

USG CEILINGS PLUS, LLC

TERMS AND CONDITIONS

The Buyer agrees to the following terms in connection with any agreement, contract and/or purchase order between Buyer and USG Ceilings Plus, LLC (hereinafter sometimes also referred to as "Seller"):

1. Incorporation of Terms and Conditions: It is agreed that the terms and conditions of this Agreement shall be incorporated into and shall become part of any and all agreements made between the Buyer and Seller and, where terms conflict, those herein shall control.
2. Reliance on Information Provided: Buyer understands that Seller will rely on the information provided in extending credit to Buyer and therefore represents and warrants to Buyer that the information provided is true, correct, and complete. Buyer agrees to notify Seller immediately of any changes with respect to the information provided by Buyer.
3. Authority of Buyer: Buyer, through and/or by its designated Agents who have entered into this Agreement, represents and warrants that Buyer has authority to enter into this agreement.
4. Jurisdiction: Buyer agrees that this agreement and any resulting contract or agreement shall be subject to and interpreted under the laws of the State of California. Buyer expressly consents to personal jurisdiction, and agrees to venue, in the State of California, County of Los Angeles.
5. Payment Terms: Buyer agrees that, regardless of the status of payment thereto, payment for all goods and/or services invoiced by Seller to Buyer shall be due as stated on Seller Sales Order Confirmation. In the event Buyer fails to remit payment as specified, Buyer agrees to pay interest at the rate of one- and one-half percent (1 ½ %) per month, both before and after judgment. In the event Seller is required to undertake any action whatsoever to enforce or construe this Agreement, Buyer further agrees to pay, indemnify, and compensate Seller for all costs of collection including reasonable attorney's fees and court costs.
6. Cancellation Fees: Buyer agrees that there will be a cancellation charge in the event the order is cancelled for any reason. This charge is subject to the time of the cancellation. If engineering work or shop drawings have been started there will be a prorated charge based on the level of completion (up to 35% of the contract value). If material has already been procured, the cancellation fee will include the engineering work or shop drawing charge and a 50% contract value material charge. If fabrication has started the total charge will be between 85%-100% of the contract value, subject to the amount of fabrication completed.
7. Retainage/Back charges: Buyer agrees that no retainage will apply to, or be held from, payments to Seller. Buyer agrees that no back charges will be honored unless authorized in writing by an authorized agent of Seller before such expense is incurred.
8. Taxes: Buyer acknowledges that, unless otherwise noted, prices quoted by the Seller do not include Municipal, State or Federal Sales or Use Taxes, or other tax, license, permits, fee or charges imposed upon or incident to this transaction. Such charges, if imposed, will be added to Seller's billing.
9. Change Orders/Extra Work: Buyer agrees that Seller will be paid reasonable compensation for any extra work ordered by Buyer. Buyer agrees that if the parties fail to reduce extra work orders to writing, Seller will be paid the reasonable value of the extra work according to commercially reasonable rates.
10. Delivery and Shipping: Seller acknowledges that shipping schedules are based on estimates of

production time after receipt of fully approved shop drawings. Unless otherwise expressly set forth in writing by Seller, all goods will be delivered Ex Works (as defined in Incoterms 2010 revision). Title and risk of loss to goods shall transfer to Buyer when the goods are tendered to the Buyer or the carrier in accordance with the applicable delivery terms.

11. Shipping Instructions/Charges: Seller reserves the right to ship in the most convenient way unless otherwise agreed between Buyer and Seller in writing. Buyer agrees that all charges associated with freight will be the responsibility of the Buyer. All unloading shall be done by Buyer and Buyer agrees to pay a reasonable storage fee if goods are stored by Seller after they are ready for delivery.
12. Assignment of Rights: As security for all extensions of credit Buyer hereby assigns to Seller any and all contract, mechanic's lien, payment bond, stop notice, trust fund, and/or any other legal rights for unpaid balances arising from the goods supplied by Seller. As additional security for Buyer's payment and indemnity obligations under this Agreement, Buyer hereby grants to Seller a security interest in all of Buyer's equipment, inventory, accounts, contract rights, receivables, goods, and assets.
13. Information/Documentation and Project Information: Upon request by the Seller, the Buyer agrees to promptly provide the Seller with accurate and complete information requested regarding the construction project for which Seller's goods are ordered. Buyer authorizes and grants Seller, its agents and/or attorneys, permission to converse, correspond, notify, and/or otherwise communicate with any party for any reason, including, but not limited to, securing, confirming, and/or otherwise verifying the above-mentioned project information.
14. Limitations of Claims/No Damages for Delay: Every reasonable effort will be made to maintain schedules, but Buyer hereby agrees that Seller will not be liable for any damages or claims of delay in supply of any goods from any cause.
15. Notice of Claim/Waiver: Buyer shall make a careful inspection of the goods purchased at the time of delivery. Buyer's failure to give written notice of any type of claim within (5) five days from the date of delivery shall constitute an unqualified acceptance of the goods and a waiver of all claims with respect thereto. Upon the giving of any notice that the goods are defective, Buyer must retain the goods intact together with any containers in which the goods were delivered to enable Seller or Seller's agent to have a reasonable opportunity to inspect the goods. Seller will not be liable for damages, and back charges will not be accepted, without prior notification, an opportunity to inspect and repair/replace, and approval in writing by Seller. Buyer's exclusive remedy and Seller's limit of liability resulting from defective goods shall be for the purchase price of the particular delivery and goods. In no event shall Buyer be entitled to, or Seller be liable for, any damage due to delay of any type, nor profit of any description, including, but not limited to profit on contemplated use, nor consequential, special or punitive damages.
16. Returned Goods: No goods may be returned without Seller's prior authorization and written consent and, where the return is authorized by Seller, freight and applicable restocking charges shall be the responsibility of the Buyer.
17. Limitation of Damages and Exclusion of Warranties: EXCEPT AS EXPRESSLY STATED HEREIN, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, THAT THE GOODS ARE FIT FOR ANY INTENDED PURPOSE OR THAT THE GOODS ARE MERCHANTABLE. EXCEPT AS EXPRESSLY STATED HEREIN, THE GOODS ARE SOLD TO BUYER IN THEIR "AS-IS", "WHERE-IS" AND "WITH ALL FAULTS" CONDITION.

EXCLUSION OF BUYER'S RIGHT TO RECOVER CONSEQUENTIAL OR INCIDENTAL DAMAGES: SELLER SHALL NOT BE LIABLE TO BUYER FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, LOST PROFITS, BUSINESS INTERRUPTION, COST OF ACQUISITION OF REPLACEMENT GOODS). BUYER EXPRESSLY ACKNOWLEDGES THAT BUYER HAS BEEN ADVISED THAT IT COULD SUFFER CONSEQUENTIAL OR INCIDENTAL DAMAGES AND THAT BUYER KNOWINGLY WAIVES THE RIGHT TO SEEK THE RECOVERY OF SUCH DAMAGES FROM SELLER.

Indemnification: Buyer shall indemnify, defend, and hold harmless Seller, its agents, and its employees, from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees, alleging or relating to bodily injury, death, or property damage caused by or alleged to be caused by any negligent or intentional act or omission of Buyer, its subcontractors, employees, or agents.

Applicants:

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Its (title): _____

Its (title): _____

Date: _____

Date: _____