



# Kern Building Materials

6201 District Blvd, Bakersfield, CA 93313

**Main:**  
**Phone:** 661-835-9533  
**Web:** www.KernBuildingMaterials.com

**Credit Department:**  
**Phone:** 509-343-9049  
**Fax:** 509-343-9007  
**E-mail:** Credit@KernBuildingMaterials.com

## ACCOUNT CREDIT APPLICATION

This form must be fully completed prior to the consideration of open account privileges and must be signed by an authorized corporate officer, a partner, or the proprietor. Completion of the application is not a guarantee of open credit account terms. **Include a copy of current financial statement or a copy of most recent federal income tax return.**

<b>Legal Business Name:</b>	<b>d/b/a:</b>			<b>Phone:</b>
Mailing Address:	City:	State:	Zip:	Fax:
Billing Address:	City:	State:	Zip:	Fax:
Email:	Website / URL:			

Individual  Partnership  Limited Liability Company  Corporation

Type of Business:	Years in Business:	Amount of Credit Requested: \$	
Contractor's License #:	Federal Tax ID #:	State Licensed/Registered In:	

**Will your purchases be taxable?** Yes  No  **If no, a copy of your Resale Certificate is required with application** (excludes OR, MT, AK)

Have you or any related entity had an account with **KERN** before?  Yes  No If yes, under what name? \_\_\_\_\_

Have you ever filed bankruptcy? Yes  No  If Yes, filed under what name? \_\_\_\_\_ Filing Number? \_\_\_\_\_

### Accounts Payable Contact Information:

Name:	Title:	Phone:	Email:
Purchase order numbers required? Yes <input type="checkbox"/> No <input type="checkbox"/>		Fax:	

**As applicable, list name(s) and title(s) of Corporate Officers, Partners, or Owners. Equal LLC & partnership members must be listed.**

Name:	Title:	SS#:		
Address:		City:	State:	Zip:
Name:	Title:	SS#:		
Address:		City:	State:	Zip:
Name:	Title:	SS#:		
Address:		City:	State:	Zip:

### TRADE/CREDIT REFERENCES

Name:	Phone:	Fax:
Email Address:	Contact Name:	Account #:
Name:	Phone:	Fax:
Email Address:	Contact Name:	Account #:
Name:	Phone:	Fax:
Email Address:	Contact Name:	Account #:
Name:	Phone:	Fax:
Email Address:	Contact Name:	Account #:

### BANK REFERENCE

Bank Name:	Phone:	Fax:	
Address:	City:	State:	Zip:
Account #(s):	Contact Name:		

**CREDIT RELEASE AUTHORIZATION:** THIS APPLICATION IS GIVEN FOR THE PURPOSE OF OBTAINING CREDIT. **KERN BUILDING MATERIALS** WILL RELY ON THIS INFORMATION AND ITS VERIFICATION TO EXTEND CREDIT TO THE APPLICANT. FURTHER, APPLICANT AUTHORIZES **KERN BUILDING MATERIALS** TO MAKE CREDIT INQUIRIES AND TO VERIFY ANY/ALL INFORMATION DEEMED NECESSARY TO EVALUATE THIS REQUEST, INCLUDING OBTAINING BUSINESS AND/OR PERSONAL CREDIT REPORTS AND CONTACTING APPLICANT'S BANK FOR ACCOUNT INFORMATION. THIS FORM MAY BE REPRODUCED OR PHOTOCOPIED AND A FAXED COPY SHALL BE EFFECTIVE CONSENT AS AN ORIGINAL.

<b>Printed Name:</b>	<b>Signature:</b>	<b>Title:</b>	<b>Date:</b>
<b>Printed Name:</b>	<b>Signature:</b>	<b>Title:</b>	<b>Date:</b>

**TERMS OF SALE AND CREDIT AGREEMENT**

All parties hereby agree that all purchases made are subject to the following terms and conditions, and any terms and conditions stated on any warranty or invoices. For purposes of this agreement, the applicant will be referred to as "customer."

