

# Packaging Material Direct

**Phone:** 1-800-456-2467 **Email:** customerservice@packagingsuppliesbymail.com **Website:** www.packagingsuppliesbymail.com

**Corporate Headquarters:** 6075 Cochran Rd. Solon, OH 44139

## CREDIT APPLICATION

Legal Co. Name: \_\_\_\_\_ Federal Tax ID: \_\_\_\_\_  
 Billing Address: \_\_\_\_\_ How did you hear about us? Sales Rep (Name):  \_\_\_\_\_  
 Ship to Address: \_\_\_\_\_ Website:  Other:  \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

## Contact Details

Contact Name	Email Address	Receive Invoices	Order Confirmations	Marketing/ Email Updates
Accts Payable:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Purchasing:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sales:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Bank Details

Contact Name & Title: \_\_\_\_\_ Email Address: \_\_\_\_\_ D & B Number: \_\_\_\_\_  
 Bank Reference: \_\_\_\_\_ Account Number: \_\_\_\_\_ Approval Signature  
 (To Contact Bank): \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

## Trade References

Name:	Name:	Name:
Address:	Address:	Address:
Contact:	Contact:	Contact:
Phone:	Phone:	Phone:
Fax:	Fax:	Fax:

THIS CREDIT APPLICATION AND ANY AND ALL PURCHASE ORDERS ARE SUBJECT TO THE WARRANTIES, WARRANTY DISCLAIMERS, TERMS AND CONDITIONS ATTACHED TO THIS CREDIT APPLICATION, AND BUYER AGREES TO BE BOUND THEREBY. NO MODIFICATIONS OR ADDITIONS THERETO SHALL BE BINDING UPON SELLER UNLESS EXPRESSLY CONSENTED TO IN WRITING BY SELLER. ANY CONFLICTING WARRANTIES, TERMS AND CONDITIONS IN THE CREDIT APPLICATION, ANY PURCHASE ORDER, OR ANY OTHER BUYER'S DOCUMENTS ARE SPECIFICALLY REJECTED BY THE SELLER. SELLER'S PROVISION OF CREDIT, ACCEPTANCE OF ANY PURCHASE ORDER AND/OR SALE OF ANY GOODS ARE EXPRESSLY MADE CONDITIONAL ON BUYER'S ASSENT TO THESE TERMS AND CONDITIONS.

**CONTINUE TO LAST PAGE FOR TERM & CONDITIONS. APPLICATION NOT COMPLETE WITHOUT SIGNATURE.**

Packaging Material Direct  
Terms and Conditions

The credit application ("Credit Application") and any and all purchase orders and/or contracts (referred to herein collectively as the "Contract") by and between the purchaser set forth in the Contract (together with its affiliates, successors, and assigns, hereinafter collectively referred to either as "Buyer" or "Purchaser") and Packaging Material Direct, an Ohio corporation (hereinafter sometimes referred to either as "Packaging Material Direct" or "Seller"), are subject to the following terms and conditions ("Terms and Conditions") with respect to the products or goods defined in any Contract (hereinafter referred to as either "products" or "goods"). These Terms and Conditions apply to any and all orders accepted by the Seller and take absolute precedence and prevalence over any and all terms and conditions of the Buyer. Any confirmatory action by Buyer hereunder, or any acceptance by Buyer of goods described or referred to herein shall constitute assent to these Terms and Conditions, regardless of Buyer's acknowledgment hereof.

