

LUPTON CARRIERS LIMITED

PO Box 95 050 Swanson, Auckland. 20-22 Paramount Drive, Henderson, Auckland
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Email: info@luptoncarriers.co.nz

ACCOUNT APPLICATION FORM

ENTITY DETAILS:

APPLICANT'S FULL LEGAL NAME: (I.E. NOT TRADING NAME) _____ ("THE CUSTOMER")

(PLEASE TICK) SOLE TRADER INDIVIDUAL PARTNERSHIP LTD COMPANY OTHER _____

TRADING AS: _____ POSTAL ADDRESS: _____

PHYSICAL ADDRESS: _____ EMAIL: _____

NATURE OF BUSINESS: _____ YEARS IN BUSINESS: _____

TELEPHONE: _____ FAX: _____ DATE OF BIRTH: _____

CONTACT NAME & POSITION: _____

OWNERSHIP PLEASE INSERT OWNER(S) / DIRECTORS NAME(S) IN FULL

1 : _____ ADDRESS _____

2: _____ ADDRESS _____

IF LIMITED LIABILITY COMPANY – ADDRESS OF REGISTERED OFFICE: _____

DATE OF INCORPORATION: _____ INCORPORATION NO: _____

FINANCIAL & PROFESSIONAL ADVISORS

SHAREHOLDERS FUNDS: _____ PAID UP: _____

NAME OF ACCOUNTANT: _____ SOLICITOR: _____

BANK: _____ BRANCH: _____ ACCT NO: _____

TRADE REFERENCES

COMPANY	CONTACT NAME	PHONE NUMBER	ACCOUNT OPEN SINCE

GENERAL DESCRIPTION OF GOODS/PRODUCTS/SERVICES TO BE PROVIDED: _____

I/We have read and agree to be bound by the terms and conditions of the trade as printed overleaf or attached. **I/We** warrant Lupton Carriers Limited that the above information is to the best of **my/our** knowledge, information and belief true and correct and that **I/We am/are** duly authorised to enter into this application and future contracts on behalf of the customer.

SIGNED _____ PRINT NAME _____ DESIGNATION _____

DATE THIS _____ DAY OF _____ 20 _____

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1. "Lupton Carriers Ltd" shall mean Lupton Carriers Limited, or any agents or employees thereof.
- 1.2. "Customer" Shall mean the Customer, any person acting on behalf of and with the authority of the customer, or any person purchasing products and services from Lupton Carriers Ltd.
- 1.3. "Services" shall mean all goods, products, services and advice provided by Lupton Carriers Ltd to the Customer and shall include without limitation the transport, cartage and bulk haulage of customer's goods throughout New Zealand and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of services by Lupton Carriers Ltd to the customer.
- 1.4. "Price" shall mean the cost of the services as agreed between Lupton Carriers Ltd and the Customer and includes all disbursements e.g. charges Lupton Carriers Ltd pay to others on Customer's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1. Any instructions received by Lupton Carriers Ltd from the customer for the supply of service shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1. The customer authorise Lupton Carriers Ltd to collect, retain and use any information about the customer, for the purpose of assessing the customer's credit worthiness, enforcing any rights under this contract, or marketing and services provided by Swanson Transport Ltd to any other party.
- 3.2. The customer authorises Lupton Carriers Ltd to disclose any information obtained to any person for the purposes set out in the clause 3.1.
- 3.3. Where the customer is a natural person the authorities under the clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1. Where no price is stated in writing or agreed to orally the services shall be deemed to be supplied at the current amount as such services are supplied by Lupton Carriers Ltd at the time of the contract.
- 4.2. The price may be increased by the amount of any reasonable increase in the cost of supply of the services that is beyond the control of Lupton Carriers Ltd between the date of the contract and the delivery of the services.

5. PAYMENT

- 5.1. With respect to commercial customers payment for services shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date").
- 5.2. Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3. Any expenses, disbursements and legal costs incurred by Lupton Carriers Ltd in the enforcement of any rights contained in this contract shall be paid by the customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5. 5.5 A deposit may be required.

6. QUOTATION

- 6.1. Where a quotation is given by Lupton Carriers Ltd for services;
 - 6.1.1. Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2. The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
 - 6.1.3. Lupton Carriers Ltd reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2. Where services are required in addition to the quotation the customer agrees to pay for the additional cost of such services.

7. GENERAL LIEN

- 7.1. The customer agrees that Lupton Carriers Ltd may exercise a general lien against any goods or property belonging to the customer that is in

the possession of Lupton Carriers Ltd for all sums outstanding under this contract and any other contract to which the customer and Lupton Carriers Ltd are parties.

- 7.2. If the lien is not satisfied within seven (7) days of the due date Lupton Carriers Ltd may, having given notice of the lien at its option either:
 - 7.2.1. Remove such goods or property and store them in such a place and in such a manner as Lupton Carriers Ltd shall think fit and proper and at the risk and expense of the customer; or
 - 7.2.2. Sell such goods or property or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

8. DISPUTES

- 8.1. No claim relating to services will be considered unless made within seven (7) days of delivery.

9. LIABILITY

- 9.1. The Carriage of Goods Act 1979, the Consumer Guarantees Act 1993, the Fair trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Lupton Carriers Ltd which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Lupton Carriers Ltd, Lupton Carriers Ltd's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimal extent required by the relevant statute.
- 9.2. Except as otherwise provided by clause 9.1 Lupton Carriers Ltd shall not be liable for:
 - 9.2.1. Any loss or damage of any kind whatsoever, arising from the supply of services by Lupton Carriers Ltd to the customer, including damage to customer's goods or theft after delivery and consequential loss whether suffered or incurred by the customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from services provided by Lupton Carriers Ltd of the customer; and
 - 9.2.2. The customer shall indemnify Lupton Carriers Ltd against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Lupton Carriers Ltd or otherwise, brought by any person in connection with any matter, act, omission, or error by Lupton Carriers Ltd its agents or employees in connection with the services.
- 9.3. If, contrary to the disclaimer of liability contained in these terms and conditions of trade Lupton Carriers Limited is deemed to be liable to the customer, following and arising from the supply of services by it to the customer, then it is agreed between Lupton Carriers Ltd and customer that such liability limited in its aggregate to \$500.00.

10. LIABILITY FOR DAMAGE AND LOSS

- 10.1. For the purpose of determining liability for loss or damage to any goods which are the subject of any services provided by Lupton Carriers Ltd, it is agreed that every contract of carriage shall be deemed to be "at limited carrier's risk" as defined by the Carriage of Goods Act 1979.
- 10.2. Subject to 10.1 above the customer is responsible for keeping goods which are the subject of any services provided by Lupton Carriers Ltd, insured to their full value at all times. Any claim must be notified within seven (7) days of delivery.

11. CONSUMER GUARANTEES ACT

- 11.1. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the customer acquires services from Lupton Carriers Ltd for the purpose of a business in terms of section 2 and 43 of that act.

12. MISCELLANEOUS

- 12.1. Lupton Carriers Ltd shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 12.2. Failure by Lupton Carriers Ltd to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Lupton Carriers Ltd has under this contract.
- 12.3. If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.