



Wholesale Metal Supplies

Supply Yard
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Grey Lynn, Auckland 1021
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www.albanytransport.co.nz

APPLICATION FOR A CREDIT ACCOUNT

Customer Details:

Full Name: _____ Trading Name (if any): _____

Please tick one: Limited Company Limited Partnership Other Partnership Sole Trader

Please provide proof of ID - Current Driver's Licence, Passport or Company Photo ID.

Registered Office Address: _____

Postal Address: _____

Email Address: _____

Telephone (Bus): _____ Telephone (A/H): _____

Fax: _____ Mobile: _____

Accounts Contact: _____

Purchasing Contact: _____

Type of Business: _____

Full names (including any alternate names used) & Private addresses of Directors / Partners / Owners:

Name: _____ Address: _____

Name: _____ Address: _____

Name: _____ Address: _____

If individual sole trade, please provide any previous residential addresses (not PO Boxes) for the past 3 years:

Bank Details: Bank Name: _____

Address: _____

Telephone No: _____

References:

Business Name:	Phone Number:	Contact Name:

THE TERMS AND CONDITIONS OF LANSDOWN & WILSON CO LTD
(HEREINAFTER CALLED "ALBANY TRANSPORT")

1. Application

1.1 Definitions:

"Customer" means any person purchasing or hiring goods (as the case may be), its agents and employees, successors, assigns or any person acting on behalf of that person.

"Goods " means all physical items or services provided by Albany Transport to the Customer including the provision of all supplies, all charges for labour and work, hire rates, or any fee or charge associated with the supply, relocation or removal of such goods by Albany Transport to the Customer and all proceeds of those goods.

"PPSA" means the Personal Property Securities Act 1999.

1.2 Application:

All goods are supplied to the Customer on the following terms and no person in the employment or acting otherwise as agent of Albany Transport or purporting so to do, has authority to accept orders to supply goods on any other conditions or to vary these terms in any way whatsoever.

Previous dealings between Albany Transport and the Customer shall not vary or replace these terms or be deemed in any circumstances whatsoever to do. Acceptance of goods from Albany Transport shall be conclusive evidence before any court or arbitrator that these terms apply, unless Albany Transport and the Customer otherwise expressly vary any of them by agreement in writing.

1.3 Acknowledgments:

The Customer acknowledges that before entering into an agreement for the purchase of any goods from Albany Transport he/she expressly represented and warranted that he/she is not insolvent and has not committed an act of bankruptcy or being a company with limited or unlimited liability, knows of no circumstance which would entitle any debenture holder or secured creditor to appoint a receiver or petition for winding up of the Customer or exercise any other rights over and against the Customer's assets.

2. Credit facilities

2.1 Albany Transport reserves the right at its sole discretion to grant or decline credit to the customer. It may at any time and without notice to the customer and/or any guarantor; and without prejudice to any other right it has in law or equity, terminate or suspend any credit arrangement in which case all monies owing shall be immediately due.

2.2 Albany Transport may at any time require additional security from the customer before proceeding with any order.

3. Delivery, Risk, and Insurance

3.1 Delivery and Risk:

Delivery of any goods will be deemed to have taken place when those goods are placed on the Customer's or the Customer's carrier's vehicle for removal from Albany Transport's premises. Where Albany Transport delivers any goods to a customer, whether the carrier's contract is with Albany Transport or the Customer, the carrier will be deemed as between the parties to be the agent of the Customer. Goods, the subject of any agreement by Albany Transport to sell, shall be at the risk of the Customer as soon as they are delivered by Albany Transport to his/her vehicles or his/her premises or otherwise to his/her order.

3.2 Insurance:

The Customer shall insure and keep insured the goods to the full price against all risks until payment in full has been received by Albany Transport.

4. Warranties and Liability

4.1 Quantities:

Albany Transport undertakes to deliver correct quantities, but in the event of delivery by instalment the Customer cannot reject the delivery merely because the order is not complete, and the Customer must pay for goods delivered regardless of whether all goods ordered have been delivered.

4.2 Warranties Excluded:

All warranties, descriptions, representations or conditions whether implied by statute, or otherwise by law, trade, custom or otherwise are expressly excluded to the fullest extent permitted by law.

4.3 If, despite the other provisions of these terms, Albany Transport is found to be liable to the Customer, Albany Transport's liability in relation to the supply of the goods is limited to the purchase price of the goods in respect of which such liability arises. In particular and without limiting the generality of this clause Albany Transport shall in no circumstances be liable for any consequential loss whether it be economic or otherwise.

