

Conditions of Supply

Acknowledgement of receipt or fulfilment of a Purchase Order by the Supplier will be deemed to be the Supplier's acceptance of these Conditions of Supply.

1. Definitions and Interpretation

- 1.1 "USG Boral" means the USG Boral Group Member specified on the face of the Purchase Order.
- 1.2 "USG Boral Group" means USG Boral Building Products Pte Limited (Reg No. 201401466N) and each of its related bodies corporate, subsidiary and Affiliates and "USG Boral Group Member" means any one of those entities.
- 1.3 "Confidential Information" means any information relating to the business of the USG Boral Group that is not in the public domain.
- 1.4 "Conditions of Supply" means these conditions of supply.
- 1.5 "Contract" means these Conditions of Supply, the Purchase Order, any Procurement Agreement, specifications and/or any other document attached to or incorporated by reference in the Purchase Order, these Conditions of Supply, or any applicable Procurement Agreement.
- 1.6 "Delivery Point" means the place for delivery specified on the Purchase Order (Delivery Point may vary on a case-by-case basis and the delivery terms should match the corresponding provision relating to the transfer of title and risk in the Goods and insurance as applicable).
- 1.7 "Goods" means the goods identified in the Purchase Order.
- 1.8 "Price" means the price set out in the Purchase Order which is exclusive of all applicable statutory taxes (unless otherwise stated), but inclusive of all other costs and charges.
- 1.9 "Procurement Agreement" means any procurement agreement or supply agreement prepared by the USG Boral Group, and executed by a USG Boral Group Member and the Supplier in connection with supply to the USG Boral Group by the Supplier.
- 1.10 "Purchase Order" means the order issued by USG Boral to the Supplier for the supply of the Goods and/or Services.
- 1.11 "Services" means the services identified in the Purchase Order.
- 1.12 "Supplier" means the supplier named on the face of the Purchase Order or, if no supplier is named, the supplier supplying the Goods and/or Services.
- 1.13 Headings are for reference only and must not be used in the interpretation of the Contract.

2. Supply and Payment

- 2.1 USG Boral will pay the Supplier the Price for accepted Goods and/or Services per the payment terms agreed within the Contract.
- 2.2 The Supplier must in supplying the Goods or performing the Services comply with and ensure all the Supplier's employees, agents and sub-contractors are aware of and comply with:
 - (a) all applicable laws, regulations and lawful directions or orders given by a USG Boral representative; and
 - (b) all applicable USG Boral site standards, policies and procedures; and
- 2.3 The Supplier must in supplying the Goods or performing the Services ensure that any of the Supplier's employees, agents and sub-contractor's entering USG Boral's premises are appropriately skilled and qualified for the safe performance of the Services.

3. Contract

- 3.1 The Contract will prevail over all other communications and negotiations (whether oral or written) between the Supplier and USG Boral in relation to the Goods and/or Services and over the terms of any other documents provided to USG Boral by the Supplier (such as delivery dockets, invoices, packing slips or other confirmations), unless otherwise agreed in writing by an authorised officer of USG Boral.
- 3.2 A valid Purchase Order number must be quoted by the Supplier on all documentation relating to a supply of Goods and/or performance of Services.
- 3.3 If there is any conflict, ambiguity or inconsistency between the documents comprising the Contract, the following order of precedence shall prevail: Procurement Agreement, Purchase Order, Conditions of Supply.
- 3.4 The Supplier must not, without the prior written approval of USG Boral, assign, subcontract, encumber or transfer any of its rights or obligations under the Contract. Any such approval will not relieve the Supplier of its obligations under the Contract.
- 3.5 The benefit of any obligation, warranty or indemnity given by the Supplier in the Contract will extend to each USG Boral Group Member.

4. Applicable Taxes on Goods and Services

- 4.1 If the Supplier becomes liable for any applicable statutory tax for any supply made under the Contract, the Supplier may add such taxes to the amount otherwise payable under the Contract and will issue a tax invoice to USG Boral as a precondition for being paid such tax. The Supplier will pass onto USG Boral the benefits of any abolition or reduction in prices due to an amendment to the applicable tax laws in the relevant jurisdiction.
- 4.2 The Supplier acknowledges that if supplies are to be made under a recipient created tax invoice then a recipient created tax invoice agreement between the Supplier and USG Boral is required.

