



# PACIFIC CORRUGATED PIPE CO.

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## CREDIT APPLICATION AND MASTER SALES AGREEMENT

Full Business Legal Name:			
Physical Address:			
Billing Address:			
Phone		Email	
How long at current address?		Type of Business Entity: <input type="radio"/> Sole Proprietorship <input type="radio"/> Partnership <input type="radio"/> Corporation <input type="radio"/> Association (nonprofit) <input type="radio"/> Government or Public Agency <input type="radio"/> Other	
How long under current management?			
Principal Business Activity:			
Owners/Officers	Title	Address	Phone
DUNS No.:	Contractor License No. & State:	Is this a certified Disadvantaged Business Entity (DBE)? <input type="radio"/> Yes <input type="radio"/> No	
If there is a parent company, please provide full legal name:			
Purchase Order Required? <input type="radio"/> Yes <input type="radio"/> No	May we email your invoices? <input type="radio"/> Yes <input type="radio"/> No	If yes, please provide email address:	
Accounts Payable (A/P) Contact Name	A/P Contact Phone Number	A/P Contact Email Address	
<p><i>Please feel free to attach Trade References on a separate sheet.</i></p> <p><i>You must provide a valid Resale or Tax Exemption Certificate to exclude sales tax from your invoices.</i></p>			
<p>The information provided by the applicant (hereinafter, "Buyer") in this Credit Application and Master Sales Agreement (hereinafter, "Agreement") is for the purpose of establishing a commercial credit account with W.E. Hall Company, Inc. dba Pacific Corrugated Pipe Company, and its affiliates, subsidiaries, successors, and assigns (hereinafter collectively, "Seller"). Buyer desires to purchase goods and/or services from Seller, and Buyer agrees, in consideration thereof, to be bound by Seller's terms and conditions of sale set forth in this Agreement. The undersigned warrants and represents that he/she is authorized to enter into this Agreement on behalf of the Buyer, and that all representations above are accurate, complete and truthful. By signing below, Buyer acknowledges that it has read, understands, and agrees to Seller's terms and conditions of sale in this Agreement.</p>			
Signature		Date	
Print name		Title	

