



Rush Cycling Limited
P O Box 24-459
Royal Oak Auckland
1345

Thank you for your interest in opening an account with Rush Cycling Limited. I enclose an account application form and a copy of our Terms of Trade for you to read and complete. Please ensure that the forms are signed, in particular the personal guarantee and **Page 3 of the Terms of Trade**. *Note: Without these signatures, we cannot operate an account for your company.*

Please return the completed forms to us as soon as possible to enable us to process your application.

+ To assist us in this process, please tell us a bit about your company and any other information you think may be relevant _____

+ Business type: (Circle one) Retail Internet only Workshop only Wholesaler / Importer Other (Details):

+ What products would you be interested in sourcing through us? _____

+ How much would you expect to spend with Rush Cycling Limited per month? _____

We look forward to the opportunity of dealing with your company in the near future, should your application meet the terms of trade under which we operate. If you have any queries concerning your application or if we can be of any assistance please contact me at the above address.

Regards

Rod Clarke
Company Accountant
RUSH CYCLING LIMITED



Rush Cycling Limited

P.O Box 24459 Royal Oak, Auckland 1345

Phone: 09 529 0067 Email: admin@rushcycling.co.nz

APPLICATION FOR CREDIT ACCOUNT

APPLICANT DETAILS: *Please ensure all sections are completed and checked, before returning to Marleen Wholesalers Ltd*

Trading Name of Organisation

Type of Business (Please tick one box and describe main activity)

Company Sole trader Partnership Trust Other

Nature of Business

Full Legal Name of Organisation

 ("the Customer")

How long has the organisation been trading?

Date of Incorporation (if relevant)

Incorporation No. (if relevant)

Delivery Address (for Courier purposes)

Postal Address

Address of registered office (if company or society etc) if different from physical address

Contact Person

Contact Details

Daytime Telephone:

Mobile:

Email Address:

Fax No.

If Partnership/Trust/Other unincorporated body (also complete the following)

Number of Partners

Full Names of first and second partner/trustee/member, etc (if more than 2 partner/trustee/member, etc, please provide additional information on a separate sheet)

1.

DOB:

2.

DOB:

Residential Addresses

1.

This property is:

Rented Owned by you

2.

Rented Owned by you

Solicitor

Accountant

Bank

Branch

Trade References

1.

2.

3.

DECLARATION

By signing and returning this Application, I/we (the Customer):

1. understands that Rush Cycling Limited ("the Supplier") reserves the right to decline this Application.
2. confirm that the information supplied by me/us in this Application is correct and complete and I/we agree to immediately advise the Supplier of any material change of any of the information contained in this Application.
3. have read and understood the Supplier's standard terms and conditions of trade ("Terms of Trade") included with this Application and agree to be bound by the Terms of Trade (including any variations or replacement) and this Application.
4. agree that all orders for goods (being the goods described on the invoices) placed with the Supplier are supplied on these terms and on the Terms of Trade.
5. authorise any person or company to provide the Supplier with such credit information as the Supplier may require about me/us.
6. authorise the Supplier to collect personal information about me/us from the trade referees named in this Application and from the credit reference agencies used by the Supplier. I/We acknowledge that such information is collected for any purpose connected with my/our business, for considering this Application and for all purposes in connection with the Supplier marketing of products and services in New Zealand. I/We consent to the Supplier disclosing any such information to credit reference and debt collection agencies as part of information exchanges with them. I/We acknowledge that my/our rights at law in relation to obtaining and correcting all information about me/us held by the Supplier are not affected.
7. acknowledge that where more than one applicant applies for credit under this Application, each applicant will be jointly and severally liable. If you have signed this application as a director, partner, trustee or in any other capacity, you agree that the Supplier may collect personal information about you (in your personal capacity) from the credit reference agencies used by the Supplier. You acknowledge that such information is collected for the purpose connected with the Applicant's business and for considering this Application. You may access and correct any personal information held by the Supplier about you.

Signed by the Applicant:
Name(s)

Signature(s)

1.

1.

2.

2.

Position / Title (eg. Director, partner, trustee)

Date

1.

2.

Note:

1. If more than one Applicant **all** Applicants must sign; or
2. If the Applicant is a partnership or a trust **all** partners and non-professional trustees must sign.

