

## **Saint-Gobain Building Distribution Limited**

This document sets out the Terms and Conditions of Purchase agreed between Saint-Gobain Building Distribution Limited and the Supplier for the provision of Goods and Services and which is incorporated into the S1 Supplier Terms Sheet by signature of that document which acknowledges receipt of a copy of these terms and their incorporation.

### **Part A: Definitions**

**A.1** In the Contract, the following words and phrases shall have the following meanings unless the context requires otherwise:

<b>The Supplier</b>	Means the supplier of Goods and/or Services as defined in the Contract and identified in the Supplier Terms Sheet with full corporate details including company number and registered office address.
<b>SGBD</b>	Means Saint-Gobain Building Distribution Limited (company registered number 1647362) whose registered office is Saint-Gobain House, East Leake, Loughborough, Leicestershire, LE12 6JU and includes its Subsidiaries and its and their various trading styles.
<b>Acquisitions</b>	Means the acquisition during the Term (and during any period of continued trading between the parties after the expiry of the Term) by SGBD of the shares or assets of any company or business.
<b>CLP Regulation Contract</b>	Shall have the meaning given to it in clause Y.1. Means the agreement containing the terms governing the trading relationship between SGBD and the Supplier for the supply of Goods and/or provision of Services and includes the Supplier Terms Sheet and Terms and Conditions of Purchase.
<b>Data Protection Laws</b>	Means any laws and regulations in any relevant jurisdiction relating to privacy or the use or processing of data relating to natural persons, including: (a) the Data Protection Act 2018 (the " <b>DPA</b> ") and the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (b) EU Regulation 2016/679 (" <b>GDPR</b> "); and (c) any laws or regulations ratifying, implementing, adopting, supplementing or replacing DPA or GDPR; in each case, to the extent in force, and as such are updated, amended or replaced from time to time.
<b>Data Subject</b>	Shall have the meaning set out in the DPA until 25 May 2018, and thereafter the meaning set out in GDPR.
<b>Deliverables</b>	All documents, products and materials developed by or on behalf of the Supplier as part of or in relation to the Services in any form or media.
<b>Delivery</b>	Means when the Goods are off loaded and/or left safe at the premises as specified in the Purchase Order by or on behalf of the Supplier.
<b>Direct to Site Deliveries Discontinued Stock</b>	Means Goods delivered to a third party's address. Means in relation to any Goods or range of Goods or Services which have been the subject of a Purchase Order the withdrawal, discontinuation of supply or manufacture or replacement by the Supplier, for example but without limitation, by way of production of updated models or versions of the particular Goods or range of Goods.
<b>DPA</b>	Shall have the meaning given to it in the Data Protection Laws definition.
<b>DP Regulator</b>	Means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws.
<b>GDPR</b>	Shall have the meaning given to it in the Data Protection Laws definition.
<b>Goods</b>	Means any articles or things described and requested in the Contract or more particularly described in a Purchase Order.
<b>Group</b>	In relation to a company, means that company, each and any Subsidiary or Holding Company from time to time of that company, and each and any Subsidiary from time to time of a Holding Company of that company.
<b>Holding Company</b>	Means a holding company as defined in section 1159 of the Companies Act 2006.
<b>Personal Data</b>	Shall have the meaning set out in the DPA until 25 May 2018, and thereafter the meaning set out in GDPR.
<b>Processing and Process</b>	Shall have the meaning set out in the DPA until 25 May 2018, and thereafter the meaning set out in GDPR.
<b>Price</b>	Means in relation to the Goods and Services, the price agreed between the Parties subject to renewal and amendment in accordance with the provisions set out in the Contract.
<b>Purchase Order</b>	Means any request or a number of requests whether orally or in writing by SGBD to the Supplier for the supply of Goods or the provision of Services pursuant to the Contract, and unless the Supplier gives written notice of refusal within 24 hours of receipt of the Purchase Order is deemed accepted by the Supplier if it includes a SGBD Official Purchase Order number.
<b>REACH Regulation</b>	Shall have the meaning given to it in clause Y.1.