- 1. Written Purchase Orders:** Buyer may order products pursuant to these Terms and Conditions by delivering to Seller a written purchase order specifying the products being ordered, the quantity, delivery date and delivery address. For such orders, the Buyer and Seller may use email confirmation, separate purchase orders or other applicable documentation that may be negotiated between the Buyer and Seller, however, all such transactions shall be governed by these Terms and Conditions. All purchase orders are subject to acceptance by Seller's authorized representative, and the order shall be effective only when accepted by Seller in writing (which may be communicated by email). No order can be validly accepted orally. All custom or non-standard items, if any (for example, design changes, special packaging and items not cataloged, listed or priced) shall be ordered from Seller by Buyer and supplied to Buyer by Seller only on a non-cancellable and non-returnable basis.
- 2. Delays: Delivery dates are approximate.** Packaging Material Direct will not be liable for any delay in performance of a Contract or delivery of goods, or for any damages suffered by Buyer by reason of delay, when the delay is caused, directly or indirectly, by fires, floods, accidents, riots, acts of God, war, governmental interferences, supplies, transportation delays, or any other cause or causes whatsoever beyond its control. Delay in delivery shall not constitute nor justify Buyer's cancellation of any Contract nor shall it effect or alter any other portion or section of these Terms and Conditions. Acceptance of goods upon delivery shall constitute a waiver by Buyer of any claim for damages on account of non-shipment or delays in delivery or performance. In the event delay is caused by Buyer's failure to furnish necessary information with respect to data and details for Buyer's determination, Packaging Material Direct may extend the date of shipment for a reasonable time in proportion to the period of Buyer's delay. In the event delay in shipment is caused by Buyer or at Buyer's request, Packaging Material Direct may invoice goods ready for shipment and payment shall be made in accordance with the stated payment schedule, including storage charges for the period from completion of the goods or project until shipment is requested by Buyer.
- 3. Shipment, Inspection and Acceptance:** All risk of loss is transferred to Buyer when goods are loaded on carrier at Seller's facility. In the event that Buyer does not specify a method of shipment, Seller shall use its own discretion in determining the method of shipment. The cost of transportation (including, but not limited to, common carrier, airfreight and overnight delivery service) will be borne by Buyer. Buyer shall notify Seller within ten (10) day of any claimed failure of the goods or materials to conform to the specifications or grade and must allow Seller a reasonable opportunity to inspect such goods and materials to enable Seller to verify the alleged nonconformity and, upon such verification, determine whether to issue shipment or transshipment instructions, order a replacement shipment (if practicable), or seek an adjustment with Buyer. Buyer's failure to notify Seller within ten (10) days of any alleged nonconformity of the goods, or any commingling of such goods or materials shall constitute an immediate and irrevocable acceptance of such goods and materials by Buyer and any claim by Buyer with respect to the foregoing is automatically waived. Buyer agrees to accept and pay for, at the agreed price (without adjustment), any shipment which does not vary, whether by overrun, under-run, or otherwise, by more than twenty percent (20%) for custom items; Buyer further agrees that any stock item with a 10% gage and/or length variation will be within acceptable tolerance. In the event Buyer refuses to receive goods or materials delivered hereunder, Seller may exercise any or all of the remedies afforded to Seller by Ohio Revised Code §1302.77 et seq. Seller shall have no obligation

to hold or resell such goods or materials for Buyer's account.