4.4 Consumer Guarantees Act ("CGA"):

Where the Customer acquires the goods for the purposes of the Customer's business, including for the purposes of resale, the Customer acknowledges and agrees that the provisions of the CGA shall not apply to such acquisition and the Customer further indemnifies Albany Transport against any loss incurred by Albany Transport under the Consumer Guarantees Act arising out of any action by the Customer. Where the Customer is a consumer as that term is defined by the Consumer Guarantees Act 1993 the Customer acknowledges that its right to undisturbed possession to the goods is subject to full payment of the goods and other costs and charges as stipulated in these terms and conditions and by signing these terms and conditions or any order incorporating them the Customer acknowledges this provision and the Customer's understanding of the effects and implications of it.

4.5 Construction Contract Act 2001 (CCA)

The Customer acknowledges that the obligations and benefits of the CCA shall apply in respect of any supply deemed construction work. Albany Transport shall be entitled to exercise any or all powers available to them under the CCA including suspension of work, Adjudication and seeking charging orders.

4.6 Failure to Deliver:

Albany Transport will not in any circumstances be liable for any loss arising from the supply of, or failure to supply goods, or for failure to deliver goods on time.

4.7 Claims for Discrepancy:

No claims for credit for discrepancy or shortage in goods delivered, or claims for any other reason will be considered unless verbal notice of such claim (including the invoice/packing slip number and date) is received within 24 hours of receipt at the Customer's premises, and, in the case of a claim for discrepancy, the excess goods are returned at the Customer's cost, in original packing and first class condition, within seven days of delivery.

5. Security

5.1 Retention of Title:

It is the intention of Albany Transport and agreed by the Customer that property in the goods shall not pass until payment has been received by Albany Transport and that the goods, or proceeds of sale of the goods, shall be kept separate until Albany Transport has received payment in full and

- (a) The Customer will hold the goods on trust for Albany Transport as bailee for Albany Transport;
- (b) While the Customer shall deal as principal and Albany Transport shall not be liable to any person with whom the Customer deals, nevertheless the Customer shall hold the entire proceeds of sale or other dealing in respect of the goods in trust for Albany Transport and in a separate bank account and shall not mingle those proceeds with other monies or pay them into an overdrawn bank account.

5.2 PPSA:

It is agreed and acknowledged that by the application of clause 5.1 of these terms and conditions

(a) The Customer grants a Deemed security interest pursuant to the Personal Property Securities Act 1999 ("PPSA") in favour of Albany Transport over all goods from time to time supplied by Albany Transport, and that such Deemed security interest and the priority thereof shall extend into and over the proceeds of any sale of such goods by the Customer.

(b) Albany Transport may at the Customer's cost register the Deemed security interest under the PPSA by registering a financing statement and if at some later date additional or different property is supplied, to provide if necessary for registration a new collateral description by registering a financing change statement. This will not affect Albany Transport's right to register subsequent financing statements, and to register subsequent financing change statements in respect of any other amendments;

(c) The Customer agrees to provide Albany Transport with such information as it may need to enable registration of the Deemed security interest under the PPSA and shall promptly execute any documents to ensure that the Deemed security interest under these terms and conditions is a first ranking perfected security interest and waive the right to receive a copy of the verification statement issued upon registration of the financing statement of any financing change statement;

- 5.3 In addition to the security interest referred to in clause 5.2, the Customer also grants a security interest in all present and after acquired goods as security for all monies now and in the future owing by the Customer to Albany Transport.
- 5.4 The Customer agrees (to the extent permitted under the PPSA) that the Customer shall have no rights under part 9 (enforcement) of the PPSA. This includes but is not limited to debtors' rights under ss116,120(2),121,125-127,129 and 131 of the PPSA.

6. Payment and Default

- 6.1 Payment shall be made in full on the 20th of the month following date of the invoice for the goods.
- 6.2 If the Customer does not make payment due under this Agreement by the date specified for payment and such failure to comply is not remedied on or before the 14th day after the date on which compliance was due, then the Customer shall pay to Albany Transport upon demand interest on the unpaid amount from the due date until the date of payment at a rate from time to time specified by Albany Transport but not exceeding 24% per annum as calculated on a daily basis.
- 6.3 The Customer shall pay to Albany Transport an costs incurred by Albany Transport (including legal costs as calculated on a solicitor client basis) in relation to the recovery of any overdue payment and the enforcement of its rights under this Agreement.
- 6.4 It is a default under the Agreement if the Customer commits an act of bankruptcy (as defined in the Insolvency Act 2006); is adjudicated bankrupt or enters into receivership, administration or liquidation; is unable to pay the Customer's debts as they fall due; allows any chattels or furniture to be seized or removed so as to satisfy other debts; suspends payments to creditors; the Customer's business is discontinued; a meeting of creditors is convened or a scheme of arrangement is proposed; or any of the conditions necessary to render the Buyer liable to be placed into receivership or liquidation exist.
- 6.5 If the Customer makes any default under this Agreement or if Albany Transport has reasonable grounds to believe that the goods have been or will be damaged, destroyed or endangered contrary to the provisions of this Agreement then Albany Transport may terminate this Agreement by notice and/or without the necessity of giving any notice enter upon and into any premises occupied by the Customer to search for and remove any of the goods supplied or in which Albany Transport has retained ownership without being liable to the Customer or any person or company claiming through the Customer.
- 6.6 Albany Transport shall have the right to set off any monies due under this agreement against any amounts due to the customer whatsoever. The customer shall have no right to set off or withhold payment of any amount owed to Albany Transport whatsoever, whether liquidated, or contingent, against any amounts due by the Customer to Albany Transport.