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<b>Rebate</b>	Means the sums due and payable by the Supplier to SGBD in accordance with the percentages and time periods as agreed in the Supplier Terms Sheet and which are payable by cheque or BACS.
<b>Rebatable Purchases</b>	Means the Total Invoiced Value of qualifying products (as described in the Supplier Terms Sheet).
<b>Regulations</b>	Means directives, statutes, regulations, codes of practice or other instructions having the force of law relevant to the handling storage use sale or supply of Goods or the provision of Services in force from time to time.
<b>Services</b>	Means any direct provision of skill, labour or employment described and requested in any Contract or Purchase Order including the delivery and off loading of Goods.
<b>Specification</b>	Means any description and/or sample of the Goods or Services including any plans, drawings, data or other information relating to the Goods or Services.
<b>Stock Returns</b>	Means Goods which have previously been the subject of a Purchase Order but which SGBD returns to the Supplier in re-saleable condition as being in excess of its requirements and for which SGBD will receive full re-imburement of the Price for those Goods.
<b>Subsidiary</b>	In relation to a company wherever incorporated (a holding company) means a "subsidiary" as defined in Section 1159 of the Companies Act 2006 and any other company which is a subsidiary (as so defined) of a company which is itself a subsidiary of such holding company. Unless the context otherwise requires, the application of the definition of Subsidiary to any company at any time will apply to the company as it is at that time.
<b>Supplier Terms Sheet</b>	Means the form S1 – Supplier Terms Sheet including any Supplier Terms Amendment Sheet which sets out commercial terms agreed between the Parties and when signed, forms part of the Contract.
<b>Supplier Terms Amendment Sheet</b>	Means the form S1A – Supplier Terms Amendment Sheet which details any changes in the commercial terms agreed between the parties within the trading term and when signed forms part of the Contract.
<b>Term</b>	Means the agreement period set out in the Supplier Terms Sheet.
<b>Terms and Conditions of Purchase</b>	Means the terms and conditions set out in this document.
<b>The Parties</b>	Means SGBD and the Supplier.
<b>Total Invoiced Value</b>	Means the total invoiced value of Goods and Services provided pursuant to the Contract including the cost of freight and haulage, (where applicable) but excluding any settlement discounts, and excluding VAT.
<b>TUPE</b>	Means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

- A.2**
- (i) In the event of conflict between the documents comprising the Contract they will take priority in the following order:-  
Supplier Terms Sheet; first  
Terms and Conditions of Purchase; second
  - (ii) the words "include" or "including" shall be interpreted without limitation to the words following.
  - (iii) references to Clauses shall be deemed to be clauses of the Terms and Conditions of Purchase.
  - (iv) the headings in these Terms and Conditions of Purchase are for convenience only and shall not affect their interpretation.
  - (v) the singular shall include the plural and vice versa.
  - (vi) references to any statute, statutory provision or regulation shall be construed as a reference to that statute provision or regulation as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

- A.3** The terms and conditions of the Contract may only be altered by the written agreement of the Parties and any agreed amendments will be recorded on the Supplier Terms Amendment Sheet.

## Part B: Sale of Goods and Price

- B.1** During the Term the Supplier shall: (i) sell and SGBD shall purchase such quantities of the Goods as may be ordered by SGBD by way of Purchase Order from time to time; and (ii) provide and SGBD shall purchase such Services as may be ordered by SGBD by way of Purchase Order from time to time, in each case subject to the terms and conditions of the Contract which will supersede any terms and conditions referred to or relied on by the Supplier.
- B.2** Where the Supplier has previously supplied to SGBD goods or services similar to the Goods or Services no change in specification shall be made without SGBD's written consent.
- B.3** The Supplier shall comply with all statements and representations made by the Supplier its employees or agents relating to the Goods or Services prior to any Purchase Order and all such statements and representations shall be terms of the Contract.
- B.4** SGBD reserves the right prior to delivery of Goods or provision of Services pursuant to any Purchase Order to require modifications to the design or composition of the Goods or vary the nature of the Services by written notification to the Supplier.

