



Rolling Bearings West

CREDIT APPLICATION FOR A BUSINESS ACCOUNT

BUSINESS INFORMATION

COMPANY NAME:		PHONE NO:	
		FAX NO:	
TRADING AS:		EMAIL:	
		AC/S EMAIL:	
POSTAL ADDRESS:			
		POSTCODE:	
DELIVERY ADDRESS:			
DATE BUSINESS COMMENCED:	/ /	ABN NO:	
BUSINESS STRUCTURE: SOLE PROPRIETOR / PUBLIC CO. / CORPORATION / PARTNERSHIP / PRIVATE			
EXPECTED MONTHLY PURCHASES: \$			

BUSINESS CONTACT INFORMATION

DIRECTOR/PROPRIETOR:	PHONE NO:
RESIDENTIAL ADDRESS:	MOBILE NO:
	FAX NO:

BUSINESS / TRADE REFERENCES

COMPANY NAME:	PHONE NO:
CONTACT PERSON:	FAX NO:
TITLE / POSITION:	EMAIL:
COMPANY NAME:	PHONE NO:
CONTACT PERSON:	FAX NO:
TITLE / POSITION:	EMAIL:
COMPANY NAME:	PHONE NO:
CONTACT PERSON:	FAX NO:
TITLE / POSITION:	EMAIL:

Please Note: All accounts are strictly 30 days, from date of invoice.

I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

SIGNED: POSITION: DATE:

Office use only

Account Reference:	Territory:
Date account opened:	Opened by:

Unit 2 / 32 Westside Drive, Laverton North, 3026. P.O. Box 6002, West Footscray, 3012
 Ph: 03 9314 2555 Fax: 03 9314 4593 Email: accounts@rbcwest.com
 A.B.N. 47 613 523 952

Terms and Conditions of Trade

1. Interpretation
 - 1.1. "Rolling Bearings (West)" means B & C Whelan (RBW) Pty Ltd ABN 47 613 523 952 and its successors and assigns.
 - 1.2. "Customer" means the entity to whom Goods are supplied by Rolling Bearings (West).
 - 1.3. "Contract" means a contract of sale of goods arising out of an order accepted by Rolling Bearings (West).
 - 1.4. "Goods" means any goods and or services supplied by Rolling Bearings (West).
 - 1.5. "Invoice" means the invoice issued by Rolling Bearings (West) in relation to each Contract.
 - 1.6. "PPSA" means the *Personal Property Securities Act 2009* (Cth).
 - 1.7. "PPS Register" means the Personal Property Securities Register established under the PPSA.
 - 1.8. "Relevant Collateral" means Collateral which is the subject of a Security Interest granted under this Contract.
 - 1.9. "Security Interest" has the meaning given in the PPSA.
2. Operation
 - 2.1. Every Contract is governed by these terms and conditions, the terms of the relevant Invoice and any other written agreement between Rolling Bearings (West) and the Customer, which constitute the entire agreement between the parties.
 - 2.2. Rolling Bearings (West) may at any time after the giving of at least 28 days' notice to the Customer vary these terms and conditions. If the Customer does not agree to any such variation then it may cease any future dealings with Rolling Bearings (West) provided that it is not in default under these terms and conditions.
3. Prices and terms of payment
 - 3.1. Prices of the Goods ordered will be set out in the relevant Invoice. Payment of the price of all Goods supplied and of all other amounts Rolling Bearings (West) is entitled to charge the Customer in the Invoice must be made in full and without any set-off whatsoever, either: on the delivery of the Goods; or where Rolling Bearings (West) has agreed to grant credit to the Customer; in accordance with the payment terms stated on the Invoice for the Goods ("Due Date").
 - 3.2. Prices quoted for goods and services exclude GST and freight unless stated otherwise.
 - 3.3. If the Customer defaults in the performance of any of its obligations hereunder, or the Contract terminates for whatever reason, the Customer must pay to Rolling Bearings (West) all monies outstanding, including the price for Goods, the balance of any loan, interest on the outstanding amount at the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983* (Vic) from the day upon which the outstanding amount was due until the day on which it is paid in full and legal costs on a full indemnity basis.
 - 3.4. The Customer agrees upon request to charge in favour of Rolling Bearings (West) (i) by way of a fixed charge all its books of account, goodwill, documents of title and current and later acquired real and intellectual property and (ii) by way of a floating charge, the whole of the Customer's other assets with payment of all monies owed to Rolling Bearings (West).
 - 3.5. The Customer agrees a minimum order fee of \$25.00 plus GST will be charged by Rolling Bearings (West) for all Goods.
4. Title – property in the goods
 - 4.1. Property in Goods shall not pass from Rolling Bearings (West) to the Customer until payment in full of all monies owed for the Goods has been made and Rolling Bearings (West) reserves the right to take possession and dispose of any Goods as it sees fit at any time until full payment is made. The Customer grants permission to Rolling Bearings (West) to enter any property where any Goods are in order to do so and with such force as is necessary.
 - 4.2. Until title to the Goods passes and without prejudice to any other rights of Rolling Bearings (West) the Customer possesses the Goods as bailee only but if the Goods are sold the benefit and proceeds of such sale belongs to Rolling Bearings (West).
5. Delivery and risk
 - 5.1. The Goods will be delivered to the premises of the Customer as advised to Rolling Bearings (West) from time to time or to another location with the prior agreement of Rolling Bearings (West). Unless expressly provided to the contrary, the Customer requests Rolling Bearings (West) to arrange the consignment of the Goods to the Customer. Notwithstanding clause 4.1, the Goods will be at the Customer's risk from the time they are delivered to the Customer.
6. Resupply or use

