

CREDIT APPLICATION FORM or Request For Limit/Terms Change

QMS-FM-068

Rev 6 Issued: 29/07/2020



Account Code: _____ (if requesting changes to your credit limit/terms)

Company name			
Trading name			
Postal address			
	Post code		
Delivery address			
	Post code		
Phone no.		Fax no.	

Contacts:	Name	Phone Number	Email
Sales			
Accounts			
Credit limit requested	\$	A.B.N	
Requested Trade Terms (all terms are from invoice date):	7 Days	15 Days	30 Days
Bank Name		Branch	

I the undersigned understand that by submitting this application to increase our credit limit with Jolly & Sons, we are unconditionally authorising them, if they so wish, to obtain a credit report into our credit status with any agency who is in the business of performing such credit reporting functions and activities (i.e. Dunn & Bradstreet or similar). It is acknowledged that with this form we have also received a current copy of Jolly & Sons' Terms and Conditions and that future trade on our account serves as our acceptance of those Terms and from date of invoice Conditions. It is further acknowledged that we accept Jolly & Sons' Trading Terms associated with our account, being 30-days

Length of time in business		Type of business	
Do you quote order no's			

Details of directors / proprietors (name, address, & a/h phone numbers)		
1.		Ph.
2.		Ph.
3.		Ph.
4.		Ph.

Trade references:	Phone	Email address
1		
2		
3		

I/We the undersigned Guarantor/s unconditionally and irrevocably personally guarantee the punctual performance of all obligations of the Consignor (including but not limited to the payment of all monies due and payable by the Consignor to the Carrier) under the terms and conditions set out below. By signing below, I/We agree to be bound by the terms and conditions. I/We authorise the Carrier to contact the trade references listed above.

Name of guarantor			
Signed		Position	
Date			
Name of guarantor			
Signed		Position	
Date			

Please complete all sections of this application form and email it to transport@jolly.com.au

Office Use Only:

Date Received		Approved By	
Processed By		Date Approved	
Date		Account Code	

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JOLLY & SONS PTY LTD - TERMS AND CONDITIONS

DEFINITIONS

1. In these terms and conditions, the following words have the following meaning:
 - “**Carrier**” means Jolly & Sons Pty Ltd ACN 009 018 955.
 - “**Consignee**” means the person to whom the Goods are consigned.
 - “**Consignor**” means the person entering into a contract of carriage with the Carrier, being either the shipper or owner of the Goods or their authorised agent.
 - “**Goods**” means, unless repugnant to the context, the goods the subject of this contract.
 - “**Guarantor**” means the person/s signing a credit application form as Guarantor/s.
 - “**Parties**” means the Carrier and the Consignor.
 - “**Person**” includes natural persons, corporations, partnerships, firms, associations and any other entity recognised by law.
 - “**Sub-contractor**” means any person with whom the Carrier arranges the carriage of the Goods.

