

## USG PURCHASE ORDER - TERMS AND CONDITIONS

All purchase orders issued by USG Corporation, United States Gypsum Company, USG Interiors, LLC or any of their direct or indirect subsidiaries (collectively or individually, "USG") that adopt these terms and conditions are made expressly subject to these terms and conditions.

As used herein, Seller refers to the entity or person to which USG issued a purchase order, and "Agreement" refers to the purchase order issued by USG together with these additional terms and conditions.

1. Specifications. All specifications, drawings and data submitted to Seller by USG are hereby incorporated herein and made a part hereof.

2. Confidentiality. Each party acknowledges that its respective performance of its obligations hereunder may require that it have access to confidential business and proprietary information of the other. Each party agrees on behalf of itself and its officers, directors, employees and agents to use its/their best efforts to prevent either duplication or disclosure of data, plans, specifications, formulae, drawing or any other information whether business or technical, of a confidential nature, which has been furnished directly or in directly, in writing or otherwise to the other.

"Confidential information" shall include such information as would be apparent to a reasonable person, familiar with the disclosing party's business and the industry in which it operates, that such information is of a confidential or proprietary nature and that maintenance of its confidentiality would likely be of commercial value to the disclosing party.

"Confidential information" shall not include information that is in the public domain prior to its disclosure, becomes part of the public domain through no wrongful act of the receiving party, was in the lawful possession of the receiving party prior to its disclosure to the receiving party or was independently developed by the receiving party.

3. Warranty. Seller warrants to USG, USG's customers, and users of any products manufactured by USG incorporating goods provided by Seller pursuant to this Agreement that:

(a) Seller has good title to any and all goods supplied hereunder, and said goods will be free and clear of any and all liens and encumbrances;

(b) Any and all goods supplied hereunder will be of merchantable quality;

(c) Any and all goods supplied hereunder shall be fit for the particular use intended, free from defects, whether patent or latent, in material and workmanship, shall conform to all USG's specifications and requirements communicated to Seller, and shall conform to specifications, drawings, and data provided by Seller;

(d) Seller shall in the performance of its obligations hereunder comply with all applicable federal, state, and local laws and governmental regulations and orders; and

(e) The foregoing warranties shall survive acceptance of the goods by USG and shall be in addition to any additional warranties given to USG by Seller.

4. Title and Risk of Loss. Unless otherwise agreed in writing by Seller and USG, title to the goods and risk of loss or damage, shall pass to USG upon delivery to USG. All goods shall be received by USG subject to its right of inspection and rejection. USG shall be allowed a reasonable time to inspect the goods and to notify Seller of any non-conformance with the Agreement. USG may reject any goods that do not conform to the Agreement. Goods so rejected may be returned to Seller or held by USG for pick-up by Seller, all at Seller's expense.

5. Transportation. No charge will be made to USG for storage or packing unless agreed in writing by USG. The Seller's choice of carrier and the delivery route used must result in lowest possible delivery charge to USG consistent with service and delivery schedule required, except when otherwise specified by USG, and penalties or increased charges due to failure to do so will be charged to Seller. Shipping instructions, if any, are made part of the Agreement.

6. Indemnification. Seller shall defend, indemnify and hold harmless USG and its affiliates, their respective officers, directors, successors, assigns, employees, and agents, and any resellers and users of USG products incorporating the goods herein, of and from any claim, loss, damage (including any incidental or consequential damages) or expense (including reasonable attorney's fees) directly or indirectly arising out of:

(a) Any infringement or claim of infringement of any letters patent or trade secrets by reason of the use or sale of goods purchased hereunder, excepting unpatented staple articles of commerce and goods manufactured in accordance with USG's design;

(b) Injury to, or death of, persons or damage to property arising from any alleged or actual defects in the goods, nonperformance of the goods, breach of any of Seller's warranties, or Seller's failure timely to deliver the goods purchased hereunder;

(c) Any noncompliance or violation of law by Seller as provided in Sections 3(d), 12 or 13; or

(d) Seller's performance or failure to perform under the Agreement. Collectively, the claims in Sections 6(a), (b), (c), and (d) are referred to as the Indemnified Claims.

