Corporate to any commercial or mercantile agent and dishonour fees) incurred by the Supplier in connection with the recovery of overdue amounts and enforcing the charge in clause 4 (c).

(c) As security for any amount due to the Supplier from time to time, the Customer charges all of its legal and equitable interest (both present and future) of whatsoever nature held in any and all Real Property to the Supplier.

(d) Without limiting the generality of the charge in clause 4 (c), the Customer, agrees, on request by the Supplier, to execute any documents and do all things reasonably required by the Supplier, (including if a beneficial owner, as beneficial owner under the Conveyancing Act 1919 (NSW) or of any analogous implied term under the applicable governing law) to perfect the charge given in clause 4 (c) including registering a mortgage security over any Real Property. The Customer appoints Heart & Soul Productions Pty Ltd to be the Customer's lawful attorney for the purposes of executing and registering such documents and taking all such steps in that regard. The Customer indemnifies the Supplier on an indemnity basis against all costs and expenses incurred by the Supplier in connection with the preparation and registration of any such steps needed to perfect the security or prepared or register the mortgage documents.

(e) The Customer consents unconditionally to the Supplier lodging a caveat or caveat noting its interest in any Real Property.

(f) The Supplier has appointed Heart & Soul Productions Pty Ltd and its non-exclusive agent to collect any debts owned by the Customer that are due from time to time to the Supplier.

(g) A statement in writing signed by an authorised officer of the Supplier or Heart & Soul Productions Pty Ltd setting out the moneys due or owing to the Supplier at the date of the statement shall by sufficient evidence of the amount so due or owing until the contrary is proven.

(h) The Supplier acknowledges that any payment made to Heart & Soul Productions Pty Ltd for a debt owed to the Supplier is in full satisfaction of the debt owed to it, to the extent of the payment made.

5. Retention of title

(a) The Supplier retains legal and equitable title in any Goods of the Supplier including any intellectual music of publishing rights held to the Customer until payment in full for or in connection with the supply of the relevant Goods has been received by the Supplier. Until payment in full has been received, the following terms apply.

(b) Notwithstanding that title in the Goods remains with the Supplier until payment has been received in full, the Customer may sell such goods or use the Goods in a manufacturing or construction process in the ordinary course of the Customer's business. As between the Customer and the purchaser of any item of the Goods, the Customer sells as principle and not as an agent of the Supplier. The proceeds of sale of each item of Goods must be held by the Customer in a separate fund on trust for the Supplier and the Customer is under a duty to the Supplier for such proceeds. The creation of, or any failure of, any such trust shall not in any way limit the obligation of the Customer to pay an amount to the Supplier for Goods supplied.

(c) Until Goods are sold or used in a manufacturing or construction process, the Customer must keep the Goods safe and free from deterioration, destruction, loss or harm, clearly designate the Goods as the property of the Supplier, store then in such a way they are clearly identified as the property of the supplier and keep full and complete records, firstly, of the physical location of the Goods and, secondly, the ownership of the Goods by the Supplier.

(d) The supplier is irrevocably entitled at any time and from time to time before sale of any item of the Goods by the Customer to inspect or to recover and retake possession of such Goods and otherwise exercise in relation to the Goods any of its rights whether those rights are as owner and/or unpaid Seller or otherwise and whether those rights are conferred by common law, contract, statute or in any other way. In order to exercise such entitlement, the Supplier and its agents are irrevocably authorised by the Customer to enter any of the Customer's premises or vehicles or those of any third party. The Customer agrees to obtain the consent of any such third party to such entry by the such third parties or vehicles. The Supplier and its agents agree to take all reasonable care in removing the Goods from such premises or vehicles but, to the extent this liability may be disclaimed by law, are not liable for any damage or injury to such premises caused by the removal of the Goods.

(e) This reservation of title and ownership is effective whether or not the Goods have been altered from their supplier form, or commingled with other goods.

6. Security interest

(a) The retention of title arrangement in clause 5 constitutes the grant of a purchase money security interest by the Customer in favour of the Supplier in respect of all present and after-acquired Goods supplied to the Customer by the Supplier.

