

PO Box 762, 2833 West Chestnut Street
Washington, PA 15301

CREDIT APPLICATION

Your cooperation in providing the following confidential information will help us to establish your new company account and better serve your future business needs.

Firm Name _____

Parent Company; Owner's or Partner's Name _____

Address _____

City _____ State _____ Zipcode _____

Telephone _____ Fax _____

This Location Since _____ Type of Business _____

Incorporated? Yes No If so, Year _____ and State _____

Are your purchases exempt from sales tax? Yes No **If yes, a copy of the Resale Tax Certificate must accompany this Credit application.**

Do you request the invoices emailed to your accounts payable office? Yes No If yes, please provide the email address. _____

D & B Rated? Yes No Yearly Sales Volume \$ _____

Referred By _____

Bank Reference _____ Account # _____

Address _____ Telephone # _____

City _____ State _____ Zipcode _____

Trade Reference _____ Account # _____

Address _____ Telephone # _____

City _____ State _____ Zipcode _____

Trade Reference _____ Account # _____

Address _____ Telephone# _____

City _____ State _____ Zipcode _____

I HEREBY GRANT PERMISSION FOR YOU TO VERIFY THIS INFORMATION WITH THESE REFERENCES

Signed _____ Print Name _____ Date _____

FOR OFFICE USE ONLY

Date _____ Customer # _____ Credit Line _____ Territory _____ Taxable _____

TERMS AND CONDITIONS OF SALE ON REVERSE

West Penn Wire Terms and Conditions of Sale

I. Agreement

1.1 The following terms and conditions of sale, together with the terms and conditions of any written agreement signed by an authorized representative of West Penn Wire ("**Company**") and of the ordering entity or person ("**Buyer**") covering the subject matter hereof (collectively this "**Agreement**"), shall apply to sales resulting from Company's acceptance of Buyer's order for the products, goods, articles, materials, supplies, components, drawings, data or other property described herein (the "**Products**"). Offers to purchase can be accepted only by an authorized representative of Company and offers to purchase are not effective or binding until approved in writing by such authorized representative. Any different or additional terms and conditions proposed by Buyer in its purchase order or otherwise are hereby rejected by Company and shall not be incorporated into this Agreement. Buyer's assent to the terms and conditions of sale set forth herein shall be conclusively presumed from Buyer's failure to object thereto in writing as well as from Buyer's acceptance of all or part of the Products.

1.2 Where this Agreement is found to be an acknowledgement, if such acknowledgement constitutes an acceptance of an offer, such acceptance is expressly made conditional upon Buyer's assent solely to the terms and conditions hereof, and acceptance of any part of the Products delivered by Company shall be deemed to constitute such assent by Buyer. If this Agreement constitutes an offer, Buyer's acceptance of such offer is expressly limited solely to the terms and conditions hereof.

II. Prices

2.1 Prices are as established by Company from time to time, with shipments to be billed at such prices as in effect on the date of shipment. Such prices are in U.S. dollars unless stated otherwise, and are subject to any price adjustment necessitated by Company's compliance with any act of government, laws or regulations. Any tax, duty, tariff or other governmental charge upon the production, sale, shipment or use of the Products which Company is required to pay or collect from Buyer shall be paid by Buyer to Company unless Buyer has furnished Company with a tax exemption certificate acceptable to the appropriate taxing authority. Any payment by Company of freight charges shall be for the account of Buyer and shall be paid by Buyer with and in addition to the purchase price, unless freight is allowed in accordance with Company's policy.

2.2 Currently an order must be \$750 (\$3,000 for Distributors) or greater for Buyer to be eligible for freight allowance via negotiated overland truck only in the continental United States. An order must be \$5,000 or greater for Buyer to be eligible for freight allowance via negotiated overland truck and boat to Alaska, Hawaii, or Puerto Rico. When freight is allowed the total order must be shipped to a single location on one particular date, and the invoice must be paid in full within thirty (30) days of invoice date or the allowance will not apply. Freight allowance does not apply to shipments by air or other priority service. Nor does it apply to Accessorial Charges (Inside delivery, Call before delivery, Lift gate, Construction site, Limited access, Residential deliveries, Re-consignment, Re-delivery, or High cost service delivery areas). And it does not apply to shipments containing Racks, Cabinet and/or Enclosures. For foreign sales, Company ships prepaid to U.S. port, collect from U.S. port to destination, and foreign shipments under \$3,000 are shipped collect from Company to destination.

