

## Terms & Conditions

*In these Terms and Conditions “UBG” means United Building Group WA, and its “related bodies corporate”, as that phrase is defined in the Corporations Act 2001 (Cth), “Customer” means the customer to whom the product and or services is provided, and “Products and or Services” means all goods and/or services (including delivery and other services) quoted for supply and or install by United Building Group WA to the Customer.*

**1. Orders:** *United Building Group WA may accept or reject any order for Products and or Services. Acceptance of an order may be in whole or in part, by delivery of the relevant Products and or Services or in such other manner communicated by United Building Group WA to the Customer, including where the Products and or Services are backordered. Where the order value is less than \$200.00 (inclusive of GST), United Building Group WA may apply a handling fee of \$100.00 (inclusive of GST). Notwithstanding that acceptance of an order has been communicated to the Customer, United Building Group WA may in its complete discretion refuse to supply the Products and or Services (or such part of the Products and or Services) at any time. Without limiting any other provision of these Terms, United Building Group WA is not liable for any loss or claim suffered by the Customer as a consequence of United Building Group WA taking such action.*

**2. Delivery:** *Unless otherwise agreed, United Building Group WA will arrange for the delivery of the Products and or Services to the Customer. Risk of loss passes to the Customer on the earliest to occur of collection of the Products and or Services by the Customer from United Building Group WA specified location; delivery of the Products and or Services to the Customer or third-party site designated by the Customer; or delivery of the Products and or Services by United Building Group WA to a carrier for the purpose of delivering the Products and or Services to the Customer or third-party site. Delivery of Products and or Services to the Customer will be to a single site, unless otherwise agreed in writing by United Building Group WA and the Customer. Requests for proof of delivery may only be made within 30 days of the invoice date. If a request is not made within this time, Products and or Services are deemed delivered.*

**3. Pricing:** *Prices for Products and or Services are those quoted by United Building Group WA in writing and are open for the period of time specified in the quotation or 30 days, whichever is the lesser. Otherwise, the prices for Products and or Services will be as set out in United Building Group WA’ then current price list. United Building Group WA may charge delivery fees and storage fees for Products and or Services.*

**4. Payment:** *Unless the Customer has already established a credit account with United Building Group WA than the Customer must pay for all Products and or Services supplied by United Building Group WA upon completion of the Services provided and upon delivery of Products and or Services provided. The Customer may not withhold, set-off or otherwise resist payment on any basis. Payment is to be by direct Electronic Funds Transfer or Cash on Delivery. Any late payments will incur a late payment fee of 10% of the contract value.*

**5. Interest:** *United Building Group WA is entitled to charge the Customer interest on amounts not paid within the specified credit period in an amount equal to 2.5% of the amount outstanding, calculated monthly from the invoice date until payment of the debt.*

**6. Discounts:** *In addition to all other rights of United Building Group WA, if the Customer is in breach of any of its obligations under the Contract, any discounts, including settlement discounts, rebates or other economic benefits provided to the Customer by United Building Group WA are automatically revoked and the prices for Products and or Services will be adjusted upwards accordingly.*

**7. GST:** *Each amount payable by the Customer under these Terms in respect of a Taxable Supply by United Building Group WA is a GST exclusive amount and the Customer must, in addition to that amount and at the same time, pay the GST payable in respect of that supply. "Taxable Supply" and "GST" have the meanings set out in the A New Tax System (Goods and Services) Act 1999 (Cth).*

**8. Withdrawal or Variation of Credit:** *United Building Group WA may, at any time, without the need to provide a reason and without any obligation on United Building Group WA to notify the Customer, increase, decrease or withdraw any credit facilities granted to the Customer.*

**9. Ownership:** *(a) Title to and ownership of the Products and or Services do not pass until the Customer and all Related Bodies Corporate of the Customer have paid all moneys owing to United Building Group WA on any account in full. (b) Until payment of all such moneys, the Customer holds the Products and or Services as fiduciary bailee and agent for United Building Group WA and must keep the Products and or Services physically separate from all other goods of the Customer, and clearly identified as owned by United Building Group WA. (c) If an Event of Default occurs, then without prejudice to United Building Group WA' other rights, United Building Group WA may on providing reasonable notice to the Customer, enter any premises occupied by the Customer or any other place where the Products and or Services may be, and recover possession of them. If the Products and or Services are on a third-party site, the Customer must procure access rights for United Building Group WA from the controller of the third-party site such that United Building Group WA may enter onto the site and recover and retake possession of them on reasonable notice. (d) If the Customer sells any of the Products and or Services while money is owed to United Building Group WA, the Customer holds the proceeds on trust for United Building Group WA. Such proceeds shall be deemed to equal in dollar terms such corresponding part of the amount owed by the Customer to United Building Group WA at the time of receipt. (e) If the Customer uses the Products and or Services in some manufacturing or construction process of its own or of some third party, then the Customer shall hold such part of the proceeds of such manufacturing or construction process as relates to such Products and or Services in trust for United Building Group WA. Such proceeds shall be deemed to equal in dollar terms the corresponding amount owing by the Customer to United Building Group WA at the time of receipt. (f) Until payment of all moneys owing on any account to United Building Group WA, any proceeds referred to above received by the Customer must be held in a separate account and not mixed with any other funds. (g) The rights of United Building Group WA under this clause 9 do not limit or exclude any other rights of United Building Group WA against the Customer.*