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- B.5** Modifications pursuant to Clause B.4 shall be deemed to be incorporated in the Purchase Order and a reasonable adjustment acceptable to the Parties shall be made to the Price. If agreement cannot be reached SGBD may terminate the Purchase Order or continue the Purchase Order as if such written notification had not been given. If the Purchase Order is terminated SGBD's sole liability to the Supplier shall be to pay the Price of the Goods or Services in respect of which the Purchase Order has been terminated less the sum saved by the Supplier as a result of the termination subject to the Supplier's duty to mitigate its loss. SGBD will not be liable for any other loss including loss of anticipated profit or indirect or consequential loss.
- B.6** SGBD shall place its Purchase Orders for Goods and/or Services by fax, phone, EDI or email. Orders for Direct to Site Deliveries shall be placed through the Supplier's nominated sales office.
- B.7** Unless otherwise agreed in writing between the Parties during the Term or as provided for in the Supplier Terms Sheet, Prices quoted at the time of the Purchase Order must be firm and unchangeable for the whole of the period in which the Supplier has agreed to deliver the Goods and/or provide the Services under that Purchase Order. There shall be included in the Price quoted transportation and delivery costs of the Goods to the place or places and in the manner specified in the Contract or Purchase Order as subsequently specified by SGBD. The Supplier will not seek to introduce a general price increase to Prices in respect of its Goods or Services under the Contract without first giving to SGBD at least three months prior written notice. All price increases will only be deemed to be agreed when such agreement is confirmed in writing by the relevant SGBD Category Manager. Furthermore, unless agreed otherwise, the Supplier accepts that any agreed price increases will only be applied on the first of the following dates Jan 1<sup>st</sup> and Jul 1<sup>st</sup> that falls after the longer of: the agreement by SGBD of the price increase or the aforementioned 3 months' notice.
- B.8** Where the Supplier supplies Goods to SGBD it will provide SGBD with reports, in accordance with the timescales set out in the Supplier Terms Sheet or where no timescales are set out on a monthly basis, that will detail, as a minimum, the following:-
- ◆ Total purchases of Goods in £'s and quantity made by SGBD during the month, with a year on year comparison, split between stock and Direct to Site Deliveries.
  - ◆ Where it is different, the value of Rebatable Purchases. Where more than one Rebate arrangement exists, purchases for each category of rebatable Goods must be reported separately.
- B.9** Any nil returns agreement referred to in the Supplier Terms Sheet shall not interfere with the legal rights of SGBD and will not constitute a waiver of any statutory or contractual rights by SGBD.
- B.10** SGBD shall in its discretion be entitled to return in any one calendar year up to 5% in value of the Goods purchased under the Contract by way of Stock Returns. Such Stock Returns will be accepted by the Supplier provided the Goods are in a re-saleable condition and SGBD makes them available for collection from its branches and/or its distribution centres (as appropriate). Full credit/reimbursement of the Price of the Stock Returns will be given in the month following the month in which SGBD gave notice of the availability of the Goods for collection under this Clause. All such returns must be co-ordinated via a SGBD Category Manager.

## **Part C: Invoicing and Payment**

- C.1** The Supplier shall invoice SGBD for each separate Delivery of Goods promptly, following such Delivery and for any Services promptly, on completion of the Services. Each invoice shall fully and accurately quote the number of the Purchase Order and give a description of the Goods and/or Services, the quantity comprised in the relevant Delivery of Goods, and shall state the Price for the Goods and/or Services invoiced and the value added tax applicable.
- C.2** Provided that the invoice submitted is correct and contains the information as required under the Contract, and save where the Parties have agreed other payment terms which are set out in the Supplier Terms Sheet, SGBD shall pay for Goods and Services in the first week following the end of the second month following the month in which the Goods are delivered or Services provided and accepted as conforming to the standards required by SGBD under the Contract.
- C.3** All invoices must be addressed to :-  
SGBD Payments Centre  
PO Box 550  
Huddersfield  
HD1 4XN  
Telephone Number: 01484 478666  
Fax Number: 01484 478647
- C.4** SGBD reserves the right to withhold payment in respect of disputed invoices and/or in respect of any invoices for which a signed delivery note cannot be provided and SGBD shall notify the Supplier of any such invoices within 14 working days of receipt or of becoming aware that a signed delivery note cannot be provided. When an invoice that has been in dispute is subsequently cleared for payment, then the settlement terms that are applicable will be applied from the date of clearance. The Supplier, without prejudice to its other rights and remedies, shall be entitled to charge interest on late payment of non-disputed invoices at the rate

of 2 per cent per annum above Barclays bank base rate for the time being in force from the due date of payment until the actual date of payment.