OPERATIVE TERMS

2. The carriage of the Goods and performance of associated services (including, without limitation, loading, unloading, packing, unpacking, freight forwarding and storage) by the Carrier shall be subject only to these terms and conditions, unless otherwise agreed by the Carrier and the Consignor in writing.
3. The Carrier is not a common carrier and the parties agree that the Carrier is not liable as a common carrier. The Carrier may, at its absolute discretion, refuse the carriage of any goods or any class of goods for any person.
4. The Consignor warrants that:
 - (a) The Consignor has complied with all applicable laws and regulations relating to the nature, condition, packaging, labelling or carriage of the Goods;
 - (b) The Goods are fully and accurately described in the space provided on the Carrier’s consignment note;
 - (c) Any declaration by the Consignor concerning the weight or dimensions of the Goods and of any container or vessel in which the goods are packed or stored is accurate;
 - (d) The Goods are packed in a manner which, having regard to their nature and destination, is adequate to withstand the ordinary risks of carriage;
 - (e) The Consignor is either the owner of the Goods or the authorised agent of the owner or any person having any interest in the Goods and the Consignor enters into this contract on its own behalf and/or as authorised agent of any such other owners or persons having an interest in the Goods; and
 - (f) The Goods are fit for transport and, without limitation, are not or will not be subject to any customs or quarantine demand or embargo while in the possession of the Carrier.
5. Without limiting the generality of condition 4, prior to consigning any Goods, the Consignor must specifically declare and fully describe in writing the nature and value of all Goods subject to special rates of carriage, and declare if the Goods are of a noxious, dangerous, hazardous or flammable nature or capable of causing damage or injury to any other goods or to any persons or animals or to any conveyance or facility in which they may be loaded, carried, packed or stored. The Carrier shall not be liable for any damage to Goods in the event of a failure by the Consignor to comply with clause 5.
6. The Consignor must indemnify the Carrier and keep it indemnified against any claim, loss, damage, penalty or expense brought by any Person (including the Consignor or any of the Consignor’s related entities) arising from any breach by the Consignor of condition 5 or of any of the warranties in condition 4.
7. The Consignor must pay the Carrier its charges whether the Goods are delivered or not and whether damaged or otherwise. Payment for the Carrier’s charges will not be refunded under any circumstances. The Consignor may not deduct or set off moneys due to the Carrier for which the Consignor considers the Carrier is liable.
8. The Consignor must obtain the Carrier’s consent to a special instruction to the effect that charges are to be paid by the Consignee. In respect of every such special instruction approved by the Carrier, the Consignor shall be liable to pay all charges upon demand by the Consignor if the Consignee does not pay the charges within 7 days of the date set for the payment or, if no date is set for payment, within 7 days of delivery or tendered delivery.
9. The Carrier reserves the right to and may levy charges according to weight, measurement or value and may at any time re-weigh, re-value or re-measure or require same and charge proportional additional fees, and the Consignor shall pay any such levies, charges and fees.
10. The Consignor grants the Carrier a lien on the Goods and any related documents, and on any other goods of the Consignor in the Carrier’s possession or any related documents, which lien shall apply in respect of all sums payable by the Consignor to the Carrier. The Carrier may, in its sole discretion, sell

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any such goods by public auction or private treaty without notice to the Consignor, such sale to be made in reduction of any amount payable by the Consignor to the Carrier.

11. The Consignor represents that any person bailing or delivering Goods to or making Goods available for collection by the Carrier is authorised to sign a consignment note on behalf of the Consignor.
12. If the Consignee is not in attendance at the address given during normal business hours, the Carrier may levy additional charges at the prevailing market rate for all attempted deliveries until delivery is made.
13. The Carrier will only deliver at intermediate points by prior arrangement and only if appropriate and secure facilities are available at all hours.
14. The Carrier may forward the Goods by any means and route at its absolute discretion and is authorised to have the Goods carried by an independent contractor or sub-contractor.
15. To the maximum extent permitted by law:
 - (a) The Goods shall remain at all times at the risk of the Consignor and not the Carrier;
 - (b) The Carrier excludes all liability in tort, contract or otherwise for any loss of, damage to, deterioration of or contamination of the Goods, or failure to deliver, misdelivery or delay in delivery of the Goods;
 - (c) The Consignor indemnifies the Carrier against all claims by any Person against the Carrier in relation to any loss of, damage to, deterioration of or contamination of the Goods, or failure to deliver, misdelivery or delay in delivery of the Goods;
 - (d) The exclusions and indemnity in this clause:
 - i. extend to any consequential or indirect loss (including but not limited to loss of profits);
 - ii. apply even if the Carrier breaches a fundamental condition of the contract; and
 - iii. apply for the benefit of the Carrier and its servants, employees, agents and subcontractors.
16. Notwithstanding condition 15, if the Carrier is liable to the Consignor in relation to any loss of, damage to, deterioration of or contamination of the Goods, or failure to deliver, misdelivery or delay in delivery of the Goods;
 - (a) any claim by the Consignor or any other Person must be made in writing within 14 days of the occurrence of the loss, damage, deterioration, contamination or, in the case of misdelivery or failure to deliver, within 14 days of the date on which, in the ordinary course, the Goods would have been delivered;
 - (b) to the maximum extent permitted by law, the Carrier's liability in respect of any claim shall be limited to the lesser of:
 - i. Resupplying its carrier services in respect of the relevant consignment;
 - ii. The cost of resupplying its carrier services in respect of the relevant consignment; or
 - iii. The sum of \$500.00; and
 - (c) the Carrier shall be discharged from all liability in relation to the relevant consignment unless the Consignor commences a proceeding in a court of competent jurisdiction (in Western Australia) within 6 months of the date of the relevant consignment note.
17. The following applies in relation to security:
 - (a) For the purpose of securing payment to the Carrier of all monies now payable or which may become payable in the future or contingently by the Customer to the Carrier under these terms and conditions (**Money Secured**), the Customer:
 - i. creates a registrable security interest in all its present and after acquired property (**Collateral**) (including anything in respect of which the Customer has a sufficient right or interest under the Personal Properties Securities Act 2009 (Cth) (the **PPSA**) in favour of the Carrier;
 - ii. charges all of the Customer's present and future beneficial interest and all its present and future rights in relation to any land and any other property other than personal property to which the PPSA applies in favour of the Carrier whether or not a demand has been made on the Customer; and
 - iii. authorises and consents to the Carrier taking all actions necessary to give effect to this security interest, including the lodgement of a caveat upon Title of the Customer's real property and registration of the security interest on the Personal Property Security Register (the **PPSR**). The Customer irrevocably appoints the Carrier the power to execute, sign, seal and deliver (which delivery may be subject to the terms and conditions as the attorney thinks fit) the mortgage or other document to give effect to these terms and conditions of sale.
 - (b) The security interest created by these terms and conditions of sale extends not only to the Collateral but also to all and any proceeds arising from any dealings with the Collateral.
 - (c) Notwithstanding the above, the Customer may keep possession of the Collateral subject to these terms and conditions of sale.