The Customer acknowledges that all Goods purchased from Rolling Bearings (West) are purchased in the ordinary course of the Customer's business for the purpose of consuming or transforming them or of reselling or re-supplying the Goods.
7. Returns and exchanges

Goods may be returned for credit or exchange only at the discretion of and with the prior approval of Rolling Bearings (West).

8. Limitation of liability

To the extent permissible by law, all express and implied warranties and conditions in relation to the Goods or this agreement, statutory or otherwise, are hereby excluded and the liability of Rolling Bearings (West) which may arise pursuant to the breach of any express or implied warranty in relation to the Goods or this agreement, including the warranties implied by the provisions of the *Competition and Consumer Act 2010* (Cth) and the liability of Rolling Bearings (West) which may arise pursuant to the *Competition and Consumer Act 2010* (Cth) or in negligence or otherwise, will be limited to, in the case of goods, the replacement of the goods, the supply of equivalent goods or the payment of the cost of replacing the Goods or of acquiring equivalent goods or, in the case of services, the supply of the service again or the payment of the cost of having the services supplied again. The choice of remedy will be at the discretion of Rolling Bearings (West) and the Customer acknowledges that the limitation of liability in this clause 8.1 is fair and reasonable.

9. General conditions

9.1. It is expressly agreed that:

- 9.1.1. if any provision of these terms is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions of the Contract;
- 9.1.2. all rights, immunities and limitations of liability in the Contract will continue to have their full force and effect in all circumstances notwithstanding any breach of the Contract by Rolling Bearings (West) or the Customer;
- 9.1.3. the rights of Rolling Bearings (West) and the Customer will not be prejudiced or restricted by an indulgence extended by either party and such indulgence will not operate as a waiver of any other breach.

9.2. Any notice in relation to this Agreement must be given in writing by facsimile, post, email or hand at that party's current address as specified in the Customer's application to Rolling Bearings (West) for credit.

9.3. This Agreement is governed by the laws in force in the State of Victoria.

10. Security Interest

10.1. In this clause, the terms "Accession", "Collateral", "Inventory", "PPS Lease", "Proceeds", "Purchase Money Security Interest" and "Secured Party" have the meaning given in the PPSA.

10.2. The Customer acknowledges that:

- 10.2.1. the delivery of the Goods gives rise to a Security Interest in the Goods being a Purchase Money Security Interest;
- 10.2.2. Rolling Bearings (West)'s interest in Proceeds derived from the Goods constitute a Security Interest in such Proceeds;
- 10.2.3. if, notwithstanding clause 4, the Customer sells or otherwise disposes of the Goods before the full purchase price has been paid for the Goods, it does so as Rolling Bearings (West)'s fiduciary agent and the Proceeds of such sale or other disposal are property of Rolling Bearings (West) and held by the Customer on trust for Rolling Bearings (West).

