



Application for Credit Account

Nature of Organisation:

Sole Trader Partnership Limited Company Other

Trade Name: _____

Legal Name: _____

Delivery Address: _____

Postal Address: _____

Telephone: () _____ Fax: () _____ Mobile: _____

Registered Office: _____ Email: _____

Type of Bus: _____ Date Bus Comm: _____ Paid Up Capital: \$ _____

Details of Partners (If Partnership)	Details of Directors (If Limited Company)
1. Full Name: _____	1. Full Name: _____
Home Address: _____	Home Address: _____
Home Phone: _____	Home Phone: _____
Mobile Phone: _____	Mobile Phone: _____
2. Full Name: _____	2. Full Name: _____
Home Address: _____	Home Address: _____
Home Phone: _____	Home Phone: _____
Mobile Phone: _____	Mobile Phone: _____

Store Manager: _____ Mobile Phone: _____

Contact person for Accounts: _____ Mobile Phone: _____

Name and Branch of Bank: _____

Solicitors Name and Address: _____

Accountant's details: _____

Trade References: (excluding **Repco**, Credit Cards, Fuel Suppliers, Landlord, Power & Phone)

- | | |
|----------|-----------------|
| 1. _____ | Phone No: _____ |
| 2. _____ | Phone No: _____ |
| 3. _____ | Phone No: _____ |

I certify that the above information is true and correct and that I am authorised to make this application for credit. In accordance with the Privacy Act (1993) I authorise any person or company to give information as may be required in response to credit Inquiries. I have read and understood the GENERAL TERMS AND CONDITION OF CONTRACT of ANZ Wheels & Tyres NZ Limited, which form part of, and are intended to be read in conjunction with this Credit Application and agree to be bound by these conditions.

Signed: _____ Date: _____
(Proprietor/ Partner/ Director/ Authorised Signatory) Circle One.

Full Name: _____ Position: _____
To ANZ Wheels & Tyres Limited

In consideration of you supplying the above Company with goods I/We personally guarantee the payment of all accounts by the Company/ Partnership.

Full Name: _____ Signature: _____ Date: / /
(Please print name in full) (Director/Owner/Partner)

Witness:
Full Name: _____ Occupation: _____

Preamble

These Terms and Conditions constitute a contract between the Customer and the Supplier and any Application for Credit shall form part of the same upon the terms appearing hereunder.

1. DEFINITIONS

In these terms unless inconsistent with the context;

"Goods" means all equipment, wares, merchandise and chattels of whatsoever nature supplied or to be supplied by the Supplier to or at the request of the Customer.

"Services" means all acts, deeds and things done or to be done and all labour repairs and services undertaken or to be undertaken by the Supplier on behalf of or at the request of the Customer.

"Customer" means the person or Persons Company or body corporate to whom or at whose request the Supplier supplies its Goods and Services. If the Customer be more than one person then the obligations set out herein shall bind them jointly and each of them severally.

"Supplier" means ANZ Wheels & Tyres NZ Limited, and shall include their personal representative and successors in title.

2. TERMS OF PAYMENT

- a) Payment is required in cleared funds prior to delivery of Goods or provision of Services unless otherwise agreed by the Supplier in writing by granting a credit facility to the Customer upon application being made by the Customer on the Supplier's standard credit application form herein. If the Supplier approves the Customer's application for a credit facility, payment is to be made within one calendar month of the end of the month following delivery of Goods or provision of Services.
- b) All prices exclude GST, any other applicable taxes and duties and insurance/freight/delivery/handling charges not expressly included in the price. The Customer agrees to pay these items (as applicable) in addition to the price, whether they are imposed before or after the Customer's order.
- c) Default under this agreement will have occurred, and the Supplier may terminate any agreement to supply Goods or Services to the Customer or withhold delivery of Goods and/or suspend provision of Services, and all moneys shall become immediately due and payable to the Supplier without the necessity of the Supplier making any demands or serving notice upon the Customer if:
 - i. The Customer commits any act of bankruptcy or being an incorporated company, passes a resolution for winding up (except for the purposes of reconstruction) or a summons or other process is presented for its winding up or a receiver or receiver and manager or official manager is appointed to;
 - ii. Any particulars of the credit application form are incorrect;
 - iii. The Supplier is not notified within 14 days of any change of particulars completed in the credit application form; or
 - iv. Payment of any moneys owing by the Customer to the Supplier is not made by the due date.
- d) Interest shall accrue upon any moneys outstanding at 2% per calendar month calculated daily and capitalised monthly, from the date of default until the date of payment.
- e) The Customer shall reimburse the Supplier for and shall indemnify the Supplier in respect of all claims, costs and expenses incurred by the Supplier either arising from or incidental to any breach by the Customer of its obligations under these terms, or in recovering any outstanding moneys owing including without limitation all solicitor's and debt collection agency fees charged to the Supplier.
- f) The certificate of the Supplier or an authorized officer of the Supplier as to the moneys owing by the Customer to the Supplier at any time shall be conclusive evidence of the facts stated in that certificate.
- g) The Customer shall not be entitled to use the credit facilities until it has received written notice from the Supplier authorizing that such facilities have been granted (whether solely in these terms or incorporating any additional terms and conditions).
- h) The granting of credit to the Customer shall be at the sole discretion of the Supplier and may be varied or cancelled from time to time at the absolute discretion of the Supplier on giving notice in writing as it deems fit. A letter signed by an authorized officer of the Supplier shall be evidence as to the terms of credit applicable at any time.
- i) The Customer must not withhold payment or make any deductions of any nature whether by way of set off (legal, equitable or otherwise), counterclaim or otherwise from any amount it owes the Supplier.

