

PECKHAM INDUSTRIES, INC.
20 HAARLEM AVENUE, WHITE PLAINS, NY 10603
914-949-2000 / 914-949-2075 (fax)
Website: www.Peckham.com

CREDIT APPLICATION

- | | | |
|--|---|--|
| PECKHAM MATERIALS CORP. <input type="checkbox"/> | PUTNAM MATERIALS CORP. <input type="checkbox"/> | PECKHAM ROAD CORP. <input type="checkbox"/> |
| RECLAMATION, LLC <input type="checkbox"/> | PECKHAM ASPHALT RESALE CORP. <input type="checkbox"/> | BALLAST STAR CORP. <input type="checkbox"/> |
| WINGDALE MATERIALS, LLC <input type="checkbox"/> | DAILEY PRECAST, LLC <input type="checkbox"/> | WILLIAM E. DAILEY, INC. <input type="checkbox"/> |
| | BYRAM CONCRETE & SUPPLY, LLC <input type="checkbox"/> | |

Applicant Name _____ **Phone #** _____ **Fax #** _____

Address (Street and PO Box) _____

City _____ **County** _____ **State** _____ **Zip** _____

Office Headquarters (if different from above) _____

Type of Business (circle one) **Individual** **Sole Proprietorship** **Partnership** **Corporation** **LLC**

Year Business Organized: _____ **Which State:** _____ **Federal I.D. / S.S Number:** _____

Name & Title & Email Address of Officers or Owners: _____

BANK REFERENCE: **Name** **Acct. #** **Phone #** **Fax #**

TRADE REFERENCES: (Must Include Material Suppliers)

Purchase Order Required Yes ___ No ___ **If Yes, Verbal or Hard Copy? Credit Limit Requested:** _____

Applicant hereby authorizes PECKHAM INDUSTRIES, INC. and any investigative agency employed by such to investigate the references and statements herein listed. Signature below authorizes PECKHAM INDUSTRIES, INC. to investigate Applicant's credit and shall constitute permission to obtain release of Applicant's banking records and information. Applicant agrees that if credit is extended, all sales made shall be subject to the attached General Terms & Conditions.

FINANCIAL STATEMENTS: **ATTACHED** _____ **REFUSED** _____ **WILL MAIL** _____

AUTHORIZED SIGNATURE , TITLE & DATE: _____

Each of the undersigned hereby unconditionally guarantees payment for all of the foregoing and acknowledge that the representations and guaranties in this application will be relied upon in extending credit, making sales and providing services on behalf of Applicant. Each of the undersigned further acknowledges that the use of corporate titles shall not limit the personal liability of the signatory and that each of the undersigned is jointly and severally liable hereunder.