Seller shall at its own expense, if so requested by USG, defend all Indemnified Claims, provided Seller is duly notified of such Indemnified Claims. If said goods are held to constitute an infringement of any letters patent or trade secrets and use thereof is enjoined, Seller shall, at USG's election, either (1) procure for USG the right to continue using the goods, or (2) replace the same with non-infringing goods, or (3) modify the same so that it becomes non-infringing.

7. Ownership. Data, drawings, specifications or other technical information furnished directly or indirectly, in writing or otherwise, to Seller by USG in connection with the Agreement shall in no event become the property of Seller and shall be used only in fulfilling the obligations imposed by the Agreement and for no other purpose and shall not be duplicated or disclosed to others. Such furnishing of data, drawings, specifications, or technical information shall not be construed as granting any rights whatsoever, express or implied, under any patents or other intellectual property of USG.

8. Price. Seller will give USG the benefit of any price reductions available or in effect at the actual time of shipment.

9. Changes. USG reserves the right at any time to make changes in the following:
- (a) specifications, drawings and data incorporated in this order where the goods to be furnished are to be specially manufactured for USG;
  - (b) methods of shipment or packing;
  - (c) place of delivery; and
  - (d) time of delivery.

If any such change causes an increase or decrease in the cost of or the time required for performance of the Agreement, an equitable adjustment shall be made in the purchase price or delivery schedule, or both. If the parties cannot agree to such price or time adjustment within ten (10) business days (or such other time as may then be agreeable to both parties), of Seller's receipt of USG's request for a change, either party may terminate the Agreement upon five (5) business days prior notice to the other. Any changes, if agreeable to USG, whether initiated by Seller or USG, shall be denominated as a "revision" to the Agreement. Only USG shall issue revisions and, if issued, shall be numbered serially, and each such revision shall be further subject to the Agreement.

10. Cancellation. USG may at any time cancel any purchase order it has issued, in whole or in part, upon one (1) business day's prior notice to Seller. If the purchase order is cancelled by USG for any reason other than for breach of this Agreement by Seller, USG shall be responsible to pay for any goods already shipped at the time of notice of cancellation. Seller must notify USG of any claim resulting from USG's cancellation within ninety (90) days of the effective date of cancellation or such claim shall be waived.

11. Conflict Minerals and Human Trafficking. Prior to the acceptance of any purchase order issued by USG, Seller shall report in writing to USG whether any of the goods to be provided by Seller under the Agreement contain any "conflict minerals" (tantalum, tin, tungsten and gold). If the goods do contain conflict minerals, Seller shall identify the country of origin of any conflict minerals, whether the conflict minerals came from scrap or recycled sources, and whether the conflict minerals came from a "Covered Country," which is Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda and Zambia. If the conflict minerals originate from one or more of the Covered Countries, such countries must not directly or indirectly finance armed groups, and Seller must explain its process for determining and verifying this information. If there are any changes to Seller's supply base for the goods Seller supplies to USG that affect Seller's certification, Seller is required to promptly send an amended certification to USG. USG reserves the right to request any additional information on conflict minerals associated with the good(s) Seller supplies to USG and Seller will make good faith efforts to provide the requested information. In addition, Seller agrees to maintain records reviewable by USG to support its certifications and acknowledges that USG may utilize and disclose the information in this certification. Seller warrants that the goods supplied to USG have been produced in compliance with the laws regarding slavery, child labor, or other human trafficking in the countries where those goods were produced or originated, and that none of the goods were produced using slavery or human trafficking. This warranty applies both to the goods supplied to USG and the materials incorporated into those goods.