7. Privacy Act

7.1 Buyer's Acknowledgment:

The Customer acknowledges that the personal information collected in this document or by any other means, may be held, used and disclosed to enable Albany Transport to process this or any other application the Customer may make to Albany Transport, to ascertain at any time the Customer's credit worthiness and obtain at any time credit reports or character references to administer the Customer's account, to give credit references to provide to the Customer or have provided to the Customer advice or information concerning products and services Albany Transport believes may be of interest to the Customer, and to communicate with the Customer for any purpose.

7.2 Right of Access:

The Customer has the right to obtain access to and request correction of any personal information concerning it held by Albany Transport. The customer authorises Albany Transport to obtain at any time from any person or entity any information Albany Transport may require to assess this or any other application for a trading account by the Customer or for any of the other purposes for which the Customer has provided personal information to Albany Transport. The Customer authorises any such person to release to Albany Transport any personal information concerning the Customer.

8. Miscellaneous

- 8.1 The Customer shall not assign all or any of its rights or obligations under these terms without prior written consent or Albany Transport.
- 8.2 Failure by Albany Transport to enforce any of these terms shall not be deemed to be a waiver of any of the rights or obligations Albany Transport has under these terms.
- 8.3 If any provision of these terms shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be effected, prejudice or impaired.
- 8.4 The law of New Zealand shall apply to these terms except to the extent expressly negated or varied by these terms.
- 8.5 Albany Transport reserves the right to change these terms on 1 months' prior notice posted on Albany Transport's website www.albanytransport.co.nz . The amended terms shall apply with effect from the date that such amended terms are placed on the website unless the amended terms specify a later date from which they are to apply.
- 8.6 The customer shall advise Albany Transport of any alteration to their company structure and any revocation of an agents authority to purchase until such written conformation is received and accepted in writing by Albany Transport, The Customer and its guarantors will remain liable for any amount owing.

These terms have been read and understood by the Customer who agrees to be bound by them in relation to goods presently acquired and after-acquired from Albany Transport (whether they are sold or hired) . In particular the Customer acknowledges that Albany Transport takes a security interest in all such present and after-acquired goods.

Date: ____/____/____ Customer Name: _____

Signature: _____ Name of Signatory: _____ Position: _____

9. Guarantees

If the Customer is a company, Albany Transport requires the Customer’s obligations to be guaranteed by a natural person. By executing these terms and conditions of service, the guarantor in consideration of Albany Transport providing goods to the Customer at the Guarantor’s request, personally guarantees performance of all the obligations of the customer hereunder including the obligation to pay any monies and accepts personal liability accordingly.

9.1 Albany Transport may, at its sole discretion seek further personal guarantees in consideration for supplying and/or continuing to supply goods to the Customer. All guarantors shall be jointly and severally liable for the Customers obligations under this agreement including, upon demand, the payment of all amounts owing which is or may become due by the Customer.

9.2 The Guarantor(s) acknowledge a continuing obligation to Albany Transport as a principal debtor. The liability under this guarantee shall not be effected or discharged by the granting of time or credit to the Customer or by release, abandonment or wavier of any rights against the Customer, or by liquidation or bankruptcy of the Customer or one or more of the guarantors.

9.3 The guarantee shall continue in full force until Albany Transport releases the Customer or Guarantor(s) in writing.

By executing the terms in this Agreement, the Guarantor in consideration of Albany Transport providing goods to the Customer, at the Customers request, personally guarantees performance of all the obligations of the Customer hereunder including the obligation to pay any monies and accepts personal liability accordingly.

Guarantor: _____ Witness: _____

Signature: _____ Signature: _____

Name: _____ Name: _____

Position: _____ Occupation: _____

Date: ____/____/____ Date: ____/____/____

Guarantor: _____ Witness: _____

Signature: _____ Signature: _____

Name: _____ Name: _____

Position: _____ Occupation: _____

Date: ____/____/____ Date: ____/____/____

Signed on behalf of Albany Transport by:

Signature: _____ Name: _____

Position: _____

Date: ____/____/____