10.3. Rolling Bearings (West) may, at the Customer's expense, register any Security Interest granted under this Contract on the PPS Register in any manner it chooses. The Customer must provide Rolling Bearings (West) with any information it requires for the purposes of effecting such registration and the Customer irrevocably and unconditionally waives its rights under section 157(3) of the PPSA to receive any notice from Rolling Bearings (West).

10.4. The Customer agrees to take any and all such steps as Rolling Bearings (West) reasonably requires to perfect or otherwise ensure the enforceability and first ranking priority of any Security Interest granted to it under this Contract.

10.5. Unless otherwise agreed in writing and until the Customer has paid to Rolling Bearings (West) the full purchase price in respect of any Goods, the Customer agrees to ensure that the Goods do not become a fixture to any land or an Accession to other goods and are not processed or comingled with other goods and the Customer also agrees to take any and all such steps as Rolling Bearings (West) reasonably requires to prevent or remedy the affixation of the Goods to any land or goods.

10.6. The Customer warrants that the Goods are not, and will not be, inventory of the Customer.

10.7. The parties agree that for the purposes of section 115 of the PPSA, the following sections of the PPSA will not apply to any Relevant Collateral: Section 95 (notice by Secured Party of removal of Accession); Section 121(4) (notice by Secured Party of enforcement of Security Interest in liquid assets); Section 125 (obligation of Secured Party to dispose of or retain Collateral after seizure); Section 130, to the extent that it requires Rolling Bearings (West) to give any notice to the Customer (notice by Secured Party of disposal of Collateral); Section 132(3)(d) (obligation of Secured Party to show amounts paid to other Secured Parties in statement of account); Section 132(4) (statement of account by Secured Party if it does not dispose of Collateral within prescribed period); and Section 135 (notice by Secured Party of retention of Collateral).

10.8. Without limiting any other provision of this Contract, it is a default of the Customer under this Contract for the purposes of section 123(1) of the PPSA if any person with a Security Interest in Relevant Collateral seizes or becomes entitled to seize that Relevant Collateral without the consent of Rolling Bearings (West).



Acceptance of Terms and Conditions and Declaration

I/we have read and understood these Terms and Conditions of trade and agree that, subject to acceptance of this application by Rolling Bearings (West), to be bound by these Terms and Conditions. I/We declare that the information provided in this application, is true and complete and it is upon this basis that Rolling Bearings (West) is to determine whether or not to accept this application.

I/we declare that the credit to be provided to me/us by Rolling Bearings (West) is to be applied wholly or predominantly for business or investment purposes. Note: You should not sign this declaration unless this credit agreement is wholly or predominantly for business or investment purposes. By signing this declaration you may lose your protection under the National Credit Code and the *National Consumer Credit Protection Act 2009* (Cth).

To be signed by the Customer (each individual, partner and, if a corporation, director)

Print Individual/Director/Partner 1 name

Signature

Date

Print Individual/Director/Partner 2 name

Signature

Date

Deed of Guarantee and Indemnity

To be completed by all guarantors of the Customer. Where the Customer is a company all the directors of the Customer must be guarantors under this Guarantee and Indemnity and must sign on the signing page where indicated.