12. Compliance with Anti-Bribery and Similar Laws. In connection with Seller's performance under this Agreement, Seller covenants, represents and warrants that (a) it will comply with all applicable anti-bribery and anti-corruption laws and (b) neither Seller nor anyone acting on Seller's behalf, shall directly or indirectly, make or offer to make any payment, or give or offer to give anything of value, to or for the benefit of any government official or agency, any employee or official of an entity in which the government has an ownership interest, or any political party, for the purpose of obtaining or retaining business or a business advantage, or for the purpose of influencing any decision of that official, agency, entity, or party.

13. Compliance with U.S. Anti-Terrorism and Similar Laws. Seller covenants, represents and warrants that (i) Seller is not in violation of any law relating to terrorism or money-laundering, including Executive Order No. 13224 and the U.S. Patriot Act; (the "Anti-Terrorism Law") (ii) Seller is not a Prohibited Person (as defined below); (iii) Seller does not conduct any business or engage in any transaction or dealing with any Prohibited Person, including making or receiving any contribution of funds, goods or services to or for the benefit of any Prohibited Person. "Prohibited Person" means (i) a person that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (ii) a person owned or controlled by, or acting for or on behalf of, any person that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (iii) a person with whom USG is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (iv) a person who commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224, (v) a person that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/t11sdn.pdf> or at any replacement website or at any other official publication of such list, or (vi) a person who is affiliated with a person described in clauses (i) – (v) above. Seller further covenants and represents that Seller does not (A) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 or (B) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law. Seller further covenants and agrees to deliver to USG any certification or other evidence requested from time to time by USG in its sole reasonable discretion, confirming Seller's compliance with this paragraph.

14. Non-Waiver. The failure by either party to pursue any remedy hereunder shall not constitute a waiver on its part to pursue such remedy with respect to the same or similar breach.

15. Entire Agreement. The Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior agreements, understandings, and representations, whether written or oral.

16. Governing Law and Arbitration. The Agreement shall be governed by the laws of the State of Illinois, without regard to its choice of law provisions. Venue shall be proper in the state courts of Cook County or the federal district court for the Northern District of Illinois. Any controversy, claim, or dispute arising out of or in connection with the Agreement shall be settled by final and binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules ("Rules"), and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitration shall be heard by a single arbitrator appointed in accordance with the Rules and shall be conducted in English. The arbitration shall be in Chicago, Illinois.

17. Severability. If any provision of the Agreement shall be held invalid or unenforceable to any extent, the remainder of the Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

18. Relationship of the Parties. The relationship of the parties is solely that of buyer and seller and nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture or employment relationship.

19. Agreement to Govern. Any purchases by USG hereunder shall be governed by the Agreement, and the Agreement shall prevail over any contrary or inconsistent terms contained in any order, estimate, shipment or invoicing document of either party, unless expressly incorporated herein on the face of the Agreement. In the event of any direct conflict between the terms and conditions in this document and terms and conditions of the purchase order issued by USG, the terms and conditions of the purchase order shall apply.

20. Assignment. Seller may not assign the Agreement in whole or in part without the prior written consent of USG.

21. Force Majeure. Performance by either party hereunder shall be excused in the event and for the period of time that such party is unable to perform its obligations because of strikes or other labor difficulties, labor shortage, fire, flood, war, breakdowns, delays in or lack of transportation, governmental priorities or allocation, or any other cause beyond the reasonable control of such party.

22. Notices. Notices shall be sent by a nationally recognized overnight courier service to the addresses specified on the face of the applicable purchase order and shall be effective one day after dispatch.

23. Legal Effect. The parties acknowledge and agree that transmission of the Agreement or any revision thereof by email which contains a typed name of USG and or USG's logo shall satisfy the requirements of both a "writing" and a "signature" for purposes Ill. Rev. Code 2-201.

24. Payment Terms & Early Payment Discount. USG's standard payment terms are Net 60 days from receipt of the invoice or receipt of the goods, whichever is later (the "Payment Date"). USG shall receive an early payment discount of 3% off the total of each invoice, for each invoice that it pays in full (less any amounts disputed in good faith) at least 14 days prior to the Payment Date.

(Rev. May 1, 2020)

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