

TERMS AND CONDITIONS OF SALE
(Rev. 10/09)

Acceptance by Washington Penn Plastic Co., Inc. ("Seller") of any purchase order or other offer ("Order") to purchase products and services (collectively, the "Products") is expressly conditioned on Buyer's assent to the following terms and conditions (the "Terms and Conditions"), which assent shall be deemed to have been given by Buyer's submission of any such Order:

- 1. OFFER AND ACCEPTANCE.** Only these terms and conditions shall govern Orders. Any terms and conditions included in any Order or other documentation of Buyer (or which are posted on Buyer's website or included in an email transmission, or which are communicated by Buyer orally, in writing, electronically, or through any other medium) which oppose, deviate from or add to these terms and conditions shall be void and unenforceable unless Seller has duly approved it in writing. These terms and conditions shall apply, notwithstanding Seller's knowledge of terms and conditions included in any Order or other documentation of Buyer (or which are posted on Buyer's website or otherwise communicated to Seller) which oppose, deviate from or add to these terms and conditions, and any such other terms and conditions shall not be binding on Seller, whether or not they would materially alter the Order, and Seller hereby objects to them. These terms and conditions may only be modified by a written agreement executed by a duly authorized representative of Seller.
- 2. PRICE, PAYMENT AND CREDIT TERMS.** Unless otherwise agreed to by the parties in writing, Seller accepts Orders subject to delivery when available, at Seller's prices in effect on the shipment date, and terms of payment are net 30 days of invoice date. Seller may revise the payment terms (including requiring payment in advance of delivery) at any time upon notice to Buyer, if Seller has reasonable grounds for insecurity concerning timely payment. If payment is not received by Seller when due, any outstanding amount shall bear interest at the monthly rate of 1.5% (18% per year) or, if less, the highest rate permitted by applicable law, payable on the first day of default and on the first day of every month thereafter until paid in full. Buyer also shall pay to Seller, on demand, all expenses, including reasonable legal fees, incurred by Seller in enforcing any of its rights to payment for the Products purchased by Buyer. Seller may, in its sole and absolute discretion, grant open credit terms to Buyer, in which event Seller may amend, reduce, revoke or otherwise modify such credit terms at any time upon not less than ten (10) days notice to Buyer (or immediately upon notice, if Seller has reasonable grounds for insecurity concerning Buyer's creditworthiness).
- 3. TAXES.** Any tax, excise or governmental charge imposed on the production, sale, use or transportation of, or value added to, any Product which Seller may be required to pay (other than income or gross receipts taxes of Seller) shall be paid by Buyer to Seller in addition to the purchase price. Buyer shall provide Seller, upon request, with completed exemption certificates for any tax from which Buyer claims exemption.
- 4. SHIPMENT, QUANTITY AND DELIVERY.** All shipping information transmitted to Buyer, including shipping and delivery dates, represents only the best estimates of Seller. Seller's certified scale tickets shall determine the quantity of all bulk rail and truck shipments. Seller reserves the right to deliver Products deviating from the specified weight or quantity by up to 3.0%. In the event that Seller encounters delays in obtaining equipment, materials and/or services, the shipping schedule will be extended as reasonably necessary to accommodate such delays. Unless the parties otherwise agree in writing, Products shall be considered delivered by Seller upon acceptance by the carrier at the point of shipment designated by Seller. From the time of such delivery of the Products to the specified delivery point, title to and risk of any loss of, or damage to Products from whatever cause shall pass to Buyer. Upon arrival and placement of the railcar, bulk truck, or other delivery vehicle (the "Equipment") at the delivery point, Buyer will be responsible, at its own risk and expense, for promptly unloading the Products from the Equipment, in a manner that does not damage the Equipment, and for promptly releasing the Equipment empty and in a condition suitable for loading by Seller. Buyer shall make no use whatsoever of such Equipment other than Buyer may use, subject to any demurrage or detention charges, the Equipment for temporary storage of Products at the delivery point only while promptly unloading, and Buyer shall indemnify and hold Seller harmless from any claims, costs, expenses or damages arising from the unloading, movement, or temporary storage or other use of the Equipment prior to its empty return to Seller or the carrier.
- 5. INSPECTION AND CLAIMS.** Buyer shall inspect and test all Products delivered hereunder for damage, defect or shortage upon receipt and before use or incorporation into any manufacturing or other process, and shall notify Seller of any damage, defect, or shortage within ten (10) days of receipt. Buyer assumes all risks for use of non-conforming Products. All claims for any cause whatsoever, whether based in contract, negligence or other tort, strict liability, breach of warranty or otherwise, shall be deemed waived unconditionally and absolutely unless Seller receives written notice of such claim not later than thirty (30) days after delivery, as set forth in paragraph 4 above, of the Products that are the subject of such claim.
- 6. FORCE MAJEURE.** Seller shall not be liable for its failure to perform its obligations under any Order, and Seller shall be excused from any delay in performance, due to acts of God, war, riot, rebellion, embargoes, acts of civil or military authorities, fires, floods, accidents, quarantine restrictions, facility conditions, strikes, lockouts, differences with workers, delays in transportation, equipment failure, shortages of cars, fuel, or labor, or any other circumstance or cause beyond the reasonable control of Seller, whether or not of the kind specifically enumerated herein. In addition, Seller will be so excused in the event that it is unable to acquire from its usual sources, on terms it deems to be reasonable, any material necessary for manufacturing any Products ordered by Buyer hereunder. In the event of any of the aforementioned circumstances, Seller's time of completion shall be appropriately extended. Additionally, Seller will not be obligated to change its supply point for Buyer or to purchase Products in order to perform any Order and Seller may apportion its available Products among itself, its affiliates and all its customers in such equitable manner as it deems fair and reasonable. Quantities of Products consequently not shipped will be deducted from any applicable remaining quantity obligation.
- 7. LIMITED WARRANTY/SELLER LIABILITY.** The warranties described in this paragraph are in lieu of all other warranties. Seller warrants that the Products sold by Seller to Buyer shall, when delivered, conform to Seller's published specifications for the Products or such other specifications that have been agreed to by the parties in writing. SELLER EXPRESSLY LIMITS ITS WARRANTY TO THE TERMS SET FORTH ABOVE AND HEREBY EXCLUDES ALL OTHER WARRANTIES EXPRESS OR IMPLIED, IN PARTICULAR EXCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE, WHETHER OR NOT THAT PURPOSE IS KNOWN TO SELLER. SELLER LIKEWISE LIMITS THE REMEDIES AVAILABLE TO REPLACEMENT OF THE DEFECTIVE PRODUCTS OR REFUND OF THE PURCHASE PRICE PAID THEREFOR, AS SELLER ELECTS. IN NO EVENT SHALL SELLER'S LIABILITY FOR ANY WARRANTY CLAIM EXCEED THE COST OF THE PRODUCTS WHICH ARE THE SUBJECT OF THE CLAIM, REGARDLESS OF WHETHER THE CLAIM IS MADE IN CONTRACT (INCLUDING BREACH OF WARRANTY), TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY, OR OTHERWISE. IN NO EVENT SHALL THIS WARRANTY BE EXPANDED BY ANY ADVICE, EXPERIMENTATION OR OTHER PARTICIPATION WHICH SELLER MAY RENDER IN THE DESIGN DEVELOPMENT OF MATERIALS, TOOLS, PARTS, ETC., FOR BUYER'S USES OR