III. Payment

3.1 Payment for the Products shall be net thirty (30) days from date of invoice. Buyer using the Quick Pay program will receive a 1.5% discount if payment is received within 15 days from date of invoice. Company may in its discretion make available to Buyer additional prompt payment discounts. All prompt payment discounts shall be allowed on the Products only and shall exclude freight charges.

3.2 Late payments shall bear interest at the rate of 1.5% per month (18% per annum), both before and after judgment until payment in full; provided, however, that in no event shall Company charge interest higher than the maximum rate allowed by applicable law. Buyer shall pay Company for all expenses (including reasonable attorneys' fees) incurred by Company in collecting any amounts due by Buyer to Company.

IV. Terms of Shipment; Acceptance of Products

4.1 The shipment of the Products to Buyer shall be F.O.B. Company's location of shipment, and Company may in its discretion ship from any of its locations. At the time and location of such shipment, Buyer takes title to the Products shipped and assumes all risk of and responsibility for any loss, damage or destruction with respect to such Products. No allowances shall be made for pickups by Buyer or its customers at Company locations. Company shall select what is, in its opinion, the most satisfactory routing for the shipment. Company may ship the Products by commercial carrier in any manner it deems to be commercially reasonable. The Products shall be packed and packaged in accordance with reasonable commercial practices for one-way shipment. If the carrier delivers all material shown on the freight bill, but Buyer subsequently discovers shorted material, any claim must be filed directly with Company within thirty (30) days after delivery. Claims filed later than thirty (30) days after delivery will not be honored. When such shortage is verified by Company, credit will be issued to Buyer's account within ninety (90) days of such verification. Company may in its discretion ship either in lots or in a single shipment.

4.2 Acceptance shall occur, if not before, when Buyer fails to reject in writing within thirty (30) days after delivery of the Products to Buyer. Buyer may rightfully reject only where a reasonable inspection shows that the Products fail to substantially conform to the applicable Product specifications. Buyer waives its right to revoke acceptance. After acceptance, the Products may not be returned to Company without Company's prior written authorization. Returned Products must be full reels, undamaged and in the original unopened package, and saleable. No Products may be returned after the expiration of sixty (60) days from the date of shipment. No cash refunds, trade credit only (to be applied against future purchases).

4.3 Company reserves the right to ship up to 10% of total order on odd length spools.

V. Date of Shipment

5.1 Shipping dates are approximate and are based upon conditions existing upon Company's receipt of Buyer's order. Company will, in good faith, endeavor to ship by the estimated shipping date but shall incur no liability for any delay or any damage arising therefrom.

VI. Cancellation of Order By Buyer

6.1 Orders shall not be subject to cancellation or modification by Buyer either in whole or in part without Company's written consent and then may be subject to payment of a reasonable cancellation or modification charge of at least \$100, that will reimburse Company for applicable costs incurred by virtue of the order (including costs of purchased materials and engineering costs) and provide Company with a reasonable allowance for profit, both in accordance with Company's policy in effect on the date of cancellation or modification. Orders for Special Products (as defined in Section 10.1 below) shall not be subject to cancellation or modification by Buyer under any circumstances.

VII. Force Majeure

7.1 Company shall not be liable for any failure to perform its obligations under this Agreement resulting directly or indirectly from or contributed to by any acts of God, acts of Buyer, embargoes, governmental actions, fires, accidents, floods, delays in transportation, lack of or inability to obtain raw materials, components, labor, fuel or supplies, or other circumstances beyond the reasonable control of Company.