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- (d) If the Customer parts with possession of the Collateral or deals in any way with the Collateral in breach of these terms and conditions of sale and without the Carrier's knowledge or consent, the Customer acknowledges that the Carrier has not authorised the dealing or agreed that the dealing would extinguish the security interest created by these terms and conditions of sale and the security interest continues in the Collateral, despite the dealing.
- (e) Despite anything referred to in clause 17(d), the Carrier does not agree to subordinate any security interest it has in the Collateral.
- (f) The Customer may not permit any Collateral to become a fixture or an accession to anything that is not also subject to a security interest in favour of the Carrier and, in those circumstances, only if the priority of that security interest is no less favourable than the priority of the Carrier's security interest in the Collateral that are to become a fixture or an accession.
- (g) If the security interest created by clause 17(a)(i) is or becomes void or enforceable, it may be severed from these terms and conditions of sale without any effect on its validity and the Customer will not be exonerated in whole or in part, nor will the Carrier's right, remedies or recourse against the Customer be in any way prejudiced or adversely affected by any severance.
- (h) In respect of the PPSA:
 - i. the parties contract out of each provision of the PSSA which section 115(1) or 115(7) of the PPSA permits them to contract out, other than sections 117 and 118 (relationship with land laws), 128 and 129 (disposal of collateral) and 134(1) and 135 (retention of collateral).
 - ii. the Customer waives each right to receive a notice which section 144 or 157(3) of the PPSA permits it to waive;
 - iii. the Customer waives its rights to receive anything from the Carrier under section 275 and agrees not to make any request of the Carrier under that section;
 - iv. any disposal or exercise of rights by the Carrier under these terms and conditions of sale or otherwise will only be taken to be under a section listed in clause 17h)(i) if the Carrier so elects; and
 - v. the Carrier does not need to give the Customer any notice under the PPSA (including a notice of a verification statement or financing statement) unless the notice is required by the PPSA and that requirement cannot be excluded.
- 18. The Consignor is liable for and must pay the Carrier on demand all debt collection and legal fees and disbursements charged to the Carrier in respect of any outstanding charges owed by the Consignor to the Carrier on an indemnity (solicitor-client) basis.
- 19. If the Consignor fails to pay to the Carrier any sums due and payable under these terms and conditions (including sum that exceeds the credit limit set out in the credit application form), the Guarantor/s must pay the whole of such money to the Carrier immediately on demand. The Carrier may make such a demand on (or bring a claim against) the Guarantor/s from time to time whether or not demand has been made (or a claim has been brought) by the Carrier on the Consignor.
- 20. These terms and conditions shall be governed by the law applicable in the State of Western Australia and the courts of that state shall have exclusive jurisdiction.
- 21. If any part of these terms and conditions is or becomes void or unenforceable, then that part must be severed and any remaining parts shall be unaffected by that severance. These terms and conditions may not be varied other than in writing signed by the Carrier and the Consignor.

BY THE CONSIGNOR:

On behalf of the Consignor, I _____ acknowledge that I have read and understood the above terms and conditions and agree for the Consignor to be bound by them.

Signature: _____

Date: _____