1. What You undertake in giving this guarantee and indemnity
 - 1.1. Guarantee
 - 1.1.1. You guarantee to Rolling Bearings (West) the performance by the Customer of its Obligations when they are due. Your guarantee continues until all these amounts have been paid in full or You end the guarantee and indemnity under clause 3. You cannot otherwise withdraw from, end or limit this guarantee and indemnity.
 - 1.2. Indemnity
 - 1.2.1. You indemnify Rolling Bearings (West) against, and You must therefore pay Rolling Bearings (West) for, loss Rolling Bearings (West) suffers if the guaranteed agreement is unenforceable solely because of the Customer's death, insolvency or incapacity or because of any other act or omission by, or circumstance affecting, the Customer.
 - 1.2.2. This indemnity is a continuing obligation, separate and independent from your other Obligations under this guarantee and indemnity. It continues after those other Obligations end unless You end the guarantee and indemnity under clause 3 or it is ended by law.
2. Additional amounts You must pay
 - 2.1. Enforcement expenses
You must pay Rolling Bearings (West) all expenses Rolling Bearings (West) reasonably incurs on a full indemnity basis in enforcing this guarantee and indemnity.
3. You may end this guarantee and indemnity
 - 3.1. You may end your liability under this guarantee and indemnity at any time if You: notify Rolling Bearings (West); pay Rolling Bearings (West) the outstanding liability of the Customer at that time under the guaranteed agreement and all amounts Payable by You under clause 1.2 at that time; and receive Rolling Bearings (West)'s acknowledgement that You are released.
4. What you acknowledge and declare
 - 4.1. You acknowledge that You are responsible for making yourself aware of the financial position of the Customer and any other Person who guarantees the Customer's Obligations under the guaranteed agreement.
 - 4.2. You declare that You do not enter into this guarantee and indemnity as a trustee.
5. General
 - 5.1. Set-off not allowed
Except to the extent You have a right to set-off granted by law which Rolling Bearings (West) cannot exclude by agreement, You must pay any money You owe Rolling Bearings (West) under this guarantee and indemnity in full without setting off amounts You believe Rolling Bearings (West) owes You and without counterclaiming amounts from Rolling Bearings (West).
 - 5.2. You must take further steps
You must promptly do anything Rolling Bearings (West) asks (such as obtaining consents, signing and producing documents, replying to questions and getting documents completed and signed) to bind Yourself under this guarantee and indemnity and ensure that your Obligations under this guarantee and indemnity are secured by any security intended to secure them.
 - 5.3. Consents
You must comply with all Rolling Bearings (West)'s requirements in any consent Rolling Bearings (West) gives in connection with this guarantee and indemnity.
 - 5.4. Rolling Bearings (West)'s Notices
Rolling Bearings (West) may give You a notice about a matter or about an amount Payable in connection with this guarantee and indemnity. This notice is sufficient evidence of the matter or amount, unless it is proved to be incorrect.
 - 5.5. Variation or waiver
A term of this guarantee and indemnity may not be waived or varied except in writing signed by the parties to be bound.
 - 5.6. Notices, certificates and approvals and other communications in respect of this guarantee and indemnity must be in writing.
 - 5.7. Applicable law
This guarantee and indemnity is governed by the laws in force in the State of Victoria.



6. Meaning of Words

6.1. Definitions

- 6.1.1. "Customer" means that the Person or Persons named on the signing page as 'Customer'. If there are more than one, Customer means each of them joint and severally. Customer includes their successors and assigns.
- 6.1.2. The "guaranteed agreement" is the agreement between Rolling Bearings (West) and the Customer for the sale of products and services.
- 6.1.3. A Person is in "insolvency" if they are insolvent or under administration or have a controller appointed (each as defined in the Corporations Law), in receivership, in liquidation, under administration, wound up, is subject to any arrangement with its creditors, is dissolved (other than to carry out a reconstruction while solvent) or is otherwise unable to pay debts when they fall due.
- 6.1.4. "Obligations" means money Payable by the Customer to Rolling Bearings (West) and all liability which the Customer has to Rolling Bearings (West).
- 6.1.5. "Payable" in relation to an amount means an amount which is currently payable or will or may be payable in the future.
- 6.1.6. "Person" includes an individual, a firm, a body corporate, an unincorporated association or an authority.
- 6.1.7. "Rolling Bearings (West)" means B & C Whelan (RBW) Pty Ltd ABN 47 613 523 952 and its successors and assigns.
- 6.1.8. "You" means the Person or Persons named on the signing and execution pages as "Guarantor/s". If there is more than one, You means each of them joint and severally. You includes Your successors.

Guarantee and Indemnity Signing Page

To be signed by each guarantor

SIGNED SEALED and DELIVERED by

Print Guarantor 1 name

Guarantor 1 Signature

in the presence of:

Print Witness 1 name

Witness 1 Signature

Date

SIGNED SEALED and DELIVERED by

Print Guarantor 2 name

Guarantor 2 Signature

in the presence of:

Print Witness 2 name

Witness 2 Signature

Date