



Mailing: PO BOX 5019 Eagle, CO 81631

Location Address: 100 Airport Road Gypsum, CO 81637  
[www.towerpit.com](http://www.towerpit.com)

Phone: 970.524.ROCK (7625)

**EAGLE ROCKS AGGREGATE, INC., D/B/A TOWER PIT**

Office Use Only:  New Application  Updated Application

(Please print clearly)

**CREDIT APPLICATION**

**A. APPLICANT (BUSINESS NAME OR NAME OF INDIVIDUAL IF SOLE PROPRIETOR)**

Name of Business			Phone		
Mailing Address			Fax		
City	State	Zip	Mobile		
Email			Federal Tax ID#/Employer ID#		

**B. PRINCIPALS/OFFICERS**

Title	Name	Address	Social Security #	Phone	Bankruptcy Claims
President					
Vice President					
Secretary/Treasurer					
Other					

\* List the year of any bankruptcy or insolvency by principal/officer or any affiliated corporation, LLC, partnership, or business.

**C. BILLING INFORMATION**

All invoices and statements will be sent to the following email unless otherwise requested.		Are job names required? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Email Address (Required)		Are Purchase Orders Issued? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Sales Tax Exemption#	State	<b>PLEASE ATTACH AN EXEMPTION CERTIFICATE FOR EACH STATE</b>	
Other Billing Instructions			

**D. ABOUT YOUR COMPANY**

Excavator  Municipality  ~~Construction~~ Company  Landscaper  ~~Other~~   
 Type of Entity  LLC  Corporation  Sole Proprietor  Partnership

Builder/Developer  Commercial  (please specify) \_\_\_\_\_

Estimate Monthly Purchases with Tower Pit \$ _____	Surety/ Bonding Company	Capacity	
Credit Limit Request \$ _____			
Date Business Started	No. of Employees	Date of Incorporation	State of Incorporation

**E. REFERENCES**

Type	Name	Address	Phone	Fax	Account#
Bank					
Supplier					
Supplier					
Supplier					

**1. ENTIRE AGREEMENT:** This agreement is between Eagle Rocks Aggregate, Inc. d/b/a Tower Pit and its subsidiaries and other affiliated entities (collectively known as "Seller") and the Applicant named above. By signing this agreement below, Applicant agrees to the following credit terms and conditions. Applicant agrees this credit application is for business purposes only and not for personal, family or household use. Unless otherwise agreed in writing, the terms and conditions of this agreement also apply to any other agreement or document governing or concerning the relationship between the parties, including, but not limited to, invoices, estimates, purchase orders, or any other similar document. All previous understandings, agreements, and communications prior to the date of this agreement, whether express or implied, oral or written, relating to the subject matter of this agreement are fully and completely extinguished and superseded by this agreement, except as supplemented as set forth above. This agreement shall not be altered, amended, modified, or otherwise changed except by a writing duly signed by all the Parties. In the event that any provision of this agreement should be held to be void, voidable, or unenforceable, the remaining portions shall remain in full force and effect. This Agreement may be executed in counterparts and by facsimile or electronic image; each counterpart shall constitute an original.

**2. PAYMENT:** Applicant agrees to pay for material and any other proffered equipment, labor, services, or other items within thirty (30) days of receipt of an invoice. Applicant must notify Seller of billing errors or adjustments in writing within ten (10) days from the invoice date. **Claims not received in writing within the time specified are waived by Applicant.** If Applicant fails to make any payment to Seller when due, the Applicants entire account(s) with Seller shall become immediately due and payable and Seller may suspend further purchases and may terminate credit privileges at its discretion. Applicant agrees that any past due amounts shall be subject to a service charge of 1.5 % per month. Applicant agrees to reimburse Seller all costs of collections incurred by Seller in enforcing the terms of this agreement through the legal process or otherwise (which includes, without limitation, collections of any unpaid or past due amounts), including, but not limited to, any and all attorney's fees, costs, expert witness fees, and expenses incurred by Seller, which right to recovery specifically includes any attorneys' fees, expenses, or costs incurred in pre-litigation, mediation, or appellate matters related to the dispute or controversy. Upon request, Seller shall grant a lien waiver only to the extent payment in good funds is received, and not avoidable as a bankruptcy preference.