1. Customer agrees that payment for all sales of goods and services will be according to the terms stated on **KERN Building Materials'** invoice for said sale and/or the attached Terms & Conditions of Sale, and customer agrees to be bound by all the terms and conditions contained thereon/therein. No terms or conditions of a purchase order or similar document submitted to **KERN Building Materials** by the customer shall supersede those terms defined on **KERN Building Materials'** invoice and/or Terms & Conditions of Sale unless agreed to in writing by an authorized agent of **KERN Building Materials**.
2. Should customer default in any payment(s), **KERN Building Materials** shall have the right, without notice to customer, to declare all invoice amounts due and payable, and may, at its option, suspend customer's account, place account on a cash basis, and terminate unfilled orders or discontinue deliveries until all past due payments are made and adequate assurance of customer's financial ability to perform all of its obligations to **KERN Building Materials** is received. Credit and terms are granted at the sole discretion of **KERN Building Materials** and may be changed at any time without notice.
3. Customer agrees to pay to **KERN Building Materials**, upon demand, all costs and expenses, including, without limitation, all attorneys' fees and court costs incurred by **KERN Building Materials** in connection with the enforcement or collection of customer's account. All such costs and expenses shall bear interest at the rate of eighteen percent (18%) per annum. This provision shall apply whether or not a lawsuit is commenced in bankruptcy court or on appeal.
4. This agreement shall be governed by the internal laws of the State of Washington. Venue for any action or suit brought against customer by **KERN Building Materials** may be brought in any court located in Spokane County or where the customer resides, at the option of **KERN Building Materials**.
5. Customer warrants that all of the information contained in this application is true, correct and complete to the best of their knowledge and belief, and that the undersigned is an authorized representative of the customer with the authority to enter into contractual agreements.

<b>Printed Name:</b>	<b>Signature:</b>	<b>Title:</b>	<b>Date:</b>
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**GUARANTY**

In consideration for **KERN Building Materials** extending credit to customer / applicant, and as a condition precedent to the approval and acceptance of customer's/applicant's application for credit, the guarantor(s), jointly and severally, unconditionally and personally promise and guarantee the payment of any sum or balance that may accrue to **KERN Building Materials**, its successors, or its assigns.

This guaranty is absolute, unconditional, continuing, direct, and an immediate guaranty of payment, not just of collection. It is not conditioned upon or limited by or in any other way affected by (a) any attempt by **KERN Building Materials** to pursue its rights against customer/applicant; (b) any attempt by **KERN Building Materials** to pursue its rights against any of customer's/applicant's real or personal property; (c) any action taken or not taken by **KERN Building Materials**; (d) the invalidity or unenforceability of any provision of the Terms of Sale and Credit Agreement; or (e) any defense asserted or claimed by customer/applicant with respect to customer's/applicant's obligations, including, but not limited to, failure or lack of consideration, breach of warranty, fraud, payment, accord and satisfaction, statute of frauds, bankruptcy, insolvency, or statute of limitations. The obligations of the guarantor under this guaranty shall not be subject to any counterclaim, set off, reduction, or defense based upon any claim that the guarantor may have against customer/applicant or **KERN Building Materials**.

The guarantor will pay the attorneys' fees and costs, collection fees and commissions (commission amount not to exceed 50% of the amount unpaid), court costs, and any other expenses incurred (whether such fees, costs and expenses are incurred before an action or proceeding is filed, before trial, or after trial) by **KERN Building Materials** or any of its affiliates prior to, during, on appeal from, or after any action, or proceeding for the enforcement of this guaranty agreement, regardless of whether an action or proceeding is commenced. Without limiting the generality of the foregoing, guarantor will pay any attorneys' fees or costs of **KERN Building Materials** or any of its affiliates incurred in connection with any bankruptcy case or proceeding of the guarantor or customer/applicant. Each guarantor waives any and all defenses by reason of any extension of time granted for payment of the obligation by customer, or by taking or releasing any collateral of the customer/applicant.

The incurrence of any one or more of the following events shall constitute an "Event of Default" under this guaranty: (a) the failure of the guarantor to pay any of the guarantor's obligations; (b) the failure of the guarantor or customer/applicant to perform, observe, or comply with any agreement, covenant, or promises made under this guaranty, or under the terms of the Terms of Sale and Credit Agreement; (c) the appearance of any Event of Default under the Terms of Sale and Credit Agreement; (d) the determination in good faith by **KERN Building Materials** that a material adverse change has occurred in the financial condition of customer/applicant or guarantor; (e) the determination in good faith by **KERN Building Materials** that any security for customer's/applicant's obligations is inadequate; (f) the determination in good faith by **KERN Building Materials** that the prospect of payment of any guarantor's obligations is not impaired for any reason; or (g) the death of customer/applicant or any guarantor who is a natural person.