VIII. Disclaimer of Warranties

8.1 **COMPANY MAKES NO WARRANTY WITH RESPECT TO THE PRODUCTS OR OTHERWISE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**

IX. Limitation of Liability

9.1 **IN NO EVENT SHALL COMPANY BE LIABLE (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, INCLUDING NEGLIGENCE) FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES BY WHOMEVER INCURRED OF WHATEVER NATURE, INCLUDING DAMAGES FOR LOST PROFITS, DATA, TIME, REVENUES OR THE LIKE, EVEN IF COMPANY IS ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, IN NO EVENT SHALL COMPANY'S TOTAL LIABILITY (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, INCLUDING NEGLIGENCE) FOR ANY CLAIMS OR DAMAGES ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT OR THE MANUFACTURE, SALE, DELIVERY OR USE OF THE PRODUCTS EXCEED THE PURCHASE PRICE OF THE PRODUCTS GIVING RISE TO SUCH CLAIMS OR DAMAGES. THIS SECTION 9.1 SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY.**

X. Special Products; Patent Indemnity

10.1 "Special Products" are those Products manufactured or furnished by Company in accordance with drawings, samples, or manufacturing specifications designated by Buyer or its customers. Company reserves the right to ship and/or bill 10% more or less than the exact quantity of Special Products ordered by Buyer. All Special Products must be accepted by Buyer within thirty (30) days of manufacture; after thirty (30) days, Company may invoke a storage charge of 1% per month (12% per annum) on their purchase price. Company may retain as its own property any special molds, tools, dies or fixtures utilized in manufacturing Special Products. Buyer shall defend, indemnify and hold harmless Company and its affiliates from and against any and all claims and demands, and related liabilities, damages and expenses (including reasonable attorneys' fees), arising from or related to the design, distribution, manufacture or use of any Special Product, including such claims and demands asserting infringement of any U.S. or foreign patent, trademark, copyright, or other intellectual property right.

XI. Changes in Products

11.1 Company shall have the right in its discretion, without incurring any liability, to discontinue or limit its production or deliveries of any Product and alter the design, materials or construction of any Product.

XII. Governing Law; Venue; Limitation of Actions

12.1 This Agreement shall be governed by the laws of the State of Pennsylvania. Any suit, action, or proceeding against Company concerning this Agreement shall be brought in the courts of the State of Pennsylvania, and Buyer hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts.

XIII. Confidential Information

13.1 Buyer shall not disclose to Company any confidential information which Buyer possesses unless Company has, prior to such disclosure, agreed in writing to accept such information as confidential under clearly defined obligations of confidence. Buyer represents and agrees that all information disclosed to Company by Buyer (except such information as is specifically subject to a confidentiality agreement signed by Company prior to such disclosure) is non-confidential, and that Company is free to use and disclose any or all of such information without accounting to Buyer therefore, notices on Buyer's drawings, proposals, specifications and other documents to the contrary notwithstanding.

XIV. Indemnity

14.1 Buyer shall defend, indemnify and hold harmless Company and its affiliates from and against any and all claims and demands, and related liabilities, damages and expenses (including reasonable attorneys' fees), for or in connection with any property damage or any injury to or illness or death of any person (including loss of income, profits, sales or "down time") arising from or related to the Products, including such claims and demands brought by any employee, agent or subcontractor of Buyer for Buyer's failure to comply with Company's published instructions and specifications concerning the operation, use and maintenance of the Products, except any claim, demand, liability, damage or expense proven to be the result of the negligence of Company and not contributed to by the negligence of Buyer, its agents, employees, officers or directors or other third parties.

XV. General

15.1 All clerical, stenographic, and typing errors are subject to correction.

15.2 This Agreement is not assignable without the prior written consent of Company. Any attempt to assign any of the rights, duties or obligations of this Agreement without such consent shall be void.

15.3 If any provision or provisions of this Agreement, or parts thereof, shall be held to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

15.4 References in this Agreement to "including" shall be deemed to mean "including without limitation"; references in this Agreement to "in Company's/its discretion" shall be deemed to mean "in Company's/its sole discretion"; and references in this Agreement to a "claim" or "claims" shall be deemed to mean such a claim or claims whether or not in the form of a lawsuit. The captions in this Agreement are for ease of reference only and shall not in any way affect the meaning or interpretation of this Agreement.

15.5 Buyer acknowledges that Buyer has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Buyer agrees further that this Agreement is the entire agreement between Company and Buyer concerning the subject matter hereof, and any proposals, negotiations or representations made prior to or contemporaneously with this Agreement, whether verbal or written, are excluded. Any amendment or modification of this Agreement must be in a writing clearly identifying itself as an amendment to this Agreement and signed by Company's authorized representative.