(b) The Customer must immediately, if requested by the Supplier, sign any documents, provide all necessary information and do anything else required by the Supplier to ensure that the Supplier's purchase money security interest in a perfected security interest.

(c) The Customer will not enter into any security agreement that permits any other person to have or to register any security interest in respect of the Goods or any proceeds from the sale of the Goods until the Supplier has perfected its purchase money security interest.

(d) For any Goods supplied that are not goods that are used predominately for personal, domestic or household purposes. The parties agree to contract out of the application of ss 95, 118, 121(4), 130, 132(4), 135, 142 or 143 of the PPSA in relation to the Goods.

(e) The Customer hereby waives any rights the Customer may otherwise have to:

(i) Receive any notices the Customer would otherwise be entitled to receive under ss 95,

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- 118, 121, 130, 132 or 135.
- (ii) Apply t a Count for an order concerning the removal of an accession under section 97.
- (iii) Object to a proposal of the Customer to purchase or retain any collateral under ss 130 and 135.
- (iv) Receive a copy of a verification statement confirming registration of a financing statement, or a financing change statement, relating to any security interest the Supplier may have in Goods Supplier to the Customer from time to time.
- (f) For the purpose e of this clause “PPSA” means the Personal Property Securities Act 2009. The expressions “accession”, “collateral”, “financing statement”, “financing change statement”, “security agreement”, “security interest”, “perfected security interest” and “verification statement” have the meaning given to them under, or in the context of the PPSA References to sections are to sections of the PPSA.

7. **Risk**

Risk in relation to any Goods passes to the Customer on delivery of the Goods, Delivery of Goods will be at the Supplier’s premises on collection of the Goods by the Customer, its employees, agent or contractors. If the Supplier has expressly agreed to ship the Goods, risk in the Goods passes immediately on delivery of the Goods to the Customer’s designated place of delivery by the Supplier of its agent.

8. **Exclusion of implied terms**

The Customer may have the benefit or consumer guarantees under the Australian Consumer Law. Otherwise, to the maximum extent permitted by law, all terms, conditions or warranties that would be implied into Supplier Ts&Cs or in connection with the Supply of any Goods or services by the Supplier under law or statute or custom or international convention are excluded.

9. **Limitation of liability**

The maximum extent permitted by law and subject to clauses 8 and 10, the Supplier’s total liability arising out of or in connection with its performance of its obligations pursuant to these Conditions, the Supplier Ts&Cs, or arising out of or in connection with the supply of specific Goods or Services (including pursuant to or for breach of these Conditions, Supplier Ts&Cs or reputation thereof, under statute, in equity or for tort, including negligent acts or omissions) is limited as follows:

(a) the Supplier shall have no liability to the Customer for any Consequential Loss;

(b) the Supplier’s total agreement liability for loss, however arising, shall not exceed the GST exclusive aggregate price paid by the Customer to the Supplier for the Specific Goods or Service that gave rise to the Loss in question. The limitations and exclusions in this sub-clause 9 (b) do not apply to the extent that any Loss is directly attributable to:

(i) the personal injury or death caused by the Supplier’s default, breach of these Conditions or the Supplier Ts&Cs or negligence; or

(ii) fraud by the Supplier.

Each party must take reasonable steps to mitigate any Loss it suffers or incurs.

10. **Limitation of liability under Australian Consumer Law Guarantees**

To the extent that Goods supplier any the Supplier are not goods of a kind ordinarily acquired for personal, domestic or household use and the Customer is deemed to be a consumer for the purpose of section 64A of the Australian Consumer Law, the Customer agrees that the Supplier’s liability for a future to comply with a consumer guarantee that the Customer may have a benefit under the Australian Consumer Law (other than a guarantee under ss 51 (title), 52 (undisturbed possession) and 53 (undisclosed securities), is limited to, at the option of the Supplier, one or more of the following:

(a) replacement of the goods or the supply of equivalent goods;

(b) the repair of the goods;

(c) the payment of the cost of replacing the goods or of acquiring equivalent goods; or

(d) equivalent goods, or

(e) the payment of the cost of having the goods repaired.