This guaranty binds and inures to the benefit of the parties and their heirs, successors, and assigns. This guaranty agreement shall be governed by the internal laws of the State of Washington, with reference to conflicts of laws.

In the event of default by customer/applicant, and at the election of **KERN Building Materials**, venue for any action or suit brought against customer/applicant by **KERN Building Materials** may be brought in any court located in Spokane County or where the customer resides, at the option of **KERN Building Materials**.

**KERN Building Materials** shall not be required to exhaust any remedy against the customer/applicant prior to proceeding against the guarantor. The guarantor waives any presentment, demand or performance, notice of nonperformance, notice of sale, delivery of goods, nonpayment at maturity, extension granted, protest, notice of protest, notice of dishonor, notice of acceptance of this guarantor and/or the notice of creation of additional indebtedness.

**KERN Building Materials** and customer/applicant hereby agree not to elect a trial by jury of any issue triable by right by jury, and waive trial by jury in any action or proceeding to which **KERN Building Materials** and customer/applicant may be parties, arising out of or in connection with or in any way pertaining to this agreement. It is understood and agreed that this waiver constitutes a waiver of trial by jury of all claims against all parties to such actions or proceedings, including claims against parties who are not parties to this agreement. **KERN Building Materials** is hereby authorized to submit this agreement to any court having jurisdiction over the subject matter of any litigation to serve as conclusive evidence of such waiver of right to trial by jury.

This guaranty imposes significant legal liability upon the guarantor. The undersigned has carefully read the foregoing continuing, absolute, and unconditional guaranty, and fully understands the content thereof.

I hereby consent to the grant of the guaranty in the above Guaranty.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

IN WITNESS WHEREOF, the guarantor has duly executed this guaranty as of the date set forth next to the guarantor's signature.

<b>Owner / Officer Printed Name:</b>	<b>Owner / Officer Signature:</b>	<b>Date:</b>
<b>Owner / Officer Printed Name:</b>	<b>Owner / Officer Signature:</b>	<b>Date:</b>

# TERMS AND CONDITIONS

## CALIFORNIA STATE

### I. TERMS AND CONDITIONS

These Terms and Conditions govern the sale of products by Kern Building Materials. Whoever signs for the order on behalf of the customer represents and warrants to Kern he/she is authorized to do so and that these terms are binding to the customer. These Terms and Conditions, and any Terms and Conditions specified on quotes, order confirmations and/or invoices, as well as the credit agreement between Kern and the customer, if applicable, represent the final and complete agreement of Kern and the customer as to the sale and purchase of products and no other terms or conditions adding to or modifying the same shall be binding upon Kern unless agreed to in writing by an authorized representative of Kern Building Materials.

#### A. Roll Form Products:

##### (i) Stud, Track & Metal Accessory Sections:

- Set-up charge for orders less than 1,000 LF of non-standard parts or lengths: \$75
- Orders under 200 LF of non-standard parts will be manufactured unpunched.
- \$0.50 per piece short length charge for orders with pieces between 30" and 6' in length.
- \$1.25 per piece charge for orders with any material less than 30" in length. No material will be run shorter than 6".

Note: Roll form set-up charges are for each individual size and mil. Different lengths of the same size and mil, on the same order, are combined and if the total exceeds 1,000 lineal feet the set-up charge does not apply.

#### B. Brake Shape and other Custom Shapes; Setup charges for single orders less than \$500 per profile:

- 18 thru 68 mil: \$50 (24 foot maximum length)
- 97 mil: \$125 (24 foot maximum length)
- For shapes over 24 feet in length: Inquire
- All material less than 30" in length will be charged clip pricing; short length fees will not apply.

#### C. Cut charges: \$2.00 charge per single cut or hole will apply per piece for any hand cutting or drilling of material.

#### D. Gypsum products are subject to minimum order quantities.

#### E. Acoustics products are subject to minimum order quantities. Acoustical Tile must be ordered in full cartons; product will not be broken down.

### II. PAYMENT TERMS

- A. Cash at time of shipment (unless credit terms have been pre-approved by Kern).
- B. For approved credit accounts: Net 30 days from date of invoice.
- C. Late payments are subject to late payment charges of 2% per month on the unpaid balance and will be subject to a minimum charge of \$1.00.