5. Delivery, Risk and Title

- 5.1 The Supplier must deliver the Goods to the Delivery Point by the delivery date provided in the Purchase Order or the Contract.
- 5.2 Packages must be marked with the Purchase Order number, destination, contents, date and weight of each package.
- 5.3 The Supplier must perform the Services by the date specified in the Purchase Order or the Contract.
- 5.4 Property, risk, title and insurance risk in the Goods will pass to USG Boral upon delivery to, and acceptance of, the Goods by USG Boral at the Delivery Point and should be consistent with the Delivery Terms agreed in the Contract (FOB, CIF, CFR, DDP or other INCOTERMS or local delivery terms).
- 5.5 The Supplier must insure the Goods against all risk of loss and damage for the full replacement value until delivery to and acceptance of the Goods by USG Boral at the Delivery Point.
- 5.6 The Supplier must take out workers compensation insurance as required by law.

6. Warranties

- 6.1 The Supplier warrants:
 - (a) from the time the Goods are delivered to the Delivery Point, USG Boral will be entitled to clear title to the Goods, free from any liens, charges, encumbrances and any right or claim of a third party, and to quiet possession of the Goods;
 - (b) the Goods will be free from defects, and be new and of merchantable quality;
 - (c) the Goods and/or Services will match any description in the Contract, any relevant specifications and any samples provided by the Supplier and shall comply with the provisions of any relevant legislation, industry standards;
 - (d) the Goods and/or Services will be fit for the purpose for which Goods are being supplied, and for any other purpose which USG Boral makes known to the Supplier; and
 - (e) the Goods and/or Services will comply with any other warranties or guarantees contained in the Contract or ordinarily supplied by the Supplier and/or the manufacturer of the Goods and/or Services;
- 6.2 The Supplier warrants that it has all intellectual property rights (including, without limitation, any patents, trade marks and copyrights) necessary to supply the Goods and/or Services in accordance with the Contract
- 6.3 Goods or raw materials purchased pursuant to the Contract shall be free of asbestos content. The Supplier acknowledges that USG Boral also has the right to test (including 3rd party testing) for asbestos or other contaminants such as trace metals, silica, free sulfur, radioactivity and hazardous organic substances prior to the Supply and at predetermined intervals. Supplier warrants to work with USG Boral to take necessary steps including returning the Goods/raw materials to the Supplier which contain asbestos or other contaminants.
7. **Indemnities**
- 7.1 The Supplier shall indemnify each USG Boral Group Member for any and all losses, actions, costs, damages liabilities and claims whatsoever, arising directly or indirectly out of or in connection with the Goods and/or Services or the Contract, including as a consequence of any claim by a third party that it has a right to any intellectual property in the Goods or that the Goods or Services infringe their intellectual property rights.
8. **Defective Goods**
- 8.1 If USG Boral discovers that the Goods and/or Services do not comply with any warranty given under clause 6, or are otherwise defective or unacceptable to USG Boral, USG Boral may (at its option):
 - (a) have the defect(s) rectified and the cost to the USG Boral Group of so doing will be a debt due from the Supplier to USG Boral;
 - (b) request the Supplier to rectify any defect(s) at the Supplier's expense;
 - (c) request the Supplier to replace the Goods or re-perform the Services at the Supplier's expense;
 - (d) reject the Goods, in which case the Supplier must arrange to collect the Goods immediately at the Supplier's expense; and
 - (e) will negotiate a mutually agreeable means of Goods disposal between the Supplier and USG Boral
- 8.2 Nothing in this clause limits or excludes any other rights or remedies available to the USG Boral Group, whether provided elsewhere in the Contract or provided by law (and including in relation to defects which are discovered or become apparent after the expiry of any warranty period).
9. **Confidentiality**
- The Supplier must not, and must ensure that its subcontractors, employees and agents do not without prior written approval, disclose any information about the Contract or any Confidential Information.
10. **Code of Conduct**

The Supplier agrees that, in performing its duties under the Contract, it will comply with Supplier Code of Conduct ("Supplier Code") a copy of which is available at https://www.usgboral.com/content/dam/USGBoral/Malaysia/Website/documents/english/Supplier_Code_of_Conduct_EN.pdf], new Code of Conduct (Code) and all laws applicable to it, and acknowledges that in no event shall USG Boral be obligated under the Contract to take any action that it believes, in good faith, would cause it to be in violation of the Supplier Code, Code and any laws, regulations, rules, decrees or directives applicable to it.

11. Miscellaneous

- 11.1 No waiver by USG Boral of a breach of the Contract by the Supplier will constitute a waiver for any subsequent or continuing breach by the Supplier.
- 11.2 The law of the Contract will be the law of the State of the Delivery Point of the Goods or performance of the Services, and the parties submit to the jurisdiction of the courts of that State.