GUARANTEE

In consideration of Rush Cycling Limited ("the Supplier") approving this Application by the Applicant ("the Customer"), I (the guarantor, whose name is listed below) jointly and severally unconditionally guarantee payment by the Customer of all monies due and owing by the Customer to the Supplier, in respect of all credit extended by the Supplier as a consequence of this Application including all monies due and owing by the Customer to the Supplier under the terms of the Supplier's Terms of Trade. I acknowledge that I have read and understood the contents of the Supplier's Terms of Trade.

I accept that as between the Supplier and myself I am liable as a principal debtor in respect of such monies. I accept that my guarantee is unaffected by the unenforceability of any payment of such monies, by the liquidation or bankruptcy of the Customer, by the giving of time or any indulgence to the Customer by the Supplier or any other matter. I accept that the Supplier may make demand for payment on me without demand being made of the Customer.

Full Name of Guarantor:

Witness's signature:

Full Occupation of Guarantor:

Witness's Name (please print):

Address (not P O Box) of Guarantor:

Occupation of Witness:

Signature of Guarantor:

Address (not P O Box) of Witness:

Date:

Office Use:

Account Number: _____ Terms: _____ Credit Limit: _____

Customer Type: _____ Entered by: _____ Date: _____

TERMS OF TRADE

BETWEEN RUSH CYCLING LIMITED at Auckland (the "Supplier")

AND _____
(the "Customer")

1. Application

- 1.1 These terms and conditions of trade shall be read together with the terms contained in any related agreement or application for credit account and shall herein be referred to as this "agreement".
- 1.2 This Agreement shall apply to all contracts for the sale or supply of bicycles, bicycle accessories, hobby supplies and other goods (the "goods"), whether for sale or other use by the Customer, made between the Supplier and the Customer and shall not be deemed to be modified or waived in whole or in part except by written agreement of the parties.
- 1.3 For the avoidance of doubt, this Agreement applies to any Rush Cycling Limited products supplied to the Customer by the Supplier.

2. Acceptance

- 2.1 Placement of an order or an acceptance of delivery by the Customer will be deemed to be acceptance by the Customer of these Terms and Conditions, notwithstanding anything that may be stated to the contrary in the Customer's order.
- 2.2 None of the Supplier's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the Supplier in writing nor is the Supplier in any way bound by such unauthorised statements.

3. Prices

- 3.1 Prices quoted in any invoice provided by the Supplier, unless otherwise stated, do not include GST, any other taxes or duty, freight or insurance charges, which shall, if applicable, be an extra charge.

4. Terms of Payment

- 4.1 Subject to clause 4.5 below, unless specific credit terms are agreed in writing between the Supplier and the Customer, all goods shall be paid for in full on or before the 20th day of the month following the date of the invoice ("the due date").
- 4.2 The Supplier shall be entitled to require payment of such sum as it thinks fit including by way of a deposit for any agreement to supply goods.
- 4.3 The Customer shall pay any expenses, disbursements and legal costs incurred by the Supplier in the enforcement of any of its rights contained in this agreement, including any reasonable solicitor's fees or debt collection agency fees.
- 4.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 4.5 The Customer agrees that when it pays the Supplier for goods supplied by the Supplier, the payment is made:
- (a) Firstly, in respect of goods supplied by the Supplier which the Customer has already sold or disposed of at the time of payment; and
 - (b) Secondly, if there is any surplus payment after the application of subclause (a) above, the payment is applied to the oldest outstanding invoice for those goods not yet paid for pursuant to sub-clause (a) above.
- The Supplier may require the Customer to provide an inventory of stock held and stock sold and how this reconciles to outstanding invoices at the time the Customer pays. The Supplier may check the inventory at the Customer's premises.

5. Default Interest

- 5.1 In the event of any default in making payments pursuant to clause 4 of this Agreement or any amount remaining unpaid to the Supplier pursuant to any other provision of this agreement, the Customer shall be liable to make payment to the Supplier of interest on the amount so unpaid at the rate of interest applicable to the overdraft interest rate of the Supplier's trading bank account at the date of such default.

6. Delivery and Cancellation

- 6.1 Dates for delivery shall be confirmed by the Supplier in good faith but are not to be treated as a condition of any sale. No claim shall be made by the Customer on account of late delivery of goods and any late delivery shall not be deemed to be a breach of this agreement by the Supplier and the Customer shall not be entitled to cancel this agreement because of late delivery.
- 6.2 The Supplier shall be entitled to cancel or suspend delivery of the goods in the event of any force majeure event including but not limited to delay or non performance due directly or indirectly to civil unrest, strikes, lock outs, delays or defaults of manufacturers or suppliers, act of God or any other cause beyond the reasonable control of the Supplier. In the event of any such cancellation or suspension the Supplier shall refund any deposit paid by the Customer but otherwise the Customer shall have no claims against the Supplier as a consequence of any such cancellation or suspension.