To the extent that Services supplied by the Supplier are services other than services of a kind ordinarily acquired for personal, domestic or household use or consumption, the Supplier’s Liability for failure to comply with a consumer guarantee that the Customer may have the benefit of it limited to, at the option of the Supplier:

(a) the supply of the Services again; or

(b) the payment of the cost of having the Services supplied again.

11. **GST**

If the Supplier has any liability to pay Goods and Services Tax (GST) on the supply of any Goods or Services to the Customer, the Customer must pay to the Supplier an amount equivalent to the GST liability of the Supplier at the same time as the consideration is paid for the Goods or Service (unless the consideration for that supply is expressed specifically to be GST inclusive).

PART B

12. **Guarantee to Heart & Soul Productions Pty Ltd**

(a) The Customer has requested Heart & Soul Productions Pty Ltd facilitate the extension of credit terms by a Supplier or Suppliers to the Customer. The Customer acknowledges that the Customer will receive a valuable commercial benefit as a result of Heart & Soul Productions Pty Ltd facilitating the extension of credit terms.

(b) The Customer guarantees Heart & Soul Productions Pty Ltd that the Customer will pay all amounts payable to a Supplier from time to time for the supply of Goods and Services to the Customer when they are due including interest and taxes. The Customer’s guarantee continues until all these amounts have been paid in full.

(c) The Customer may pay Heart & Soul Productions Pty Ltd for its reasonable cost in administering (including enforcing or taking any other action in connection with its rights) this guarantee.

(d) The Customer remains liable to Heart & Soul Productions Pty Ltd under this guarantee and the Customer’s obligations under this guarantee will not be affected by any refusal by a

Supplier or Suppliers to provide further credit to the Customer or a variation in the Supplier Ts&Cs between the Supplier and Customer.

(e) Heart & Soul Productions Pty Ltd may at any time release or discharge the Customer from this guarantee and give time for payment, accept any composition from or make any other agreement with the Customer without releasing or discharging any other guarantee or otherwise prejudicing or affecting Heart & Soul Productions Pty Ltd rights and remedies against the customer.

(f) As long as this guarantee remains in existence the Customer may not, without Heart & Soul Productions Pty Ltd consent, reduce the Customer’s liability under this guarantee by claiming that the Customer or any other person has a right of set-off or counterclaim against a Supplier or Heart & Soul Productions Pty Ltd.

(g)Where the Customer is a partnership no change in the constitution of the partnership shall affect, impair or discharge the liability of the Customer under this guarantee and indemnity whether past, present or future notwithstanding the provisions of any legislation or any other similar enactment in amendment, modification or substitution regulating partnerships.

(h) A statement in writing signed by an authorised officer of a Supplier, or Heart & Soul Productions Pty Ltd, setting out the moneys due or owing to the Supplier at the date of the statement shall be sufficient evidence of the amount so due or owing until the contrary is proven.

(i) If the Customer enters into this guarantee as a trustee of any trust, then the following provisions shall apply:

(i) the Customer shall be personally liable for the performance of all obligations and undertakings under this guarantee

(ii)the Customer warrants that the Customer has full, complete and valid authority pursuant to the trust to enter into this guarantee

(iii) notwithstanding that there is no reference to a specific trust Heart & Soul Productions Pty Ltd rights of recourse shall extend to both the Customer’s assets personally and the assets of the trust

(iv) the Customer undertakes to Heart & Soul Productions Pty Ltd that the Customer’s rights of indemnity against the trust assets have not been excluded by the provisions of the trust or by any breach of trust or otherwise and that the Customer will not release or otherwise prejudice such rights of indemnity.

(j) The Customer’s obligation to pay Heart & Soul Productions Pty Ltd the amounts referred to under this document is a primary obligation and Heart & Soul Productions Pty Ltd is not obliged to proceed against or enforce any security or other tight against the Customer or demand payment from the Customer before those amounts become due for payment.

13. **New Heart & Soul Productions Pty Ltd Entities**

(a) It is intended that all New Heart & Soul Entities will have the benefit of these conditions.