3. TITLE OF GOODS

- a. The property in the Goods the subject of the sale shall not pass or be transferred from the Supplier to the Customer until the first to occur of the following events:
 - i. A bona fide resale of the Goods by the Customer to a third party in the ordinary course of business;
 - ii. Payment by the Customer to the Supplier for the invoiced price of the Goods (provided that in the case of tender of a cheque, payment shall not be deemed to be made until the cheque is honoured).
- b. Any resale of the Goods by the Customer to a third party, for which payment has not already been made to the Supplier, shall be effected by the Customer as agent for the Supplier, to the intent that the proceeds of resale shall become the property of the Supplier upon receipt thereof by the Customer, and so that the same shall thereupon be accounted for to the Supplier to the extent of the Supplier's invoiced price to the Customer.
- c. Until the property in the Goods has passed or been transferred from the Supplier to the Customer, the Customer shall hold and maintain the Goods as bailee of the Supplier.
- d. The Customer hereby irrevocably grants to the Supplier, its agents and servants, an unrestricted right and licence, without notice to enter the premises occupied by the Customer or upon any vehicle or other property of the Customer to identify and remove using such force as may be necessary any of the Goods the property of the Supplier as provided in these terms and conditions without in any way being liable in conversion or otherwise to the Customer or any person claiming through him. The Supplier shall have the right to sell or dispose of any such Goods so removed or otherwise in its sole discretion and shall not be responsible for any loss occasioned thereby.
- e. The Customer acknowledged that Goods supplied by the Supplier are sold by the Customer in the same order as the Goods are so supplied by the Supplier. The Customer further acknowledges that all Goods of the type normally supplied by the Supplier to the Customer were so supplied unless the Customer proves at the time the Supplier claims to be entitled to possession thereof to the contrary.
- f. The Customer will inspect goods on delivery and advise the Supplier within (7) days of delivery of any missing items or damage. If any goods are to be returned a 20% Re-stocking fee will be deducted from the credit note issued by the supplier. It is the buyer's responsibility to pay for and organise transportation of returning goods. Goods will not be accepted for return after 14 days from invoice date.
- g. The warranty provided on all products is the warranty of the manufacturer only and not that of the seller.

4. PASSING OF RISK

The risk in the Goods (but not title) the subject of any sale shall pass to the Customer upon delivery by the Supplier to a carrier, whether the Supplier arranges, procures or effects the cartage of the Goods at the request of the Customer, or otherwise. If the Customer takes delivery directly from the Supplier risk in the Goods (but not title) shall pass upon receipt by the Customer.

5. UNCOLLECTED GOODS

Should the Customer provide the Supplier with any Goods in the course of the Supplier supplying Service to the Customer and the Customer fails to take re-delivery of the Goods within 60 days of the Supplier's invoice at the completion of those Services then the Supplier may offer the Customer's Goods for sale by auction or otherwise without further notice to the Customer and the Supplier may apply the proceeds of sale, firstly towards payment of all

costs and expenses incurred on such sale and secondly in reduction of the Customer's account, and all surplus money (if any) then remaining shall be forwarded to the Customer.