- 4. Returns:** Subject, in all cases, to the provisions of Section 3 of these Terms and Conditions, all returns to Seller of any nonconforming goods by Buyer shall be in writing (which may be communicated by email) and shall include Buyer's purchase order number, Seller's order number, Seller's invoice number, as well as the goods' lot serial numbers, and shall reasonably state the basis for such return. No claim, return or replacement shall be allowed in respect of any goods which have been altered, commingled, misused, neglected, damaged or stored in any manner other than as instructed by Seller that adversely affects it after delivery by Seller. Goods returned for credit may be subject to a twenty percent (20%) restocking charge. All transportation charges for returned goods are the sole responsibility of Buyer. Returned goods are subject to Seller's inspection and will not be considered for acceptance for credit unless they are, (i) in Seller's sole discretion, in "like new" condition, and (ii) returned to Seller within thirty (30) days from the date of shipment.
- 5. Cancellation or Modification:** Buyer cannot modify, terminate, cancel or otherwise alter orders, or defer shipment, after acceptance of the order from Seller without the prior written consent of the Seller, which may be denied, withheld, or conditioned in Seller's sole discretion. Buyer's wrongful rejection of goods, or cancellation or repudiation of any Contract to purchase goods, shall entitle Seller to recover, in addition to any incidental damages caused by Buyer's wrongful rejection, cancellation or repudiation, damages equal to the profit (including reasonable overhead) which Seller would have realized had Buyer fully performed, plus Seller's costs and expenses incurred prior to receipt by Seller of notice of cancellation by Buyer.
- 6. Representations and Warranties of Buyer:** Buyer acknowledges, understands and agrees that Seller will deliver the goods "AS IS" without any warranty or guaranty, express or implied. Buyer represents and warrants that, by placing an order with Seller, it acknowledges that it is not insolvent, as that term is defined in Ohio Revised Code § 1301 (B)(23) of the Uniform Commercial Code. In the event that Buyer becomes insolvent before delivery of goods, it will promptly notify Seller. Failure to promptly notify Seller shall constitute a written reaffirmation of Buyer's solvency at the time of delivery. Seller may, at its option, suspend performance if, in its sole opinion, the credit of Buyer becomes impaired ("Financial Impairment") until such time as Seller has received full payment or satisfactory security for payment for deliveries made and Seller is satisfied as to Buyer's credit for future deliveries. Seller reserves the right, upon written notice to Buyer, to cancel any order or require full or partial payment or adequate assurance of performance from Buyer, such as an irrevocable letter of credit, deposit, advance payment, C.O.D. and/or guaranties of principals and/or affiliates of Buyer without liability to Seller in the event of: (i) Financial Impairment (ii) Buyer's insolvency, (iii) the filing of a voluntary petition in bankruptcy by Buyer, (iv) the filing of an involuntary petition in bankruptcy against Buyer, (v) the appointment of a receiver or trustee for Buyer, or (vi) the execution by Buyer of an assignment for the benefit of creditors. Seller reserves the right to cancel or reduce Buyer's credit at any time for any reason.
- 7. Cancellation:** A Contract cannot be terminated, cancelled or modified, or shipment deferred after acceptance of Buyer's order by Seller, except with Seller's prior written consent and subject to conditions then agreed upon which shall indemnify Seller against liability and expense incurred and commitments made by Seller and which shall provide for a fifteen percent (15%) cancellation fee, profit on work in process and contract value of products or goods completed and ready for shipment. In the event Buyer fails to timely make payment to Seller of any amounts due and owing to Seller (including any applicable surcharge, tax, or freight charge), Seller shall have the right to terminate any Buyer order or any unfulfilled portion thereof, and Seller may terminate any other Contract between Seller and Buyer. Seller shall have the right to employ an attorney to collect the balance due, and Buyer agrees to pay all collection costs incurred by Seller, including its reasonable attorney's fees.
- 8. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY:** EXCEPT AS SPECIFICALLY SET FORTH IN A SEPARATE WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER, SELLER DOES NOT MAKE AND EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND/OR WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED OR OTHER WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE FUNCTIONALITY, PERFORMANCE OR RESULTS OF THE PRODUCTS, THE APPLICATIONS THEREOF, OR ANY COMPONENT THEREOF. SELLER SHALL HAVE NO LIABILITY TO THE BUYER WHATSOEVER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL

DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFITS, LOSS OF CLIENTELE, INTERRUPTION OF BUSINESS, WHETHER CAUSED BY SELLER'S NEGLIGENCE, DELAYS IN SHIPMENTS OR OTHERWISE.