(b) The Customer promises Heart & Soul Productions Pty Ltd that it will only order Goods or Services from a New Heart & Soul Productions Pty Ltd Entity on the strict condition that these Conditions apply to such an order and that the New Heart & Soul Productions Pty Ltd Entity will have the benefits of and may enforced these Conditions irrespective of the fact that the New Heart & Soul Productions Pty Ltd Entity may not have been in existence or a Related Body Corporation of Heart & Soul Productions Pty Ltd Limited at the time of initial acceptance by the Customer of these Conditions.

(c) Further, the Customer acknowledges that, in consideration for facilitating the extension of credit by a New Heart & Soul Productions Pty Ltd Entity by Heart & soul Productions Pty Ltd to the Customer, Heart & Soul Productions Pty Ltd holds the benefits of the promises made by the Customer under the clause 13(b) of these Conditions as trustee on behalf of that entity.

14. **Privacy disclosure and Consent**

The customer authorises Heart & Soul Productions Pty Ltd to:

(a) Obtain credit information about its personal, consumer and commercial credit worthiness from any bank or trade referee disclosed in this document and from any other credit provider or credit reporting agency for the purpose of assessing this application for credit, or in connection with any guarantee given by the Customer.

(b)Use, disclose or exchange with other credit providers and Heart & Soul Productions Pty Ltd Corporate Group Entities information about the Customer’s client agreements in order to assess this application for a credit, monitor credit worthiness and collect overdue accounts, and

(c) Disclose the contents of any credit report on the Customer to the Supplier and other Related Bodies Corporate of Heart & soul Productions Pty Ltd Limited, and any of their solicitors and mercantile agents

If the Customer foes not provide the information requested in this document Heart & Soul Productions Pty Ltd may be unable to process the application.

Heart & Soul Productions Pty Ltd complies with the privacy principle imposed by law in relation to the collection and disclosure of information regarding individuals.

15. **Governing Law**

Part B of these Conditions is governed by and is to be interpreted according to the laws in force in the state where the Goods and Services are supplied and the parties submit to the non-exclusive jurisdiction of the courts operating in that state. Where the Goods or Services are supplied to multiple States, Part B of these Conditions is governed by and is to be interpreted according to the laws in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts operating in New South Wales. The operation of the United Nations Convention on Contracts for the Sale of international Goods is hereby excluded.

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Section 5- Acknowledgement

Acknowledgement

The Customer acknowledges that the Goods it will acquire from the Heart & Soul Productions Pty Ltd will be obtained for either the purpose of re-supply (whether or not in an altered form or as part of some other manufacturer) or for the purpose of using them up or transferring them in trade or commerce in the course of a process of production or manufacture or in the course of repairing or treating other goods or fixtures on land.

Who must sign the Agreement on behalf of the Customer:

For Companies: where there is only one director for the company then that person must sign, where there are two or more directors for the company then 2 Directors or a Director + Company Secretary must sign.

Sole Trader operating under their own name or under a business name: The Individual.

Partnerships: All Partners of the Partnership.

Where this is not possible please contact the Heart & Soul Productions Pty Ltd Office.

The Customer agrees to be bound by the Credit Account Terms and Conditions stated in Section 4 of this Agreement.

Signatory

Print Name (In block letters)	
Position	
Signature	
Date	/ /

Witness (executed by the independent witness)

Print Name (in block letters)	
Position	
Signature	
Date	/ /

Signatory

Print Name (In block letters)	
Position	
Signature	
Date	/ /

Witness

Print Name (in block letters)	
Position	
Signature	
Date	/ /

Signatory

Print Name (In block letters)	
Position	
Signature	
Date	/ /

Witness

Print Name (in block letters)	
Position	
Signature	
Date	/ /

Signatory

Print Name (In block letters)	
Position	
Signature	
Date	/ /

Witness

Print Name (in block letters)	
Position	
Signature	
Date	/ /

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Personal Guarantee and Indemnity Agreement

Heart & Soul Productions Pty Ltd Trading as 2ME ABN 34 065 705 946 and its relation to Bodies Corporate

WARNING: THIS IS AN IMPORTANT DOCUMENT. IF YOU DO NOT UNDERSTAND THIS DOCUMENT YOU SHOULD SEEK INDEPENDANT LEGAL ADVICE.