6. SECURITY

- a) As and by way of security to the Supplier for the Customer's obligations under these terms and conditions, including without limitation in respect of any moneys owing, the Customer hereby charges all the right, title and interest of the Customer (if any) in the Goods and in the premises upon which the Goods may from time to time be situated or the Services may from time to time be carried out and all other real property registered in the name of the Customer or to which the Customer is or may become entitled at any time.
- b) Pursuant to the charge the Supplier has over the right, title and interest of the Customer (if any) in the Goods, the Supplier holds a Security Interest in the Goods and may if it chooses protect its interest in the Goods by way of a financing statement registered on the Personal Property and Securities Register.
- c) At the request of the Supplier the Customer shall execute such mortgages or other securities (containing such terms and conditions as the solicitors of the Supplier shall consider desirable for the protection of the interest of the Supplier under these terms) to better secure the Supplier as against property mentioned in sub-clause (a).
- d) The Customer authorizes the Supplier (at the cost of the Customer) to register a caveat over any property mentioned in sub-clause (a) to better secure to the Supplier the charge contained in that clause.

7. WARRANTIES

The Customer Warrants:

- a) That the information contained in any credit application form is true, correct and accurate and is intended to be relied upon by the Supplier to induce the Supplier to grant the aforementioned credit facilities.
- b) That there is no other material circumstance or event that if known by the Supplier would be likely to affect any consideration by the Supplier as to whether or not to grant any credit facilities.

8. COVENANTS

The Customer covenants and agrees:

- a) That at no time or indulgence granted by the Supplier to the Customer or any other person or any act or omission on the part of the Supplier shall constitute a waiver or abrogation of any right or entitlement conferred on the Supplier under these terms.
- b) To forthwith notify the Supplier immediately upon any change of details of the business or corporate structure, composition of partnership business or corporate name, shareholding or directorship (in the case of the company) of or in the Customer or any resolution or intention to so alter or change such structure, composition, name, shareholding or directorship.
- c) That the security intended to be conferred by these terms shall be a continuing security to the Supplier notwithstanding any intervening settlement of account or any change in structure composition of partnership name, shareholding or directorship of or in the Customer and shall bind the Customer for all Goods and Services supplied or provided by the Supplier in reliance of these terms until the Supplier shall release the Customer of its obligation hereunder.
- d) (As the Supplier shall require) to procure its directors and/or shareholders to execute in favour of the Supplier a guarantee (in such form and containing such clause as the Supplier's solicitors shall consider desirable for the protection of the interests of the Supplier hereunder) whereby such directors and/or shareholders shall jointly and severally guarantee to the Supplier the observance and performance by the Customer of its obligations under these terms.
- e) That all these terms and conditions will be duly observed and performed by the Customer and further that these terms cannot be altered or varied unless in accordance with the provisions of clause 2(f) of these terms and otherwise the Customer acknowledges that no employee, representative or agent of the Supplier has any authority to alter or vary these terms or any of them.

9. DEDUCTION AUTHORITY

Where the Customer is in default of payment hereunder and where the Customer shall at any time be entitled to recover or receive moneys from any persons or company the Supplier shall be entitled to demand, sue for, recover and receive such moneys from that other person or company and the Customer hereby appoints the Supplier its attorney for the duration of this agreement with the full power to take such action. Upon receipt of the moneys the Supplier shall be entitled to deduct the equivalent of all reasonable costs incurred by the Supplier in the recovery of the same and all moneys and interest then outstanding on the Customer's account with the Supplier. All moneys left over after such deduction shall be remitted to the Customer without further deduction.

10. TRUSTEES

Where the Customer is or becomes a trustee then as such trustee he agrees to be liable on the Customer's account and further agrees that:

- a) The assets of the trust shall be available to meet the payment of the account; and
- b) The trustee and/or beneficiaries of the trust may be required to enter into a formal guarantee of payment of the Customer's account.

11. FORCE MAJEURE

In the event that the Supplier is prevented or delayed wholly or in part of strikes, fire, explosions, flood not injunction, interruption of transportation, accidents, inability to obtain supplies, war, governmental action or any other circumstances beyond the Supplier's control ("force majeure") from performing any of its obligations to the Customer, then the Supplier shall be entitled to delay, postpone or cancel performance of any such obligation and the Supplier shall be under no liability whatsoever for any damage occasioned to the Customer by the said delay, postponement or cancellation.

12. TIME

Time shall only be of the essence with respect to the Customer's obligations hereunder.

13. CONSIGNMENT

Subject to availability and on a case by case basis, the Supplier may agree to provide Goods to the Customer on Consignment. If the Supplier agrees to provide Goods on Consignment to the Customer. The terms upon which such Consignment is made are set out below.