- 9. Indemnification:** Buyer shall indemnify and hold Packaging Material Direct, its shareholders, directors, officers, employees, representatives, successors and assigns harmless from and against any and all liabilities, losses, damages, injuries, costs, expenses, causes of action, claims, assessments and similar matters, including reasonable attorneys' fees, relating to or in any way arising out of (a) the delivery, rejection, possession, use, operation, control or disposition of the goods, any subsequent sale, consumption or use of the goods, or upon a defect in the goods, caused by Buyer, its agents, employees, or customers; or (b) any claim or infringement of patent, trademark, copyright or any other property right, common law or otherwise, in the United States or any other country, or claim of unfair competition or trade consequences from the Buyer's use, possession or sale of goods covered in the Contract. Buyer agrees, at Buyer's sole cost and expense, to promptly defend and continue the defense of any such claim, demand, action or proceeding that may be brought against Seller.
- 10. Taxes:** Buyer shall pay promptly any and all taxes on the goods, including, but not limited to, property, sales and use taxes, whether imposed upon the Buyer or Packaging Material Direct, and until paid, the same will be considered an obligation under the contract.
- 11. Entire Contract; Binding Contract:** These Terms and Conditions, together with any Contract, constitute the entire agreement between the parties, nullifying any prior communications whether written or verbal, and shall be construed in accordance with the substantive and procedural laws of the State of Ohio, including its provisions of the Uniform Commercial Code without giving effect to the conflicts of laws and choice of laws provisions thereof, and specifically excluding all provisions of the 1980 UN Convention on Contracts for International Sales of Goods. Seller reserves the right to correct any and all typographical errors, which may be present in the price or specifications contained within any Contract. The failure of Seller to require the performance of any term of these Terms and Conditions or any Contract or the waiver of any breach under these Terms and Conditions or any Contract shall not prevent a subsequent enforcement of these Terms and Conditions or any Contract nor be deemed a waiver of any subsequent breach. These Terms and Conditions together with any Contract shall be binding upon and inure to the benefit of the Seller and Buyer and, to the extent applicable, their respective heirs, personal representatives, successors and permitted assigns. Seller and Buyer expressly agree that Seller may modify these Terms and Conditions from time to time, and such modifications shall be binding upon the Buyer. In the event of a conflict between these Terms and Conditions and a Contract, these Terms and Conditions shall control.
- 12. Governing Law and Venue:** The laws of the State of Ohio shall govern all transactions regardless of the place of their physical execution or performance. Any dispute regarding the validity, enforceability or interpretation of this Contract, including, but not limited to, any declaratory judgments regarding this Contract, shall be brought only and exclusively in the Court of Common Pleas for Cuyahoga County, Ohio, or in the United States District Court, Northern District of Ohio, Eastern Division, in which that county is located. Buyer waives any objection based on forum non conveniens or any objection to venue of any such action.
- 13. Inspection Fees and Permits:** Buyer is responsible for payment of any and all inspection fees and/or permits required by federal, state, or local authorities.
- 14. Terms of Payment:** Payment for all invoices are due upon receipt until credit has been established in Seller's sole discretion. Once Seller has determined that Buyer's credit is established, term of payment are net thirty (30) days from shipment, unless otherwise specified by Seller. Buyer agrees to pay delinquency charge of one and one half percent (1.5%) per month, or if such rate shall exceed the maximum rate allowed by applicable law, then a delinquency charge calculated at such maximum rate, on the outstanding balances not paid when due, from the date such balances were due until payment with respect thereof is made in full.
- 15. Freight Charges:**

  - a. F.O.B. Solon, Ohio

b. Buyer is responsible for noting, in detail, any obvious or concealed damages, on carrier's consignee delivery report  
Freight insurance is added to freight charges and is the responsibility of the Buyer.

- 16. Credit Terms:** All orders and shipments shall at all times be subject to the approval of Seller's credit department. Seller reserves the right of declining to accept any order or make any shipment whenever, for any reason, there is doubt as to Buyer's financial responsibility and Seller shall not, in such event, be liable for breach or nonperformance of any Contract in whole or in part.
- 17. Credit Impairment:** If, in Seller's opinion, Buyer's credit becomes impaired, Seller may suspend performance until such time as Seller has received full payment for any goods already delivered or in process and is satisfied (in its sole discretion) as to Buyer's credit for future deliveries. If Seller suspends performance and later proceeds with such order, Seller shall be entitled to such extension of time for performance as is necessitated by the suspension.
- 18. Payment Application:** Checks or payments, whether full or partial, received from or for the account of Buyer, regardless of writings, legends, or notation upon such checks or payments, or regardless of other writings, statements, or documents, shall be applied by Seller against any amount owing by Buyer with full reservation of all Seller's rights, without an accord and satisfaction of Buyer's liability.
- 19. Captions:** Captions are used for reference and convenience only and shall not used in the interpretation of the Contract.
- 20. Assignment:** The Buyer's rights and interests in any Contract shall not be assigned nor the Buyer's duties hereunder or thereunder delegated without the express, prior written consent of Packaging Material Direct.
- 21. General Conditions:** No agent, salesman or other party is authorized to bind Seller by any agreement, warranty, statement, promise or understanding not herein expressed. Any notice which is required or permitted under these Terms and Conditions shall be in writing and delivered to the address of the party set forth in the Credit Application. Either party may change address by written notice. The remedies herein reserved by the parties shall be cumulative and additional to any other or further remedies provided in law or at equity which the parties may possess. In addition to the rights and remedies conferred upon Seller by law, Seller shall not be required to proceed with the performance of any order or contract if Buyer is in default in the performance of any Contract with Seller. The waiver, illegality, invalidity or unenforceability of any provision appearing in these Terms and Conditions or any Contract shall not affect the validity of these Terms and Conditions or any Contract as a whole or the validity of any other provisions herein or therein.
- 22. Email:** By providing the above email I authorize Packaging Material Direct to add us to their mailing list and send periodic updates.

Please sign below **ONLY** if you agree to all terms and conditions listed above. Signature must be in writing to be considered valid.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_