# TERMS AND CONDITIONS OF SALE

1. **Governing Terms.** Buyer agrees that all purchases made now and in the future from Seller shall be subject to, in accordance with, and strictly governed by the terms and conditions in this Agreement, unless otherwise agreed to in a signed writing by an officer of Seller. All sales are expressly made conditional on Buyer's acceptance of the terms and conditions in this Agreement and Seller objects to any different or additional terms provided by Buyer including in any purchase order, acknowledgment, confirmation, or other writing from Buyer relating to any future sale.
2. **Prices.** Prices quoted or shown on a written quotation contemplate the delivery of all materials within 30 days from the date quoted. Materials not delivered within the 30-day period, regardless of the reason for non-delivery, shall be priced by Seller in accordance with price schedules or pricing practices in effect at the date of shipment. Prices quoted or shown on any proposal or quote contemplate purchase of all line items and purchase of plus or minus 10% of the quantity shown on each line item by Buyer. Should one or more line items not be purchased by Buyer or should the order quantity of any line item vary by more than 10% (plus or minus) of the quantity shown, regardless of the reason, Seller may modify the prices of all line items in accordance with price schedules or pricing practices in effect at the date of shipment. Prices do not include any taxes applicable to the sale, transfer, or transportation of materials unless otherwise specified. All applicable taxes now or hereafter in effect shall be added as an additional cost paid by Buyer.
3. **Payment.** Seller's credit terms for each sale to Buyer are net 30 days from the date of invoice, unless otherwise stated on Seller's invoice. Any dispute with respect to an invoice, statement, charge or credit on Buyer's account, must be received by Seller, in writing, within 10 business days of Buyer's receipt of such invoice, statement, charge or credit, or Buyer waives any such dispute. Seller shall have the sole right to determine the application of payments made by Buyer.
4. **Default.** In consideration of Seller extending credit to Buyer, Buyer promises full and prompt payment of all indebtedness, obligations and liabilities of every kind, present and future, incurred by Buyer for materials purchased from Seller. Buyer's failure to make timely payment of any invoice shall result in Buyer's account being deemed in default, which may result in the account being placed on a COD basis, suspended, or cancelled. In the event of Buyer's default, Seller may (at its option) declare all indebtedness owed by Buyer to Seller immediately due and payable, and Seller may defer, retain or cancel shipments under any order and take immediate possession of materials delivered. A service charge of 18% per annum (1.5% per month) may be assessed on all delinquent invoices. If Buyer's account is referred to an attorney or collection agency to collect on any indebtedness owed to Seller, Buyer agrees to pay upon demand from Seller, all costs of collection, including reasonable attorneys' fees and court costs. The rights and remedies given to Seller herein are cumulative to all other rights and remedies provided by law.
5. **Information Provided to Buyer.** Seller shall not be liable to Buyer for claims of any nature arising out of the furnishing of advice by Seller's agents, employees, or consultants in connection with the use, installation or design of products furnished by Seller. Buyer further acknowledges that statements made in brochures, advertisements, test reports, magazine articles or other sources of information or writings relating to the materials sold are furnished solely for the information of Buyer. Buyer shall make its own evaluation of all information provided. No statement relating to the materials sold, whether or not made or furnished by Seller, shall be deemed a warranty liability that shall be effective to modify the disclaimer of warranties or the limitations of Seller's or representation relating to the materials except as set forth in a writing executed by an officer of Seller.
6. **Takeoffs and Extensions.** If line items and quantities have been established by Seller's review of plans and specifications, such line items and quantities are for Buyer's convenience only and Seller shall not be liable for any errors or omissions. If Seller has extended and footed a proposal, it is for Buyer's convenience only and Seller shall not be liable for any extension or footing errors.
7. **Buyer's Duty to Inspect Materials and Corrections.** Buyer shall examine all materials upon delivery by Seller and prior to installation. Buyer shall accept materials that conform to standard manufacturing variations and tolerances within the industry. Buyer must notify Seller in writing of any nonconforming materials or quantity discrepancies within 5 business days after the delivery of such materials. The written notice from Buyer shall state in detail: (i) all deficiencies claimed to exist in the delivered materials; (ii) the names and addresses of the persons who inspected the materials for Buyer; (iii) all reports prepared by or on behalf of Buyer upon which any claims of deficiency is based; Buyer shall furnish Seller with copies of all such reports at the time written notice of deficiencies is delivered to Seller. Buyer shall permit Seller to promptly inspect any materials claimed to be defective. Failure of Buyer to give notice within the 5-day period in full compliance with the foregoing provisions shall constitute a waiver of claims by Buyer.
8. **Cancellation of Order.** Buyer may not cancel or modify an order without Seller's written consent. A cancellation or modification so authorized by Seller shall be subject to Buyer's payment of all applicable freight and all costs incurred, including but not limited to, submittal preparation, factory/warehouse costs, overhead and profit, and all other costs and fees to be enumerated by Seller.
9. **Jobsite Delivery.** All prices are quoted F.O.B. truck at one location on the jobsite. If Seller delivers a load to more than one location, Buyer will pay for the additional time of truck and driver required to complete delivery based on full truckload and/or truck and trailer load quantities. Additional freight will be charged for extra loads resulting from Buyer's request for delivery of less than a full truckload and/or truck and trailer load. Seller may hold delivery until Seller is able to deliver a capacity load except for the final delivery to the job. Materials will be nested whenever possible. Materials will be delivered only to locations that can be readily reached by a capacity loaded truck and trailer under its own power. Buyer shall unload all materials within one hour after it reaches jobsite. Buyer shall pay standby charges at current rates for excess time.
10. **Risk of Loss.** Risk of loss shall be borne by Buyer from and after the time that materials are loaded in Buyer's trucks for shipment or delivered to a common carrier. If delivery is made by Seller's trucks, risk of loss or damage shall be borne by Seller until materials arrive at delivery site, prior to unloading.
11. **Passage of Title and Security Agreement.** In order to provide security for the payment of the full price of materials furnished hereunder, Buyer grants Seller a first priority purchase money security interest in and to any and all materials sold by Seller to Buyer (and all products and proceeds thereof) until paid in full. Buyer authorizes Seller to file a UCC financing statement to perfect this interest.
12. **Failure During or After Installation.** Materials installed in the ground may be subject to damage and stress arising out of deficiencies in placement and/or compaction of backfill or by operation of construction equipment near or over such installed materials. Seller shall not be liable for any failure of materials during or after installation. Neither Seller's cooperation in investigating any failure of materials or voluntary replacement of any failed materials nor any other action taken by Seller to promote good customer relations shall be deemed a waiver by Seller of the foregoing provisions not an admission that there is any express or implied warranty with respect to the failed materials.
13. **Offsets.** Buyer shall not make any claims of offset except with Seller's prior written consent.
14. **Patents.** Buyer shall make investigation of patent matters as Buyer deems necessary. Seller shall not be liable to Buyer for patent infringement.