IMPORTANT: As part of your application for credit, this Personal Guarantee and indemnity Agreement must be completed and signed by all Directors, Sole Traders and Business Partners in the presence of independent Witnesses (not Spouses/ Partners or Family members). Spouses/ Partners of all Directors, Sole Traders and Business Partners must sign as Guarantors in the presence of independent witnesses where there is joint ownership of personal assets.

I/ We, the **Guarantor (s)**, _____
Insert Guardians name as applicable

have requested the supplier to supply _____
Insert Company Name/ Partnership/ Sole Trader

Trust Name (if a Trust) _____
Insert Trust Name

Trading as (if applicable) _____
Insert Registration Business Name

(the “**Customer**”) of _____
Insert Street Address (not a PO Box) State Postcode

With the Goods and Services on credit.

*Guarantor(s) names should agree with those on Certificate of Guarantee.

Should the Supplier elect to supply Goods or Services

1. I/We guarantee payments to the Supplier of the whole price charged by the Supplier for Goods or Services supplied to the Customer from time to time, without any deduction or setoff whatsoever. I/We also guarantee the payment of any other monies now or in the future owing by the Consumer to the Supplier. I/We also guarantee the performance of the obligations of the Customer pursuant to the guarantee given by the Customer to Heart & Soul Productions Pty Ltd in the Credit Account Terms and Conditions.
2. I/We indemnify the Supplier and Heart & Soul Productions Pty Ltd against all costs, losses and expenses which the Supplier of Heart & Soul Productions Pty Ltd incur as a result of any default by the Customer. I/We agree to pay any stamp duty assessed on this Guarantee.
3. My/ Our guarantee and indemnity under this Guarantee us a continuing guarantee and will not be affected:
(a) if the Supplier of Heart & Soul Productions Pty Ltd Services grants any extension of time or other indulgence to the Customer or varies the terms of the Customer’s account (even if this increases my/ our liability under this Guarantee).
(b) by the release of any of the Guarantors or if this Guarantee is or becomes unenforceable against one or more of the Guaranteee)
(c) any payment by the Customer being later avoided by law, whether or not I/we have been given notice of these matters.
4. I/We agree that an application for credit made by the Customer is deemed to have been accepted from the date of the first invoice by the Supplier to the Customer and, without further notice to me/us, this Guarantee will extend to all liabilities from the Customer to that Supplier or to Heart & Soul Productions Pty Ltd.
5. This Guarantee extends to credit given to the Customer in the future by a company which is not now, but at the time such credit is extended, a Heart & Soul Productions Pty Ltd.
6. The Guarantee may be withdrawn by the Guarantor(s) on expiry of 14 days following written notice of withdrawal being delivery to both the Supplier’s Company Secretary at the Supplier’s registration office and also to Heart & Soul Productions Pty Ltd’ Company Secretary at its registered office. This Guarantee will continue in force in respect of all debt incurred up to the date of withdrawal.
7. I/We authorise Heart & Soul Productions Pty Ltd to do each of the things listed in clause 14 of the Credit Account Terms and Conditions in relation to my/our personal credit matters.
8. (a) As security for the obligations and liabilities of the Guarantor(s), I/we charge for the due and punctual payment and performance of those obligations and liabilities, all of my/ our legal and equitable interest (including as beneficial owner, both present and future) of whatsoever nature held in any and al Real Property in favour of the Supplier and Heart & Soul Productions Pty Ltd.

(b) Without limiting the generality of the charge in clause B(a), I/We agree on request by the Supplier or Heart & Soul Productions Pty Ltd or both to execute any documents and do all things reasonably required by the Supplier or Heart & Soul Productions Pty Ltd to register a mortgage security over any Real Property in the event that the Guarantor(s) fails to deliver the requested documents, the Guarantor(s) hereby appoints Heart & Soul Productions Pty Ltd to be the Guarantor’s(s’) lawful attorney for the purpose for executing

and registering such documents. I/We indemnify the Supplier and Heart & Soul Productions Pty Ltd on any indemnity basis against all cost and expenses occurred by the Supplier or Heart & Soul Productions Pty Ltd as the cause may be in connection with the preparation and registration of such mortgage documents.