Individual Guarantor – Signature & Date

Individual Guarantor – Signature & Date

Print Name

Print Name

Social Security Number

Social Security Number

FOR OFFICE USE ONLY:
APPROVED _____ **DENIED** _____ **DATE** _____

PECKHAM INDUSTRIES, INC.
GENERAL TERMS AND CONDITIONS OF SALE

1. **APPLICABILITY:** All sales of product by the following companies, Peckham Asphalt Resale Corp., Peckham Materials Corp., Ballast Star Corp., Putnam Materials Corp., Wingdale Materials, LLC, Byram Concrete & Supply LLC and William E. Dailey, Inc. (each hereinafter referred to as Peckham) are subject to and expressly conditioned upon these Terms and Conditions. No modification of these Terms and Conditions with respect to any sale shall be binding upon Peckham unless Peckham specifically agrees to such modification in a writing signed by a duly authorized representative of Peckham.
2. **ORDERS:** Acceptance of orders received from a Customer with an open account shall be subject to the Customer's account being in good standing as determined by Peckham's corporate Credit Department. Customers with an open account in good standing and who provide the most advance notice of requested pickup and/or delivery dates and times will receive the highest priority. Peckham agrees to devote its efforts to meet pickup and delivery targets but cannot guarantee Customer requested pickup and/or delivery dates and times will be met.
3. **DELIVERY; ACCEPTANCE:** Unless otherwise agreed in a writing signed by a duly authorized representative of Peckham, all sales shall be FOB truck at Peckham's plants and loading at Peckham's plants shall constitute delivery to Customer, and Customer shall bear all risk of loss or damage during loading and transit. Customer shall (a) inspect and/or sample the product upon receipt according to the applicable authority's specifications and (b) promptly notify Peckham in writing of any claim of shortage or of defective or non-conforming product. Unless Customer delivers a written notice of claim within 5 days after receipt of the product, the product shall conclusively be deemed to conform to these Term and Conditions and to have been irrevocably accepted by Customer.
4. **ENVIRONMENT; SAFETY:** Customer shall comply with all applicable environmental and safety laws and regulations, and shall indemnify Peckham against any loss, liability or expense arising from Customer's failure to comply. Without limiting the foregoing, Customer shall (a) provide safe entrances and exits, jobsite conditions and work environment for Peckham's trucks and personnel, (b) confirm and provide an environmentally safe area to wash down trucks and chutes and dispose of excess material, and (c) insure that, while at Peckham's plants, Customer's personnel, carriers and other agents comply with Peckham's safety rules and instructions. No Peckham employee or representative shall be required to violate safety regulations in the loading, transport or delivery of product or performance of services.
5. **WAITING/EXCESS UNLOADING TIME:** When materials are delivered to a jobsite or plant facility, Customer shall be subject to additional charges for excess waiting time. The allowable waiting time and charges for excess waiting time shall be included in any order confirmation and are otherwise subject to change.
6. **LEFT OVER MATERIAL:** Any material ordered and accepted, or deemed accepted, but not discharged at the jobsite requiring return transport to Peckham's plant cannot be returned for credit and shall be subject to an environmental disposal fee.
7. **PRODUCT LIMITATIONS:** Polyphosphoric acid (PPA) modified performance grade asphalt binders are not to be used in the production of asphalt pavements containing any limestone product as per NYSDOT Engineering Bulletin EB 08-014.
8. **TAXES:** Any use tax, sales tax, excise tax or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority on the transaction between Peckham and Customer shall be paid by Customer in addition to the prices quoted or invoiced by Peckham. If the project is tax exempt, Customer shall provide Peckham, in advance of the time the order is placed, an official and properly executed applicable state tax exemption certificate or other documentation acceptable to the authority imposing the tax, fee or charge.
9. **PAYMENT; COLLECTIONS:** The terms of payment for Customer accounts with approved credit are net 30 days. Unpaid balances past 30 days shall be subject to a service charge at the rate of 12% per annum or, if less, the maximum rate allowed by law. Customer agrees to notify Peckham in writing of any claim or error on any invoice within 14 days after the date of such invoice. If Customer does not so notify Peckham, then the invoice shall conclusively be deemed to be correct and accepted as rendered. Customer agrees to pay any and all costs of collection incurred by Peckham, including reasonable attorney's fees.
10. **WARRANTY:** Peckham warrants that its products meet the specifications confirmed to Customer in Peckham's order confirmation or other writing signed by a duly authorized representative of Peckham. Any modifications initiated by Customer at the jobsite, including but not limited to additional water, release agents and/or additives, will void the warranty. PECKHAM MAKES NO FURTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCT SUPPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
11. **LIMITATION OF LIABILITY:** PECKHAM'S LIABILITY IS LIMITED EXCLUSIVELY TO, AT PECKHAM'S OPTION, REPLACEMENT OF THE PRODUCT OR REFUNDING OF THE PURCHASE PRICE FOR THE PRODUCT. PECKHAM SHALL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, LIABILITY FOR LOSS OF USE, LOSS OF WORK IN PROCESS, DOWN TIME, LOSS OF REVENUE OR PROFITS, OR ANY LIABILITY OF CUSTOMER TO A THIRD PARTY ON ACCOUNT OF SUCH LOSS. IN NO EVENT SHALL PECKHAM BE LIABLE FOR ANY DAMAGES OR CLAIMS MADE THAT EXCEED THE PRICE OF THE PRODUCT SUPPLIED.
12. **LEGAL COMPLIANCE:** Customer shall comply with all applicable laws and regulations and shall obtain any necessary governmental approvals for Customer's purchase, delivery, transport, installation and use of the product.
13. **FORCE MAJEURE:** If and to the extent that Peckham's ability to perform its obligations to Customer is limited, delayed or prevented in whole or in part by any event or condition not reasonably within the control of Peckham, then Peckham shall be excused, discharged and released from such performance, without liability of any kind.
14. **ASSIGNMENT:** Customer may not assign any of its rights or delegate any of its obligations hereunder absent the prior written consent of Peckham.
15. **WAIVER; AMENDMENT:** Either party's failure to strictly enforce any term or condition hereof, or to exercise any right arising hereunder, shall not constitute a waiver of its right thereafter to strictly enforce such terms or conditions or to exercise such rights. No amendment hereof or waiver by either party of any right, power or remedy hereunder shall be effective unless it is expressly set forth in a writing signed by a duly authorized representative of the party. All Peckham's rights and remedies hereunder are cumulative and are in addition to any other rights and remedies it may have at law or in equity.
16. **SEVERABILITY:** The invalidity, illegality or unenforceability of any one or more of the terms hereof shall in no way affect or impair the validity, interpretation or enforceability of any other term hereof.
17. **GOVERNING LAW; ARBITRATION; SUBMISSION TO JURISDICTION:** The contract of which these General Terms and Conditions of Sale are a part shall be governed by the laws of the State of New York, without regard to its principles of conflicts of laws. Any controversy or claim arising out of or in connection with such contract shall be settled by arbitration before a single arbitrator in White Plains, New York, under the auspices, and in accordance with the Commercial Arbitration Rules then in effect, of the American Arbitration Association, and judgment on any award thereon may be entered in any court having jurisdiction. For any litigation ancillary to such arbitration or to compel arbitration, Customer irrevocably submits to the jurisdiction and consents to the venue of the state and federal courts located in the County of Westchester, State of New York, and waives any claim that any such court is an inconvenient forum.
18. **UPDATES:** Peckham reserves the right to modify these Terms and Conditions at any time without prior notice. Customer's order for product following any such modification constitutes Customer's agreement to be bound by these Terms and Conditions as so modified.