- a) Title to the Goods supplied on Consignment will remain vested in the Principal pursuant to clause 3 above.
- b) Risk of the Goods supplied on Consignment will pass to the Customer pursuant to clause 4 above.

The Customer undertakes and agrees, in respect of Goods provided to the Customer on Consignment:

- a) To maintain suitable premises for the storage of the Goods and display the Goods in the Customer's showroom or other public area;
- b) To keep the Goods insured in the name of the Supplier against loss or damage by fire, theft, flood or any other partial or full destruction and immediately provide on request by the Supplier copies of the relevant insurance policies;
- c) To provide to the Supplier not later than the two (2) working days after the Sale of any Goods provided on Consignment all details of the Goods sold (the "Notice").
- d) To pay the Supplier for the Goods sold pursuant to an invoice to be issued immediately after receipt of the Notice provided under clause 13(c) above within seven (7) working days should the Notice be in relation to a retail sale or the 20th of the month following receipt of the Notice should the sale be in relation to a trade sale. The Notice should state whether the sale was a retail or trade sale.

- f) To indemnify and keep indemnified the Supplier from and against any damage to or deterioration of the Products while in the possession of the Customer.
- g) The Supplier reserves the right to request that some or all of the Goods (the "required Goods") be sent by the Customer to another location at the cost of the Supplier. The Customer agrees to strictly adhere to any such requests and co-operate with the Supplier and its agents in relation to any such relocation of required Goods to the extent that if the required Goods are not made available within 24 hours of receiving notice from the Supplier that a relocation of the required Goods is necessary, the Supplier reserves the right to invoice the Customer for the required Goods, such invoice to be payable within 7 days of receipt of the same.
- h) A \$20 plus GST administration fee will be payable in respect of the first invoice in relation to any Consignment Goods pursuant to this clause 13.

It is agreed that otherwise than as varied by this clause 13 the Terms of Trade in all other respects apply to the Goods provided on Consignment.

13. EXCLUSION OF WARRANTIES

If the Customer is in trade and are acquiring the Goods for business purposes, the guarantees under the Consumer Guarantees Act 1993 and sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 do not apply. Unless the Customer has rights under the Consumer Guarantees Act 1993 or other legislation, which cannot be excluded or limited, there are no warranties express or implied. This disclaimer includes implied warranties as to merchantability and fitness for a particular purpose.

14. LIMITATION OF LIABILITY

The Supplier and its employees and agents shall not be liable to the Customer for any claim for breach of Contract (except as provided below in this clause) or Statute or breach of duty in Tort (including negligence) or any claim in Equity or otherwise at law. The Customer's sole remedy against the Supplier shall be limited to breach of contract and the extent of any such liability shall be limited, at the Supplier's option, to repair or replacement of the Goods, payment of the cost of repairing or replacing the particular defective Goods or acquiring equivalent Goods or refund of the price the Customer paid for the particular defective Goods. If the breach relates to Services the extent of any such liability shall be limited, at the Supplier's option, to supplying the Services again, payment of the cost of having the services supplied again, or refund of the price the Customer paid for the particular defective Services. The Supplier will not, in any case, be liable for any other losses or damages whether general, exemplary, punitive, direct, indirect or consequential, including loss of business profits. No action may be brought against the Supplier unless notice of such claim is given to the Supplier within one week of delivery of the Goods or provision of the Services. The Supplier shall be released from all or any liability unless proceedings are brought in a Court of competent jurisdiction within one year of the date of delivery of the Goods or provision of the Services.

15. GENERAL PROVISIONS

These Terms apply to all transactions the Supplier has with the Customer. If there is any inconsistency between these Terms and any order submitted by the Customer or any other arrangement with the Supplier, these Terms prevail unless otherwise agreed by the Supplier in writing. If any provision of these Terms is held by any court to be illegal, void or unenforceable, that will not impair the enforceability of the remaining provisions. These Terms are governed by, and shall be construed in accordance with, the laws of New Zealand. Both parties submit to the non-exclusive jurisdiction of the New Zealand Courts. The Supplier may review and change these Terms at any time and from time to time. Any such change will take effect from the date on which the Supplier notifies the Customer of the change. The Customer consents to such future changes being made by updates on the Supplier's website, and agree that such update shall constitute agreement by the Customer to the amended terms.

DATED the day of 20.....	
SIGNED	
By the said:	in the presence of:
.....
[PRINT Name of Principal/Director/Partner]	[PRINT Name of witness]
.....
[Signature of Principal/Director/Partner]	[Signature of witness]
.....
[Address of Principal/Director/Partner]	[Address of witness]