(c) I/We consent unconditionally to the Supplier or Heart & Soul Productions Pty Ltd or both lodging a caveat or caveats noting its interest in any Real Property.

(d) We agree to advise the Supplier in writing of the occurrence of any insolvency Event, any change in my/our name, ownership or control, or any step being taken to sell an asset or assets (separately or together having a value being greater then 20% in value of my/ our gross assets as soon as practicable and not later then within two business days of such event, change or stepping occurrence.

(e) If the payment made by or on behalf of the customer is alleged to be void or voidable by any liquidator or any like officer of the customer under any law related to insolvency, I/We indemnify the Supplier and Heart & Soul Productions Pty Ltd against any costs or losses it may incur in connection with such claims. This indemnity shall continue to apply notwithstanding any withdrawals under clause 6.

(f) If the charge created by Clause 8 (a) is or becomes void or unenforceable, it may be served from this Guarantee without any effect on the Supplier’s or Heart & Soul Productions Pty Ltd rights against the Guarantor(s).

(g) If the Guarantor(s) is a trustee of a trust, the Guarantor(s) enters into this agreement in both the Guarantor’s personally capacity and as trustee of that trust.

9. Any condition or agreement under this Guarantee by or in favour of two or more persons is deemed to bind them jointly and severally, or be in favour of each of them severally. If the Guarantor comprises more then one person the Supplier may at any time, and from time to time, proceed against any or all of them in respect of the Guarantor’s obligations as the Supplier may choose in its absolute discretion, and the Supplier is not to be obliged to make any claim against all the persons comprising the Guarantor.

10. Until the whole of the Customer’s obligations have been paid or satisfied in full, the Guarantor must not (except with the prior written consent of the Supplier) either directly or indirectly, and either before or after the winding up or bankruptcy of the Customer, or any person, take any steps to recover or enforce a right or claim against the Customer relating to any sum paid by the Guarantee including without limitation providing or claiming in competition with the Supplier or Heart & Soul Productions Pty Ltd so as to diminish any distribution, dividing or payment which, but for the proof or claim, the Supplier or Heart & Soul Productions Pty Ltd would be entitled to receive pursuant to the winding up or bankruptcy of the Customer.

11. The definition in the Credit Account Terms and Conditions shall apply in this Guarantee, except that “Real Property” shall mean all real property owned by the Guarantor(s) now or in the future, solely or jointly to this Guarantee, include that party’s executions, administrators, substitutes, successors or permitted assigns.

Personal Guarantee and Indemnity Agreement

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IMPORTANT: Spouses of all Directors, Business partners and Sole Traders must also sign below as Guarantors in the presence of an independent witness.

Certificate of Guarantee- Executed as a Deed

Acknowledgement

By signing below as a Guarantee(s), I/we understand the terms of this Guarantee. In particular, I/We understand that is the Customer fails to make any required payments to the Supplier, Heart & Soul Productions Pty Ltd, or the Supplier may recover the amount of these payments from me/us personally. In such case, Heart & Soul Productions Pty Ltd or the Supplier may amongst other recovery rights; take a charge over any Real Property.

I/We certify that I/We have has the opportunity of taking independent legal advice in relation to the meaning and effect of this Guarantee.

All Directors, Sole Traders, Business Partners and any other Guarantors complete, print and sign below as Guarantors in the presence of independent Witness (not Spouses or Family Members).

Guarantor

Name	
Address	
Signature	

Guarantor

Name	
Address	
Signature	

Guarantor

Name	
Address	
Signature	

Guarantor

Name	
Address	
Signature	

Witness Executed by an Independent Witness

Name	
Address	
Signature	
Date	/ /

Witness

Name	
Address	
Signature	
Date	/ /

Witness

Name	
Address	
Signature	
Date	/ /

Witness

Name	
Address	
Signature	
Date	/ /

Mailing Instructions

For your application to be processed ensure you have completed and signed both the Credit Application and the Personal Guarantee and Indemnity Agreement. Please return all original signed and witnessed documents to:

Address: Suite 6, 5 Macquarie Street, Parramatta, 2150.
Phone: (02) 9636 1638
Email: sales@2me.com.au