7. Risk and Insurance

- 7.1 Risk in all goods shall pass to the Customer upon delivery of the goods to the Customer's nominated place of business or nominated agent or carrier.
- 7.2 The Customer shall be obliged to insure the goods from the time of delivery to the Customer and, pending payment in full insure the goods for their full insurable value (which shall not in any event be less than the purchase price) in the name of the Supplier and the Customer for their respective interests.

8. Title

- 8.1 Without prejudice to the liability of the Customer to pay for all goods supplied, all goods shall remain the property of the Supplier as legal and equitable owner pending cleared payment by the Customer in full of all moneys due under this agreement or in respect of any debt owed by the Customer to the Supplier. The Customer accordingly acknowledges that the Customer is in possession of such goods as bailee for the Supplier pending payment in full.
- 8.2 If the Customer is in default in whole or in part in respect of the payment due for any of the goods, the Supplier may recover and resell any of the goods. For this purpose the Customer hereby grants the Supplier an irrevocable right to enter at any time any premises or place where the goods are held or thought to be held for removal of the goods. Any shortfall after sale of the goods shall be a debt owed by the Customer to the Supplier.
- 8.3 Until full payment to the Supplier for any goods, the Customer acknowledges that any goods sold are as bailee for and on behalf of the Supplier. The Customer agrees to hold the proceeds of any such sale as well as proceeds of any insurance claim, which the Customer may make, in respect of any goods on trust for the Supplier until such payment is made.

9. Customer's Obligations

- 9.1 The Customer warrants to the Supplier that in carrying on its business in respect of the goods it will comply in every respect with the provisions of the Commerce Act 1986, the Fair Trading Act 1986, the Consumer Guarantees Act 1993 and any other legislation or regulations relating to the conduct of the Customer's business.
- 9.2 The Customer will indemnify the Supplier against all actions, claims, demands and payments arising out of or relating to any breach of these provisions contained in any legislation or regulation referred to in clause 9.1.
- 9.3 Should the Customer breach any provision of the legislation or regulations referred to in clause 9.1 the Supplier shall be entitled to terminate this Agreement without prejudice to its other rights and remedies.
- 9.4 The Customer will have sole responsibility for any service agreements or after sale service to its customers and the Supplier will have no liability to the Customer in respect of any such service.

10. Termination

- 10.1 Notwithstanding any other Agreement as to the terms of payment, the total purchase price for all goods shall immediately become due and payable and the Supplier shall have the right to terminate this Agreement forthwith (without prejudice to any other of its rights and remedies) upon the occurrence of any of the following events:
- (a) The Customer ceasing or threatening to cease carrying on business.
 - (b) The Customer entering into any negotiations or any arrangement or composition with creditors.
 - (c) The Customer being unable to pay its debts or contingent liabilities as they fall due.
 - (d) The Customer becoming bankrupt or committing any available act of bankruptcy.
 - (e) The Customer being a company going into liquidation or doing anything or failing to do anything which will allow a receiver or manager to be appointed or which would entitle any person to present an application for winding up or placing under statutory management or entering into a scheme of arrangement with creditors or any class thereof.
 - (f) Any distress or execution being levied upon the Customer.
 - (g) Breach by the Customer of any other terms contained in this Agreement.
- 10.2 Upon the happening of any one or more of the above events the Supplier will be entitled to repossess and resell the goods which remain the property of the Supplier within the terms of clause 8.

11. Claims and Credits

- 11.1 Any claims by the Customer in respect of damaged or defective goods shall be made within seven days of the date of delivery. All such claims shall be accompanied by the number and date of supplying invoices, shall specifically identify the defect and the company by the defective goods and the Supplier shall have a reasonable opportunity to investigate all such claims.
- 11.2 Any claim that the Customer has been invoiced for goods not received must be given to the Supplier within seven days from the date of invoice.
- 11.3 Where any such loss damage or non delivery falls within the terms of any insurance cover held by the Supplier, the Supplier will make good any such loss or damage upon receipt by the Supplier of a written claim setting out details of any such loss or damage in transit.
- 11.4 No claims in respect of goods damaged in transit will be accepted if a courier has been given a receipt signed without comment or objection by the Customer or his agent.
- 11.5 In no circumstances whatsoever shall the Supplier be liable for consequential losses when suffered by the Customer or any third party.