15. **DISCLAIMER OF WARRANTIES.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, SELLER HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES OF EVERY TYPE, WHETHER IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WHICH ARE EXCLUDED AND DISCLAIMED IN ALL RESPECTS AND FOR ALL PURPOSES. SELLER MAKES NO REPRESENTATION, WARRANTY, OR PROMISE THAT THE MATERIALS (OR RELATED SERVICES OFFERED BY SELLER) WILL CONFORM TO ANY APPLICABLE LAWS, ORDINANCES, REGULATIONS, CODES OR STANDARDS. THIS DISCLAIMER SHALL IN NO EVENT BE CONSTRUED TO DISCLAIM SUCH WARRANTIES TO A GREATER EXTENT THAN PERMITTED UNDER THE LAWS OF THE STATE OF CALIFORNIA.

16. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY AND EXCEPT IN THE EVENT OF DAMAGES CAUSED BY SELLER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, LIQUIDATED, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR DAMAGES FOR LOSS OF EFFICIENCY OR DELAY TO ANY PROJECT ON WHICH THE MATERIALS ARE USED, ORDERED, OR INTENDED FOR USE) CLAIMED BY BUYER OR ANY THIRD PARTY ARISING FROM, RELATED TO, OR IN CONNECTION WITH THE DESIGN, MANUFACTURE, SALE, TRANSPORTATION, INSTALLATION, USE, OR REPAIR OF THE GOODS SOLD BY BUYER, WHETHER BASED UPON WARRANTY, CONTRACT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER CAUSES OF ACTION. NOTWITHSTANDING THE FOREGOING, BUYER AGREES THAT SELLER'S LIABILITY, IF ANY, SHALL BE EXCLUSIVELY LIMITED TO REPLACEMENT OF ANY NON-CONFORMING GOODS, OR AT SELLER'S OPTION, REFUND OF THE PURCHASE PRICE PAID FOR SUCH NON-CONFORMING GOODS. THIS LIMITATION OF LIABILITY PROVISION SHALL IN NO EVENT BE CONSTRUED TO LIMIT SELLER'S LIABILITY TO A GREATER EXTENT THAN PERMITTED UNDER THE LAWS OF THE STATE OF CALIFORNIA.

17. **Force Majeure.** Seller shall not be liable for delay in delivery (or inability to deliver) due to causes beyond Seller's reasonable control due to acts of God, acts of the Buyer, or of any civil or military authority, fires, strikes, picketing or boycotts, floods, epidemics, quarantine restrictions, war, insurrection or riot, embargoes, disturbances of production or supply with Seller's manufacturer/supplier, trucking or transit shortages, wrecks or delays in transportation, unusually severe weather, or inability to obtain necessary labor, materials or manufacturing facilities due to such causes, and in the event of any such delay the date of delivery shall be extended for a length of time equal to the period of the delay.

18. **Indemnity.** Buyer shall, to the fullest extent permitted by law, indemnify, defend, and save harmless the Seller and its officers, directors, employees and agents, from and against any claim, loss, liability, damages, injuries, economic loss, cost, or expense (including attorney's fees) of any nature whatsoever (hereinafter collectively, "Claims") arising out of or in any way connected with the sale of materials or the parties' performance of this Agreement, except to the extent such Claims arise out of the active negligence or willful misconduct by Seller.