**10. Charge over Customer's Property:** *As security for payment of all moneys payable to United Building Group WA by the Customer, the Customer charges in favour of United Building Group WA the whole of the Customer's undertaking, property, and assets (including, without limitation, all of the Customer's interests both legal and beneficial in freehold and leasehold land) both current and later acquired. The Customer irrevocably appoints each Officer as its attorney to do all things necessary to register each such charge.*

**11. Security Interests:** (a) Terms that are defined in the Personal Property Securities Act 2009 (Cth) (“PPSA”) have the same meaning in this clause. (b) The Customer agrees and acknowledges that, for the purposes of the PPSA, United Building Group WA has a security interest in the Products and or Services and in any right in relation to or derived from the Products and or Services and such other undertaking, property, and assets of the Customer. (c) United Building Group WA may register its security interests under clauses 9, 10 and 11. (d) The Customer waives the right to receive a verification statement under the PPSA. (e) The Customer agrees that, if Chapter 4 of the PPSA applies to the enforcement of United Building Group WA’ security interests, the following provisions of the PPSA will not apply to that enforcement: section 95, to the extent that it requires United Building Group WA to give a notice to the Customer; section 96; section 130, to the extent that it requires United Building Group WA to give a notice to the Company; subsection 132(3) (d); subsection 132(4); section 135; section 142 and section 143. (f) Subject to subsection 275(7) of the PPSA, neither party may disclose information of the kind referred to in subsection 275(1) of the PPSA.

**12. Suspension or Ceasing of Supply:** (a) United Building Group WA may in its complete discretion and without incurring any liability to the Customer, cease or suspend supply of Products and or Services to the Customer even if an order is part fulfilled. (b) Without limiting sub-clause (a) or any other rights United Building Group WA has, if an Event of Default occurs United Building Group WA may, without prejudice to its other rights, call up moneys owed to it by the Customer, retain all moneys paid on account, or cease further deliveries and recover from the Customer all loss of profits arising therefrom, and/or enter onto any premises where Products and or Services are located and with the full cooperation and assistance of the Customer and retake possession of any Products and or Services. Where the Products and or Services are located on a third-party site, the Customer must procure access for United Building Group WA or its representatives.

**13. Qualifications:** United Building Group WA is a Chartered Building Professional and Australian Institute of Building member (MAIB 21246) not a currently registered building contractor or practitioner in Western Australia. United Building Group WA have over 15 years extensive experience in building and construction experience ranging from low to high value contracts and projects. Any omissions do not fall on the onus of United Building Group WA. It is recommended that the Customer completes their own due diligence before entering into any agreement with United Building Group WA. The PCI building inspections are a visual inspection to defective workmanship only. The Pre-Purchase building & pest inspections are carried out to standard. Any further inspections or investigations that is recommended to be carried is to be completed by the Customer which may require other professionals to obtain advice. United Building Group WA does not hold any responsibility for any claims against advice as this is generalised and, in some instances, may require further inspection or investigation.

**14. Liability of United Building Group WA:** (a) Subject to sub-clauses (b) and (c) below, United Building Group WA will not be liable for any loss or damage whatsoever suffered by the Customer as a result of any act, omission or statement made by United Building Group WA, its employees, contractors or agents whether negligent or not, except that nothing in these Terms limits any liability imposed by any statute unless or to the extent that it is lawful to do so. Without limiting the foregoing, any works, including rectification works are at the sole cost and expense of the Customer.(b) In respect of Products and or Services supplied by United Building Group WA to the

*Customer, subject to sub-clause (d), if the Customer is a Consumer, the liability of United Building Group WA however caused, suffered or incurred by the Customer because of a failure to comply with a Consumer Guarantee is limited, at United Building Group WA's option, to replacement of the Product or supply of equivalent Product; repair of the Product; payment of the cost of replacing the Product or acquiring equivalent Product; or payment of the cost of having the Product repaired. (c) In respect of services supplied by United Building Group WA to the Customer, subject to sub-clause (d), if the Customer is a Consumer, the liability of United Building Group WA however caused, suffered, or incurred by the Customer because of a failure to comply with a Consumer Guarantee is limited, at United Building Group WA's option, to supplying the services again or payment of the cost of having the services supplied again. (d) Sub-clauses (b) and (c) do not apply if: it is not 'fair and reasonable' for United Building Group WA to rely on them in accordance with sections 64A(3) and (4) of the Australian Consumer Law; the Products and or Services are Consumer Goods; the services are Consumer Services; or the loss arises in relation to any guarantee pursuant to any of sections 51, 52 or 53 of the Australian Consumer Law.*