**3. GOVERNING LAW AND VENUE:**This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Colorado as now in effect, without regard to principles of conflicts of laws. The parties hereby agree that the exclusive venue for any litigation (including mediation and depositions) between the parties for any matters arising out of or related to this agreement or the materials, services, or labor provided hereunder shall be in a court of competent jurisdiction in Eagle County, Colorado. Seller and Applicant further agree that the aforementioned choice of venue is to be considered mandatory and not permissive in nature, thereby precluding the possibility of litigation in any jurisdiction other than that specified in this section. The parties, to the extent they may legally do so, hereby waive any right each have to assert the doctrine of forum non conveniens. The parties do hereby waive their right to trial by jury for any litigation arising between the parties and any claims relating to debt collection for services, merchandise, supplies or equipment purchased hereunder or hereafter.

**4. SECURITY:**To secure payment and performance of all obligations and indebtedness of Applicant to Seller, Applicant hereby grants to Seller, and its successors and assigns, and related parties (i) a present and continuing first-priority Purchase Money Security Interest in all goods, inventory, equipment, and materials (including, but not limited to, construction-related materials or gravel) which may be sold, consigned, leased, rented, or delivered by Seller, directly or indirectly, to or for the benefit of, Applicant, and all proceeds thereof, including but not limited to insurance proceeds and proceeds from sale, lease, rental, return or repossession of same (the "PMSI Collateral")(ii) a security interest in all existing and subsequently arising accounts and accounts receivable, chattel paper, general intangibles, goods, instruments, equipment, inventory, and supporting obligations and documents of Applicant, whether or not related to the PMSI Collateral. Applicant authorizes Seller to file financing statements describing the collateral and/or security interests along with other notices, and Applicant agrees to take any and all steps to assist Seller in taking any other necessary action to perfect and protect Seller's security interest.

**5. TRUST:**Applicant agrees that all funds owed to or received by Applicant from any source, and which result from the labor, services or material supplied by Seller shall be held in trust for the benefit of Seller. Applicant agrees to promptly pay to Seller all such funds. Upon request, Applicants shall irrevocably assign to Seller its account receivable from anyone to the extent that such is resulting from the labor, services, or materials supplied by Seller.

**6. CERTIFICATION:** The Applicant certifies the following (1) the information provided is true and correct and has been submitted as a material inducement to obtain commercial credit; (2) the undersigned is authorized to execute applications and other documents required to establish commercial credit accounts on behalf of Applicant; (3) Seller is hereby authorized to investigate and verify any information provided and inquire of references or others as to on going credit worthiness and Seller agrees that this Agreement and Applicant's extension of credit are subject to continuous credit review and approval;

(4) Seller may answer questions from others about its credit experience with the Applicant; and (5) it has read, understood, and agreed to all of the TERMS, and agrees to notify Seller in writing via certified mail of any material change in name, ownership, location or corporate status within five (5) days of such change. Applicant is a partnership or sole proprietorship, then Seller is authorized to obtain and use consumer reports on the Applicant or its principals for the sole purpose of evaluating current or obtaining credit worthiness. This agreement shall be binding upon and inure to the benefit of the Parties' and their respective Related Persons' successors and assigns.

Authorized Representative (Signature)

**G. PERSONAL GUARANTY**

Printed Name & Title

Witness

Date

As consideration for the Seller extending credit to the Applicant, the Guarantor(s), jointly and severally hereby personally guarantee the payment of any obligation of the Applicant to the Seller. Therefore, each Guarantor hereby agrees to pay the Seller on demand, without offset, any sum due to the Seller by the Applicant. This Guaranty shall be a continuing and irrevocable guaranty and indemnity for indebtedness of the Applicant. Applicant hereby expressly waives any notice of presentment, demand, dishonor, and protest, non-payment, non-performance or non-observance, or proof, notice, or demand, along with waiving the right to require Seller to proceed against the Applicant. Furthermore, Guarantor consents to and waives notice of any modification, amendment or extension of the terms of the Agreement hereby guaranteed. Guarantor hereby authorizes Seller to obtain and use Consumer Reports from time to time on the Guarantor for the sole purpose of evaluating current and ongoing credit worthiness in connection with the extension of business credit. This Personal Guaranty shall not to exceed five million dollars (\$5,000,000) and will remain in force for ten (10) years from date of last sale. Guarantor may revoke this Personal Guaranty only by providing Seller's Credit Manager written notice via certified mail of its intent to revoke. Revocation shall not relieve Guarantor of obligations incurred prior to receipt of such notice subject to the limit set forth above. Subsequent agreements and credit applications shall not serve to alter, supersede or otherwise modify this Personal Guaranty.

Date

Guarantor 1 (Signature)

Printed Name

Date

Guarantor 2 (Signature)

Printed Name