

TERMS AND CONDITIONS

“Contract” are these Terms and Conditions for Purchase of Products, inclusive with any written purchase order, contracts, or agreements referencing these Terms and Conditions. “Company” is B&B Specialties, Inc. “Seller” is an individual, corporation or any other entity to supply Products purchased by the Company. “Products” are the goods or materials sold by Seller and purchased by Company under this Contract.

1. **Acceptance:** All Products are supplied pursuant to this Contract. This Contract will become legally enforceable with the issuance of a signed acknowledgment, deliverables of services, or shipment of any portion of the Products covered under this Contract, by Seller. Without written consent of a Company’s authorized representative, no additional or different terms proposed by Seller will be effective to modify the Contract and Seller will be deemed to have accepted the Contract without modifications. Additional or different terms of the Contract are expressly objected and rejected.
2. **Terms:** Seller warrants that the prices set forth in this Contract are complete and no additional charge of any type will be added without Company’s written consent, including charges for packaging, boxing, labeling, crating, shipping, taxes, storage, and insurance. If at any time during the term of this Contract, Company receives a bona fide offer from a third party to supply Products to Company on similar terms at a lower price, Company may provide the details of the offer, and within thirty (15) working days Seller will inform Company whether it will match price for Products purchased. If Seller declines to match price, Company at its sole discretion, may elect to purchase Products from the third party, and any obligation of Company to purchase Products from Seller pursuant to the terms of this Contract will be waived by Seller for any related purchases.
3. **Taxes:** If Seller is required by law to collect sales and use tax from the Company, Seller will provide to Company invoices denoting the amount of tax. If applicable, Seller will accept an exemption certificate from Company, in lieu of sales tax payment. All other taxes imposed upon the Seller will be the responsibility and liability of Seller.
4. **Inspection and Quality Assurance:** All Products are subject to inspection, tests, and audits by Company. Seller agrees to allow Company access into its facilities at all reasonable times for inspection, tests, and audits at no additional cost. Seller warrants that it maintains quality assurance for production and delivery, quality control reports, and certifications relating to the Products. Seller agrees to provide copies of all certificates of conformance and supporting documentation at the time of delivery for no additional cost.
5. **Rejection:** If the Products do not conform with the requirements of this Contract, Company will have the right to reject the Products and at its sole discretion (1) return any or all nonconforming Products to Seller for reimbursement, credit, or replacement; (2) correct, rework, and/or repair the Products with all associated material, labor, outside, and burden costs to be paid by Seller; or (3) hold any or all nonconforming Products, at Seller’s risk and expense, for disposal or correction according to Seller’s instructions. (Seller is responsible for reimbursement or credit to the Company). Company may reduce the quantity of Products Company is obligated to purchase by the quantity of Products returned to Seller. Any Products rejected by Company will be returned, at Seller’s risk and expense, including the cost of packaging, inspection, and transportation. Acceptance by Company will not release Seller’s responsibility from defects, nonconformities, and warranty.
6. **Warranty:** Seller warrants that all Products will be (1) in conformance with all applicable specifications, drawings, instructions, and standards, (2) without defects in design, material and workmanship, (3) as advertised, (4) manufactured/assembled using only new components, and (5) free from all liens, patent, copyright or trademark infringement. These warranties are in addition to all other warranties, express or implied. Company’s approval of Seller’s design, material, process, drawing, and specifications will not relieve Seller of the warranties herein. Limitations on Company’s remedies (or disclaimers of warranties) in documents of Seller will not be effective and are rejected. All warranties will be effective for Company, its customers, and to users of the Products.
7. **Liability:** Seller will indemnify, protect, defend or settle (at Seller’s expense), and hold harmless Indemnitees from and against all Liabilities in any issues related to injury, death, property loss or damage to Company or to others (including Seller, Seller employees, Seller’s suppliers, Company and Company employees) in any relation to (1) the production, delivery, or defect in Products supplied; (2) any act or omission of Seller; or (3) breach of any representation or warranty, whether caused by Seller, Seller employees, or supplier of Seller, whether or not caused or contributed to by the fault or negligence of any of the Indemnitees. These obligations are in addition to Seller’s responsibility to provide insurance.