**15. Warranties:** *(a) This clause does not apply to a Customer who is a Consumer. Otherwise, the Customer acknowledges and agrees that it has not relied on any representation made by United Building Group WA which has not been expressly stated in these Terms. Any representation, advice, recommendation, information, or assistance provided by United Building Group WA in relation to the Products and or Services supplied or their use or application must not be relied upon by the Customer and the Customer acknowledges and agrees that it is the Customer's responsibility to satisfy itself as to the appropriate use or application of the Products and or Services that the Products and or Services are suitable for any particular purpose. Any description of our Products and or Services including any consultation, reports, specifications, diagrams, samples or drawings are approximate and are given by way of identification only. Without limiting this sub-clause (a), the use of that description does not constitute a sale by description and does not form part of the Contract. The Customer indemnifies United Building Group WA against all loss, cost, expense, demand, claim or liability suffered or sustained by United Building Group WA in connection with any act or omission of the Customer including but not limited to negligence of the Customer or any unauthorised representation made, or warranty given by the Customer in connection with the Products and or Services. (b) This clause does not apply to a Customer who is a Consumer. Otherwise, the Customer will have no claim for defects in respect of any Products and or Services apparent on inspection unless a written complaint is received by United Building Group WA within 7 days of receipt of the Products and or Services by the Customer, which complaint identifies the defect. United Building Group WA will, at its option, accept the return of, or give a credit for Products and or Services where: the Customer has complied with this sub-clause (b); United Building Group WA is satisfied as to the claim by the Customer; in the case of Products and or Services that have at the request of the Customer been specifically sourced, the supplier of such Products and or Services will accept return of the Products and or Services for credit; and, if United Building Group WA elects to have the Products and or Services returned, the Products and or Services are returned to United Building Group WA in the same condition as when first delivered to the Customer with the relevant invoice number and date of order. United Building Group WA will not accept the return of or give credit for Products and or Services supplied in cut lengths or otherwise fabricated to Customer specifications or requirements. United Building Group WA may, at its sole discretion, accept the return of, or give credit for, Products*

and or Services that are not damaged or defective if requested by the Customer. All Products and or Services returned are subject to a minimum handling charge of 20% of the invoiced price except in the case of defective Products and or Services or Products and or Services incorrectly supplied. In the case of buy-ins against Customer orders, credit will only be allowed if the original manufacturer/supplier also accepts the return.

**16. Certification:** A statement signed by an Officer certifying the amount of any moneys payable by the Customer or identifying any Products and or Services as “unpaid for” is, in the absence of manifest error, conclusive and binding on the Customer. A text or electronic mail message from United Building Group WA to the Customer constitutes a statement by an Officer for the purposes of this clause.

**17. Notification of Change of Details:** The Customer will notify United Building Group WA of any change in its ownership, structure, or management, including any change of director, shareholder or beneficiaries, or any change in partnership or trusteeship within 7 days of the date of change.

**18. Provision of Financial Information:** The Customer will supply, promptly on request of United Building Group WA and, in any event no later than 5 days after such a request is made, certified copies of its most recent financial statements (including management accounts, if required), tax returns and any other financial information of the Customer requested by United Building Group WA.

**19. Intellectual Property:** These Terms do not give the Customer any intellectual property rights in the Products and or Services. United Building Group WA is not liable to the Customer for any infringement or unauthorised use of intellectual property rights.

**20. Effect of Other Terms:** These Terms supersede all previous terms and conditions between United Building Group WA and the Customer. No terms of the Customer apply to any agreement between the Customer and United Building Group WA.

**21. Amendment to Terms:** United Building Group WA may amend these Terms from time to time without reference to the Customer and such Terms, as amended, will apply from such date. The current Terms are available within the United Building Group WA administration library and is available for the customer at any given time at the Customer’s request. The Customer agrees that any orders placed with United Building Group WA are subject to the Terms as at the date the order is accepted by United Building Group WA.

**22. Expenses:** The Customer must pay to United Building Group WA any costs, charges, and expenses (including all stamp duty and legal fees calculated on a full indemnity basis) incurred by United Building Group WA in connection with the entry into these Terms, the exercise or attempted exercise of any power, right or remedy under these Terms, and the failure of the Customer to comply with these Terms.