PRODUCTS, WHETHER RELATED TO FUNCTIONAL OR AESTHETIC PURPOSES. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY LOSS OF INCOME, LOSS OF PROFITS, OR CONSEQUENTIAL, PUNITIVE OR INDIRECT DAMAGES WHATSOEVER.

8. **REMEDIES.** If Buyer fails to pay, when due, any invoice or any other indebtedness to Seller (whether or not under this Agreement), or fails, within two (2) business days of receiving notice of a breach of other obligations hereunder, to remedy such breach, Seller may, in addition to any other remedies, suspend shipments or deliveries, change terms of payment or terminate an Order upon notice to Buyer. Any Order shall immediately terminate at the sole option of Seller without the necessity of written notice should Buyer be declared insolvent, file a petition in bankruptcy, make a general assignment to its creditors, or be dissolved or liquidated.
9. **NOTICES.** Notice by either Seller or Buyer shall be by personal delivery, prepaid mail, express courier service, or facsimile addressed to the other Party at its address in this Agreement, and will be considered given upon receipt when personally delivered, three days following the time it is deposited with the U.S. Postal Service when mailed, or the next business day when sent by express courier service, or on the first business day following facsimile transmission, when faxed with a receipt confirmation.
10. **SEVERABILITY AND WAIVER.** Should any provision hereof be or become illegal or unenforceable, the remaining provisions shall remain in force and be binding upon the parties. Any waiver by a party of the other's breach of any term or condition hereof shall not be construed as or be deemed to be a waiver of any future breach of such term or condition.
11. **ASSIGNMENT.** Neither party may assign its rights or obligations under any Order, whether by operation of law or otherwise, without the express prior written consent of the other party.
12. **GOVERNING LAW AND VENUE.** All Orders will be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania, and the parties hereto agree and consent to the exclusive jurisdiction of the state and federal courts in Pennsylvania.