

EAS Trading Limited trading as High Roads
 PO Box 18023, Glen Innes, Auckland 1743. 566 Ridge Road, Pokeno, Auckland 2472
 Tele: (09) 394 7555
 Email: accounts@highroads.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:Accounts Email:.....

Nature of business:Years in business:.....

Accounts 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:.....

Trade References			
Company	Contact name	Phone number	Account open since

General description of services to be provided : (Please tick)

Coldmix Sand & Aggregates Decorative stone Contract Bagging Rapmix

Requested credit limit :

I warrant to EAS Trading 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.

Signed Print namePosition

Dated this day of 20.....

Office Use Only				
Approved By.....	Date.....	Initial Credit Limit \$.....	Customer No.	PPSR Registered.....

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 **EAS Trading Limited** trading as **High Roads** ("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 - 2.2 Unless your consent is withdrawn in writing, you agree to the disclosure of information: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 "Product(s)" and "service(s)" means and includes without limitation:
 - all goods, technology, items, parts, components, units, materials and applicants and agents (whether provided by us, separate, attached to something or performed work on);
 - technical advice, engineering, manufacture, supply, installation, delivery, maintenance; 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 and out of pocket expenses such as freight. 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 change due to circumstances out of our control.
5. **What happens when we give you a quote?**
 - 5.1 If we give you a quote for products and services:
 - it will be valid for thirty (30) days from the date of issue;
 - 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:
 - a deposit and the balance:
 - o for credit account holders, on or before the 20th day of the month following the date of our invoice for account holders; and
 - o for all others, cash on delivery;
 - interest on any amount you owe after the due date at 2.5% per month or part month;
 - expenses incurred as a result of enforcing any of our rights contained in this agreement including PPSR registration, debt collection and legal fees; and
 - without set-off, deduction or counterclaim.
 - 6.2 We may require progress payments and invoice by payment claims under the Construction Contracts Act 2002.
 - 6.3 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.
 - 6.4 If you will pay for the products and services by credit card, we may require a retention of the value of the products and 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.
 - 6.5 Notwithstanding 6.4, retentions may apply.
 - 6.6 You will be responsible for payment if a third party that you expect to pay you or us fails to pay.
7. **What warranties apply?**
 - 7.1 Manufacturers' and third party warranties where applicable.
 - 7.2 Samples shown to you may not be identical to goods supplied to you.
 - 7.3 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.
 - 7.4 We are not liable for delay or failure to perform our obligations if the cause is beyond our reasonable control.
 - 7.5 Subject to applicable insurance and limitations under 7.1-7.3, if we are deemed liable to you for 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 arises in relation to our products or services?**
 - 8.1 Subject to any applicable warranties, cold mix filled in potholes and products that are exported, supplied on indent, specially ordered, or custom made cannot be returned. Returns may incur a restocking fee of 15% of the value of the returned product.
 - 8.2 If an issue arises relating to our products and services, we will rectify the issue at no added cost, subject to the following:
 - you notifying us within seven (7) days of installation or delivery, whichever applies, unless it relates to driveways and carparks for which you must notify us within three (3) months;
 - you having provided accurate information on which our products and services were based;
 - you having used the products and system in accordance with the manufacturer's/our instructions and the products 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.
 - 8.3 If an issue arises relating to products when they are delivered, you must notify us within forty-eight (48) hours. Non-notification is deemed to be acceptance of the products.
 - 8.4 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.
 - 8.5 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.
 - 8.6 Any products the subject of 8.2-8.5 must not be destroyed or removed until we have inspected the products or required they be returned to us.
9. **When will the products and services be provided?**
 - 9.1 Delays in delivery may result due to third party sourcing, back orders, transportation methods, supplier stock levels and production schedules. Whilst we will use our best reasonable endeavours to provide our products and services on the date and time agreed between you and us, the time and date of provision is an estimate only and not an essential term of our agreement.
 - 9.2 Delivery is complete when we give the products to you or another person/entity who will give the products to you or when we leave the products on your premises. We may partially deliver products listed in one order or invoice without added cost to you. If the parties agree on delivery by instalments and we fail to deliver an instalment, the failure will not give rise to a right of cancellation.
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;
 - necessary resource consents from relevant local authorities have been obtained and you have informed us of any relevant information contained within the same;
 - plans, reports and information 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;
 - utility services, cables and inputs are marked or easily visible and we are advised of the same (unforeseen loss or damage will not be our responsibility);
 - sites are adequately secured to protect the products and our equipment (loss or damage will your 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 Risk and responsibility for the products lies with us until delivery in accordance with 9.2, pick up, installation or when ownership passes in accordance with 11.2, 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 You agree that we hold security interest in all of your present and after acquired property connected with products and services provided to you, and:
 - authorise us to register a financing statement and charge on the Personal Property Securities Register, and provide all information and signatures necessary to effect the same;
 - will not register a financing charge or statement or charge demand in respect of products without our prior written consent;
 - waive your entitlement under s 148 of the Personal Property Securities Act 1999 (PPSA) to receive a copy of a verification statement where we have registered our interest;
 - that both parties contract out of ss 114(1)(a), 133 and 134 of the PPSA;
 - waive your rights as listed under s 107(2) of the PPSA; and
 - to give us fourteen (14) days prior written notice of any proposed change in your name or details such as contact information.
 - 11.4 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. You may use the products only if paid in full and for the purpose for which they were intended and supplied by us.
 - 11.5 You agree that your failure to pay for the goods and services by the due date gives rise to a legal or equitable estate or interest in your land on which the goods and services were carried out and affixed and that the interest entitles us to register a caveat against your land.
12. **What if you want to vary/cancel an order/request?**
 - 12.1 If you wish to vary an order you must notify us within a reasonable time and both parties must agree in writing. Where we have reasonably relied on your original instructions, you will be responsible for payment of the original price of the products and services.
13. **When can a party cancel this agreement?**
 - 13.1 Subject to 12.1 and 13.2-13.5, either party may cancel this agreement at any time by giving seven (7) days prior written notice.
 - 13.2 We have the right by seven (7) 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 If you default we may exercise a lien against any products in our possession.
 - 13.4 You agree that if you default and the default is not remedied within fourteen (14) days, we may enter any premises occupied by you to inspect or retrieve any products and you will provide reasonable access to such premises. We may re-sell any products and credit the net sale proceeds to your account for the invoice value less adjustment for the condition of the products.
 - 13.5 Cancellation under 13.1 or cancellation or suspension under 13.2 will not affect either party's claim for any amount due at the time of cancellation or suspension, damages for any breach of obligations under this agreement and any other legal rights either party may have. Upon cancellation of this agreement any amount owed by you for products and services provided up to and including the date of cancellation will become immediately payable and current orders will terminate.
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 If a dispute arises between the parties either party must notify the other in writing. The parties will firstly endeavour to resolve the dispute by negotiation. If the dispute is not resolved within seven (7) working days then each party will have the right to refer the dispute for mediation or arbitration at any time. The mediator or arbitrator will be appointed by the President of the Institution of Professional Engineers New Zealand Incorporated.
 - 15.3 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.
 - 15.4 Neither party may assign or transfer their rights or obligations under this agreement to any other without our prior written consent.
 - 15.5 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.
 - 15.6 This agreement supersedes all prior agreements, representations and warranties. Any instructions we receive from you and all arrangements between the parties are subject to these terms.
 - 15.7 Documentation related to this agreement may be served on you by email.
 - 15.8 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 or written acceptance of the same. All other variations must be mutually agreed in writing.