8. **Insurance:** Seller agrees to maintain active policies for the following: (1) Workers’ Compensation Insurance. Seller’s Workers’ Compensation Insurer or Seller agree to waive rights of subrogation against Company; (2) Employers’ Liability Insurance for Bodily Injury per accident coverage = \$1,000,000.00 per policy; and (3) Commercial General Liability Insurance for bodily injury, personal injury, and property damage coverage = \$2,000,000.00 per occurrence.
9. **Cancellation:** Company will have the right to cancel this Contract, in whole or in part, if the Products are nonconforming, defective, not delivered as scheduled, or if Seller fails to comply with any of the terms and conditions of this Contract.
10. **Payments:** The terms of payment are net 60 days after Company’s receipt of Seller’s valid invoice and the Products. Company may withhold payment until a correct invoice is received and verified. All cash discounts will be computed from the date of receipt by Company of a valid, correct invoice and the Products. Seller warrants that no lien will be filed by Seller against Company or Company’s property.
11. **Nondisclosure:** Prior, during, and after the Contract, Seller will guarantee the confidentiality of any information disclosed by Company and will not disclose any “Confidential” information to any individual other than Seller’s employees toward execution of Contract. Company may terminate Seller’s use of “Confidential” information at any time, for any purpose. Upon notice of termination, Seller will cease use and at Company’s instructions to return, erase, and/or destroy any/all “Confidential” information.
12. **Laws:** Seller will comply with Executive Order 11246, as amended by Executive Order 11375 (Equal Employment Opportunity) the Rehabilitation Act of 1973, the Vietnam Era Veteran’s Readjustment Assistance Act of 1974, and the Americans with Disabilities Act, as amended. Seller warrants that it will comply, where applicable, and without limitation, with all orders, standards, and regulations of the National Highway & Transportation Safety Administration, Federal Aviation Administration, Environmental Protection Administration, Consumer Product Commission, and Occupational Safety & Health Act Administration.
13. **Hazardous Materials:** Seller must guarantee: (1) any chemical substance or mixture delivered to Company pursuant to this Contract is on the Toxic Substance Control Act inventory (2) chemical substances or mixtures delivered will be properly packaged with warning labels, instructions for use, and notices; and (3) acceptance of return on unused toxic or hazardous chemical substances or mixtures delivered to Company pursuant to this Contract.
14. **Property:** All Company property provided to Seller will remain Company’s property, and Seller will maintain property in good condition and repair. Materials or parts furnished by Company to be processed by Seller are consigned to Seller for purposes of processing only. All Company property will be kept insured by Seller in amount equal to replacement cost payable to Company. Seller assumes responsibility for inspecting, testing and approving all of Company’s property prior to any use by Seller.
15. **Shipping:** All shipping, demurrage, storage, insurance, packing and related charges will be paid by Seller. Packing slips, certifications and invoices must identify the purchase order number, release number and part number for each shipment. Seller will mark the Products and packaging as instructed by Company and in accordance with the standards of the Uniform Commercial Code. Seller will utilize expedite delivery charges at its expense to meet the Company’s delivery schedule. Seller will ship all late shipments by priority methods of delivery at its expense.
16. **Delivery:** Must be on the date indicated by Company. If the Contract is identified as a “Blanket” Contract, deliveries are to be made only in quantities and at times specified in releases from Company. Company will have no liability for payment of Products delivered to Company which are in excess of quantities specified in the Contract or in releases and Company may return overshipments to Seller at Seller’s expense for all packing, handling, sorting and transportation charges.
17. **Changes:** Company may make changes in writing to the scope of this Contract, and Seller will continue performance of this Contract as so changed. If any change causes an increase or decrease in the cost, or time required for the performance of Seller’s obligations, an equitable adjustment will be made to the price or delivery schedule modified in writing.

This Contract is governed by the laws of California. Any disputes between the parties that may arise pursuant to this Contract will be heard before an arbitrator, federal, or state court located in California. The Seller acknowledges and agrees that the arbitrator or court will have the jurisdiction to interpret and enforce the provisions hereof and the Seller waives any and all objections to any listed above.