

Drain Unblockers Limited

PO Box 87503, Meadowbank, Auckland 1742, 6 Hannigan, Saint John, Auckland 1072
Tele: (09) 527 0066 Fax: (09) 527 0068
Email: reception@drainunblockers.co.nz

Account Application

Applicant's full legal name (i.e. not trading name): ("the applicant")

(Please tick) Ltd Company Individual Sole trader Partnership Other (please state):

Trading as: Postal address:

Physical address: Email:

Nature of business: Years in business:

Contact name & position:

Phone No:..... Mobile No:..... Fax No:.....

If a limited liability company - address of registered office:

Date of incorporation: Incorporation no:

Ownership: Full details of Directors:

1 Name:..... Address: Phone no:.....

2 Name:..... Address:..... Phone no:.....

Financial & professional advisors

Name of accountant: Solicitor:

Bank:..... Branch: Acct No:

Trade References			
Company	Contact name	Phone number	Account open since

General description of services to be provided:

I warrant to Drain Unblockers Limited:

1. that the above information is to the best of my knowledge, information and belief true and correct; and
2. that I have carefully read and agree to be bound by the terms and conditions as printed overleaf; and
3. that I am duly authorised to make this credit account application on behalf of the applicant and of anyone duly authorised to enter into future contracts on behalf of the applicant.

I also acknowledge that pursuant to the personal guarantee contained in the terms and conditions that I am also signing this application form in my personal capacity.

Signed Print name Position

Dated this day of 20

If the applicant is a company then this application form must be signed by a company director of the company.