### III. STOCKING FEES (WHERE AVAILABLE)

- A. Material stocking, if requested by Customer, will be quoted per project.
- B. Services do not include prevailing wage rates or requirements unless agreed to in writing.

### IV. RETURN POLICY

Kern will accept returns for refund or exchange within 30 days of purchase on stock product only. Returned material is subject to a 25% restocking fee (30% on all stock ceiling products). All merchandise will need to be accompanied by the original packaging, sales receipt or proper identification. Kern shall not be liable for any damages attributable to product abuse, misuse, neglect or any other cause, which is not the fault of Kern.

Buyer shall have the right to inspect the goods upon arrival. Buyer's inspection rights shall expire 24 hours after the arrival of the goods at the delivery destination. A failure to make inspection within that time shall waive notice of any defect which reasonable inspection would have revealed. A rejection of the goods by Buyer shall not be effective unless it is made and written notice thereof is given to Kern within 3 calendar days of delivery.

No allowances will be made for labor, repairs, or alterations performed by the Buyer without the Seller's written consent. ALL CASH SALES ARE FINAL.

#### A. SCAFCO Steel Products

Custom brake shapes and radius products are non-returnable – no credit for overages in length for radius products. Material cut or altered by customer is non-returnable. Custom length accessory items and track are non-returnable. Kern/SCAFCO reserves the right to refuse returns based on quantity. Non-standard steel products and non-standard lengths are non-returnable.

Return of standard steel product is subject to Kern's prior written approval and subject to a restocking charge equal to 25% of the net order value or \$25, whichever is greater. Returns of products with a value less than \$25 (after applying the restocking charge) will not be credited.

#### B. Non-Steel Products

Gypsum board/Drywall, joint treatment, stucco and related accessories, sand products, perishable items and insulation products are not returnable. Returns will not be accepted on opened cartons of ceiling products.

### V. CUSTOM HANDLING CHARGES

- A. Custom packaging, handling or additional labor: \$50 per man-hour (1 hour minimum) or quoted per project.
- B. Special packaging for handling & shipment of custom length flat stock (other than 10', 12' or 100' rolls): \$200

### VI. SHIPPING TERMS FROM MANUFACTURER OR KERN BRANCH LOCATION

- A. If quoted as F.O.B. jobsite, freight is included for individual steel shipments of 45,000 pounds on steel shipments only.
- B. For individual steel shipments less than 45,000 pounds, shipment is F.O.B. shipping point, freight prepaid and billed.
- C. Shipping via Auto-Freight: Customer will be charged freight and packaging/crating/handling charges.
- D. Non-Steel related products such as Sand, Stucco, Plaster, Insulation, Acoustics and Drywall products will incur freight charges on any size shipment unless stated in writing on Kern quote. Please contact your local Kern Branch or Sales Representative for more details.

### VII. DELIVERY CHARGES FROM DELIVERING KERN BRANCH LOCATION

Please contact your delivering branch for prices and terms. **Kern Building Materials will not perform stair stocks of any Drywall Board products.**

### VIII. MATERIAL PRODUCT DAMAGE OR SHORTAGES

Customer must notify Kern within 72 hours after receipt of damaged product or shorted orders. Subject to review photos taken at time of delivery.

### IX. TAXES

Prices do not include federal, state and/or local sales, use, excise or other applicable taxes. Customer is responsible for requesting Kern to collect any taxes.

### X. ORDER CANCELLATION

Cancelled orders for non-standard products or lengths are, at Kern's sole discretion, subject to a cancellation fee of 100% of the net order value. Refer to the Kern price list to determine standard products and lengths.

### XI. ORDER DELAYS AND STORAGE

Standard Stock material not collected within 30 days of order date will be restocked and charged a 15% loss of opportunity fee. Non-stock product ordered and not collected within 30 days of order date will be invoiced at prices in effect at 30 day mark. Material that exceeds 30 days and has been invoiced may be subject to a storage fee; terms provided under Kern's Storage Agreement Contract.

### XII. LATE SHIPMENTS; FORCE MAJEURE

Kern accepts no liability for: (i) failure to deliver within the acknowledged shipment date; or (ii) defaults or delays resulting from any acts or circumstances beyond its reasonable control.