19. **Governing Law and Venue.** Buyer agrees that all issues and disputes relating to this Agreement shall be construed under the laws of the State of California. Buyer further agrees that the exclusive jurisdiction and venue for any legal action brought to enforce any and all disputes relating to this Agreement shall be Orange County, California, unless Seller initiates said legal action to enforce statutory remedies (such as enforcing claims on mechanics lien, stop payment notices, payment bonds, etc.) in connection with a debt incurred by Buyer; in such case, the jurisdiction and legal venue will be determined by the requirements of the law of the state where such statutory remedies are to be enforced.

20. **Severability.** If any term, condition or provision of this Agreement is found to be invalid or unenforceable, such term, condition, or provision shall be severed out and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

21. **Copies and Electronic Signatures.** Buyer agrees that Seller may, at Seller's sole discretion, accept, utilize and rely upon a facsimile copy, electronic copy or photocopy of this Agreement, in lieu of an original document. Buyer acknowledges that, by transmitting a facsimile copy, electronic copy or photocopy of this document to Seller, Buyer agrees to be bound by the terms and conditions contained in this Agreement to the same extent as if an original were transmitted to Seller. Buyer waives any right to object to the use of a copy in place of the original and any right to require Seller to subsequently produce an original.

22. **Complete Agreement.** This Agreement is the complete written expression of the parties' agreement and supersedes any prior agreements between Buyer and Seller. No waiver, alteration or modification by Buyer of any of the provisions hereof shall be binding upon Seller unless specifically assented to in a signed writing by an officer of Seller.

*Equal Credit Opportunity Act (ECOA): The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Division of Credit Practices, 6<sup>th</sup> Street and Pennsylvania Avenue NW, Washington, DC 20580. If Applicant's application for business credit is denied or there is a denial of a request for an increase in business credit, Applicant may request from Seller a written statement of the specific reasons for the denial within 60 days from the date Applicant is notified of Seller's decision.*

*Seller abides by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), 60-741.5(a) and 29 CFR Part 471, Appendix A to Subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex or sexual orientation.*

## CONTINUING PERSONAL GUARANTY

For value received and in order to induce W.E. Hall Company, Inc. dba Pacific Corrugated Pipe Company, and its affiliates, subsidiaries, successors, and assigns (hereinafter collectively, "Seller") to extend credit to Buyer, the undersigned (hereinafter, "Guarantor") unconditionally, absolutely and irrevocably guarantees and promises to pay to Seller any and all indebtedness and perform all obligations owed by Buyer to Seller now existing or arising in the future. Guarantor waives all notices and demands of any kind and hereby agrees to any arrangements or agreements between Seller and Buyer, including without limitation, to a change in the amount of credit extended to Buyer, terms of sale, compromise, extension, increase or alteration of the amount, or terms of any indebtedness owed by the Buyer, and Guarantor agrees the same shall in no way reduce, impair, discharge or release Guarantor's obligations. Guarantor agrees that Seller may enforce this Guaranty against Guarantor and pursue payment from Guarantor, without having to first seek payment from, sue, or exhaust its remedies, against Buyer or any other guarantor. The incorporation, merger, sale, or reorganization of Buyer or Seller shall not terminate or affect Guarantor's obligations which will continue as to credit extended to or by such other entity. This Guaranty is continuing and absolute and shall continue in force until thirty (30) days after written notice of termination is received and receipt is acknowledged in writing by an officer of Seller, except that such termination shall not affect the liability of Guarantor with respect to obligations created or incurred prior to such date, or extensions or renewals of, interest accruing on, or fees, costs, or expenses, including reasonable attorney fees, incurred with respect to, such obligations on or after such date. Guarantor warrants and represents that the information provided is true, complete and correct and Guarantor understands that Seller is relying upon the information provided by Guarantor to determine whether to extend credit to Buyer and in what amount. Guarantor authorizes Seller to obtain and evaluate Guarantor's credit and financial information at any time and from any source, including Guarantor's non-business consumer credit report to further evaluate the creditworthiness of the undersigned as Guarantor in connection with the extension of business credit as contemplated in this Agreement.

<i>Guarantor's Signature</i>	<i>Date</i>
<i>Print name</i>	<i>Title</i>
<i>Social Security #</i>	<i>Phone</i>