TERMS OF TRADE

1. **What is the purpose of this agreement?**
 - 1.1 This agreement sets out the terms that apply to the relationship between you (and "your") and **Drain Unblockers Limited** ("we", "us" and "our").
 2. **What information about you can we collect?**
 - 2.1 You agree to provide us with and allow us to use all information necessary to give effect to this agreement, the provision of our products and performance of our services.
 - 2.2 Unless your consent is withdrawn in writing, you agree to the disclosure of information:
 - to give effect to the provision of our products and services;
 - to enforce our obligations under this agreement or an additional agreement;
 - when authorised by you or required by law;
 - to assess credit worthiness; and
 - to market any of our products and services.
 - 2.3 We will comply with the Privacy Act 1993. We will not use your information unless we have reasonably ensured it is accurate, complete, relevant and not misleading. If we give your information to another entity we will do everything reasonably within our power to prevent unauthorised use or disclosure of your information. You may access any of your information and ask us to correct any mistakes.
 3. **What are our products and services?**
 - 3.1 "Products(s)" and "service(s)" means and includes without limitation:
 - all inventory, goods, items, parts, units, equipment, materials and CCTV footage (whether provided by us, separate, attached to something or performed work on);
 - inspection, analysis, servicing, unblocking, maintenance, cleaning, treatment, vacuum loading, drain laying and surveying; and
 - agency fees, charges and out of pocket expenses incurred by us,identified in any document or electronic record issued by either party, all of which are deemed to be incorporated into and form part of this agreement, or as ours by marking or a manner of storage enabling identification.
 4. **What is the price?**
 - 4.1 The price is the cost of the products and services as agreed between you and us from time to time subject to GST. If no price is stated, the price will be the amount at which that we provide the products and services at the time of your request. The price is subject to reasonable changes.
 5. **What happens when we give you a quote?**
 - 5.1 If we give you a quote for products and services:
 - the quote will be valid for thirty (30) days, unless withdrawn or stated otherwise;
 - it will be exclusive of GST and freight, unless stated otherwise;
 - you will be responsible for increased costs or receive the benefit of decreased costs resulting from any subsequent changes to the quote due to any inadequate or inaccurate information, request/requirement for additional products and services or alterations; and
 - we may alter the quote due to circumstances beyond our control or clerical or computer error.
 6. **When and how do you pay us?**
 - 6.1 Subject to 6.2, you agree to pay us:
 - an initial deposit of 50% of the price;
 - the balance of the price on or before the 20th day of the month following the date of our invoice ("the due date") or if paying by cash on completion of the service, unless stated otherwise;
 - interest on any amount you owe after the due date at a rate of 2.5% per month;
 - expenses incurred as a result of enforcing any of our rights contained in this agreement including debt collection and legal fees; and
 - without set-off, deduction or counterclaim.
 - 6.2 You agree to us allocating or reallocating any payment received from you towards any invoice. If no allocation is made then it is deemed to be in such a way that preserves the maximum value of our purchase money security interest in the products.
 - 6.3 If you will pay for the products and services by credit card, we may require a retention, the value of the services will be deducted from your card. All payments by credit card will incur a surcharge of 2.5% of the value of the invoice.
 - 6.4 We may require progress payments and invoice by payment claims under the Construction Contracts Act 2002.
 - 6.5 You remain responsible for payment if a third party that you expect to pay either us or you fails to pay.
 7. **What warranties apply?**
 - 7.1 Manufacturers warranties where applicable and written warranties provided by us.
 - 7.2 If you are in trade and/or are a business, you agree that the parties contract out of the Fair Trading Act 1986 and Consumer Guarantees Act 1993 to the extent permissible by law.
 - 7.3 We are not liable for delay or failure to perform our obligations if the cause is beyond our reasonable control.
 - 7.4 Subject to 7.1-7.3, if we are deemed liable to you for any loss or damage of any kind, arising from provision of products and services to you, including consequential loss, whether suffered or incurred by you or another person or entity and whether in contract tort or otherwise, then you agree that our total liability is limited to the value of the products and services provided to you.
 8. **What if an issue or dispute arises in relation to our products or services?**
 - 8.1 If an issue arises after our services are complete, we will rectify the issue at no added cost, subject to the following:
 - if the issue relates to services other than drain laying, the issue arising and you notifying us within seven (7) days of completion of the services;
 - if the issue relates to drain laying, the issue arising and you notifying us within three (3) months of completion of the drain laying;
 - you having used the products and system in accordance with the manufacturer's/our instructions and the products and system having not been subject to abuse, neglect, misuse, accident or services of any unauthorised third party; and
 - the issue not relating to general fair wear and tear.
 - 8.2 If an issue arises relating to products covered by a manufacturer's warranty, we will arrange rectification, however you may be responsible for the price of our services for rectification.
 - 8.3 If an issue arises relating to unwarranted products, you will be responsible for the price of the products and services as determined under clause 4.
 - 8.4 If a dispute arises between the parties either party must notify the other within seven (7) days of completion of our services.
 - 8.5 Any products the subject of 8.1-8.4 must not be destroyed or removed until we have inspected the products or required they be returned to us.
9. **When will the services be provided?**
 - 9.1 We will use our best reasonable endeavours to provide our services on the date and time agreed between you and us. The time and date of provision is not an essential term of our agreement.
 10. **For what are you responsible?**
 - 10.1 You are responsible for ensuring that all:
 - sites where our services are being carried out comply with all relevant health and safety regulations, requirements and law;
 - plans and reports on which we base our services are accurate and complete. We are not liable for errors in or variations and additions to our work where such is the result of inaccuracy or incompleteness and you will be responsible for the cost of additional products and services required to remedy any issues;
 - underground services, drains and utilities are marked (unforeseen loss or damage will not be our responsibility); and
 - sites where our services are being carried out have a proper means of access.
 11. **What ownership and security rights do we have?**
 - 11.1 We are responsible for the products until they are delivered to your premises, installed on your premises, or when ownership passes in accordance with 10.2, whichever comes first.
 - 11.2 We retain ownership of and hold a security interest in all products until you have paid us in full for all products and services provided to you.
 - 11.3 If you default we may exercise a lien against any products in our possession. CCTV footage will not be provided until payment is made in full.
 - 11.4 You agree that your failure to pay for the products and services by the due date gives rise to a legal or equitable estate or interest in your land on which the products and services were carried out and affixed and that the interest entitles us to register a caveat against your land.
 - 11.5 We own all existing and new intellectual property rights connected to the products and services. You fully indemnify us for any intellectual property infringements we may make when acting in accordance with your instructions.
 12. **What if you want to vary/cancel a request?**
 - 12.1 If you wish to vary, cancel or stop a request you must notify us in writing within a reasonable time. Where we have reasonably relied on your original instructions, you will be responsible for payment of the price of the products and services.
 13. **When can a party cancel this agreement?**
 - 13.1 Subject to 11.1 and 12.2-12.4, either party may cancel this agreement at any time by giving fourteen (14) days prior written notice.
 - 13.2 We have the right by fourteen (14) days prior written notice to suspend or cancel any part of any agreement for the provision of products and services to you if you default by:
 - failing to pay or indicating you will not pay any sum owing by the due date;
 - any of your creditors seizing or indicating they will seize any products provided to you;
 - products in your possession becoming materially damaged while any amount remains unpaid;
 - being bankrupted, insolvent, under statutory management or put into liquidation;
 - a receiver being appointed over or a landlord possessing any of your assets;
 - a court judgment entered against you remaining unsatisfied for seven (7) days;
 - breaching the terms of this agreement; and
 - an adverse material change in your financial position.
 - 13.3 Cancellation under 12.1 or cancellation or suspension under 12.2 will not affect either party's claim for any amount due at the time of cancellation or suspension, damages due to a breach of obligations of this agreement and any other legal rights either party may have. Upon cancellation any amount owed by you for products and services up to and including the date of cancellation will become immediately payable and all services terminate. You will be responsible for costs consequential to suspension or cancellation resulting from your default.
 14. **Does a personal guarantee apply?**
 - 14.1 If you are a director of a company or the trustee of a trust:
 - in exchange for us agreeing to supply products and services and/or grant credit to the company or the trust, you also sign this agreement in your personal capacity, and jointly and severally personally undertake as principal debtors, to pay everything that the company or trust owes us, and to indemnify us against non-payment and/or default; and
 - any personal liability of you as director or trustee will not exclude the company or trust from the liabilities and obligations contained in this agreement.
 15. **What else is agreed?**
 - 15.1 We may outsource (contract out) part of the work required to perform our services, you agree to pay for all amounts due in connection with the same.
 - 15.2 A failure by either party to enforce any of the terms of this agreement will not be deemed to be a waiver of any of the rights or obligations under this agreement.
 - 15.3 Neither party may assign or transfer their rights or obligations under this agreement to any other without our prior written consent.
 - 15.4 If any of these terms are determined to be invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining terms will not be affected.
 - 15.5 This agreement supersedes all prior agreements, representations and warranties. Any instructions we receive from you will be subject to this agreement.
 - 15.6 Documentation related to this agreement may be served on you by email.
 - 15.7 We will notify you of any changes to these terms and post the same on our website. Continued provision of products and services to you will be subject to your signed acceptance of the same. All other variations must be mutually agreed in writing.