**23. Trusts:** These Terms bind the Customer both personally and as trustee of any trusts of which the Customer is trustee.

**24. Severance:** Each clause and sub-clause of these Terms is separate and independent. If any clause or sub-clause is found to be invalid or ineffective, the other clauses or sub-clauses or parts will not be adversely affected.

**25. Application of Laws:** *The parties submit to the non-exclusive jurisdiction of the courts of Western Australia and agree that the law applying to Western Australia is the proper law governing these Terms.*

**26. Set-Off:** *United Building Group WA may set-off amounts owing by United Building Group WA to the Customer or the Customer's Related Bodies Corporate against moneys owing by the Customer to United Building Group WA on any account. United Building Group WA's right of set-off does not exclude or limit the Customer's obligations (including to pay) in any way. The Customer may not set-off.*

**27. Assignment:** *United Building Group WA may assign the Contract without the prior written consent or knowledge of the Customer.*

**28. Definitions:** *In these Terms unless the context requires otherwise: (a) "Australian Consumer Law" means Schedule 2 of the Competition and Consumer Act 2010 (Cth) and the corresponding provisions of the relevant State Fair Trading Acts; "Consumer" has the meaning given to it in the Australian Consumer Law; "Consumer Goods" means goods of a kind ordinarily acquired for personal, household or domestic use or consumption, as that expression is used in the Australian Consumer Law; "Consumer Guarantee" means the guarantees provided in Chapter 3, Division 1 of the Australian Consumer Law; and "Consumer Services" means services of a kind ordinarily acquired for personal, household or domestic use or consumption, as that expression is used in the Australian Consumer Law; (b) "Event of Default" means any of the following events: (i) the Customer fails to pay for the Products and or Services; (ii) the Customer is in breach of these Terms; (iii) if the Customer is a company: an order is made or a resolution is effectively passed for winding up of the Customer; the Customer resolves to appoint a receiver or provisional liquidator or an administrator, or a receiver or provisional liquidator or an administrator is appointed; the Customer goes into liquidation or makes an assignment or an arrangement or composition with its creditors; the Customer stops payment or is deemed unable to pay its debts within the meaning of the Corporations Act 2001 (Cth); (iv) if the Customer is a natural person, an order is made for the Customer's bankruptcy, or the Customer dies or becomes mentally or physically incapable of managing his or her affairs or an order is applied for or made to place the assets and affairs of the Customer under administration (v); the Customer ceases or threatens to cease carrying on business; (vi) United Building Group WA forms an opinion, on a reasonable basis, that any of the foregoing are likely to occur (c) "Officer" means each director, secretary, manager and authorised representative of United Building Group WA; (d) "United Building Group WA" means United Building Group WA and its Related Bodies Corporate or any one or more of them as the context permits or requires; (e) "Products and or Services" means all goods and/or services (including delivery and cutting services) supplied or to be supplied by United Building Group WA to the Customer; (f) "Related Bodies Corporate" has the same meaning as in the Corporations Act 2001 (Cth).*

**29. Related Bodies Corporate:** *The Customer acknowledges that: (a) United Building Group WA enters this Contract on its own behalf and for the benefit of each of United Building Group WA's related bodies corporate, as that phrase is defined in the Corporations Act 2001 (Cth), or any one or more of them as the context permits or requires ("United Building Group WA Group"); (b) the benefit of this Contract is held by United Building Group WA on its own behalf and on trust for each United*



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*Building Group WA Group member; (c) United Building Group WA may enforce and recover under this Contract for and on behalf of any United Building Group WA Group member; (d) United Building Group WA is free to make any amendments to these Terms without reference to an United Building Group WA Group member.*

**30. Anti-Corruption:** *The Customer hereby undertakes that at the date of entering into this Contract, the Customer, its directors, officers or employees have not offered, promised, given, authorised, solicited or accepted any undue pecuniary or other advantage of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with the Contract, and that the Customer has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control and determining influence, from doing so. The Customer hereby agrees that, at all times and in connection with and throughout the course of the Contract and thereafter, it will comply with and that it will take reasonable measures to ensure that its subcontractors, agents or other third parties, subject to their control or determining influence, will comply with all applicable laws and regulations preventing bribery and corruption.*

**31. Company Policies & Procedures:** *The Customer acknowledges that these terms and conditions are also accompanied by other company policies and procedures, and which therefore may have their own terms, conditions and other related information that is required to be abided by. In the event of any conflict the applicable terms, conditions, policies, procedures will be determined by United Building Group WA as act of precedence and or supersede. These terms and conditions as well as company policies and procedures can change from time to time. It is the Customer's responsibility to request for any documentation or information prior to entering into any agreement.*