### **Part D: Delivery of Goods and Supply of Services**

- D.1** The Supplier shall deliver or procure the Delivery of Goods ordered to the location specified in the Purchase Order relating to the Goods anywhere in the United Kingdom and the Republic of Ireland, which for the avoidance of all doubt includes Northern Ireland, Isle of Wight, Anglesey and the Scilly, Orkney, Shetland and Hebridean archipelagos and the Isle of Man and the Channel Islands, and no surcharges shall be levied by the Supplier for such deliveries.
- D.2** The Supplier shall be responsible for all loss or damage to the Goods up to and including Delivery thereof and in particular shall be responsible at its own cost and expense for arranging a appropriate insurance of the Goods when being transported. The Supplier shall ensure that the Goods are properly packaged at its own cost to arrive at the place of Delivery specified by SGBD without damage and SGBD shall be entitled to treat pallets, packaging and materials as non-chargeable and non-returnable for credit unless stated otherwise in the Supplier Terms Sheet. Where packaging is stated to be refundable and/or depositable, the Supplier must ensure that it is of a suitable quality and sufficiently robust not to suffer incidental damage with normal use. If the Supplier makes a charge to SGBD for such refundable and/or depositable packaging, SGBD will at its discretion notify the Supplier when the packaging is ready for collection. In the event that any of the refundable and/or depositable packaging is damaged or goes missing as a result of actions by SGBD, SGBD reserves the right to provide alternative packaging so long as it is of the same type and of a materially similar specification, and in such circumstances the Supplier will not have a right to refuse to collect such alternative packaging. Where any refundable and/or depositable packaging is damaged or missing which is not as a result of SGBD's actions then the Supplier shall refund to SGBD all charges made for such packaging. The Supplier will collect the packaging at anytime during SGBD's trading hours but must do so within 30 days of notification by SGBD that the packaging is ready for collection. If the packaging is not collected within this timescale, SGBD may dispose of it as it sees fit. In any event, the Supplier shall refund to SGBD any charges made for the packaging within 60 days of being notified by SGBD that the packaging is ready for collection. The Supplier is responsible for and will ensure that all packaging material used should be capable of being re-cycled and must comply with the Packaging (Essential Requirement) Regulations 2015.
- D.3** The Supplier shall:
- a) Clearly in English mark on or attach to the outside of any consignment or package:
    - ◆ The SGBD Purchase Order number;
    - ◆ The Supplier's name and address;
    - ◆ Full details of the destination which complies with the Purchase Order;
    - ◆ When appropriate, a clear notice as to the condition, fragility or hazardous nature of its contents;
    - ◆ Quantity within the Delivery;
    - ◆ A Delivery note in duplicate;
    - ◆ EAN Bar Code;
    - ◆ Where necessary a date code with a clear product description;
    - ◆ Details about the country of origin, any custom tariff codes and any export control codes.
  - b) State on all documentation accompanying the consignment including delivery note, advice note, invoice or other documents relating to the order, the SGBD Purchase Order number and on Direct to Site Deliveries, the SGBD customer's order number or a given site reference for identification.
- D.4** The Delivery note (in duplicate) must be signed by a duly authorised representative of SGBD acknowledging (a) receipt of the Goods of the description specified, and (b) (i) if a physical inspection has taken place at the time, that the Goods are in good condition and are of the correct quantity or (ii) if no such physical inspection has taken place, it must be noted that the Goods have not been examined and the following clause shall apply. The Supplier shall retain for a minimum period of 24 months and be able to produce on request the signed delivery note. In the event that a signed delivery note cannot be provided on request, SGBD may, acting reasonably, withhold any payments relating to such delivery note until other proof of delivery is provided to SGBD's reasonable satisfaction.
- D.5** In the event that the Delivery note is marked "not examined", SGBD will inspect the Goods within a reasonable period of actual Delivery and if it is apparent from that inspection that the Goods do not comply with the Contract SGBD will notify the Supplier in writing. If the Supplier disagrees with the contents of this notice, it must within 36 hours of receipt of the SGBD notice give written reasons to SGBD of the disagreement and within 72 hours of a written request by SGBD arrange a joint inspection at the place of Delivery. Failing this, the Supplier shall be deemed to have accepted that the Goods delivered are as stated by SGBD.
- D.6** Unless SGBD has exercised its rights under D.10 or otherwise agreed in writing the Supplier shall make good any shortages in the Goods and where appropriate, collect any of the Goods which do not comply with the

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Contract, which have been damaged in transit or which have visual defects and replace the same within 48 hours of the Supplier's acceptance or deemed acceptance in accordance with clause D.5 above.

- D.7** Goods may be collected by SGBD, its agents or customers by prior arrangement with the Supplier and if so agreed SGBD, its agents or customers shall collect the Goods within 14 days from the agreed collection date or the date agreed on the Purchase Order whichever is the later.
- D.8** The Supplier shall be solely responsible for the size, weight and positioning of any load on his or his haulier's vehicle and unless otherwise agreed for the provision of suitable labour and equipment and the unloading of Goods at the designated Delivery area.
- D.9** Where SGBD specifies in any Contract or Purchase Order that the Goods are a Direct to Site Delivery the Supplier shall deliver such Goods in accordance with the reasonable instructions supplied to it by SGBD or, if so agreed between the Parties, supplied by the third party and ensure that the procedures for Delivery set out in this clause and any Supplier charter distributed to Suppliers are strictly adhered to and will promptly notify SGBD of any complaint made by the third party as to Delivery (including complaints concerning compliance with the Contract) and action being taken by the Supplier to rectify the same. Direct to Site Delivery notes must include the third party's order number or site reference for ease of processing payment. A signed proof of delivery is to be obtained by the Supplier from the third party and kept for at least 6 months from the date of Delivery.
- D.10** All Goods delivered to SGBD or a third party must comply as to quantity, quality, description and sample as specified in the Contract, Purchase Order or Specification and any failure to comply with this sub-clause no matter how slight the non-conformity will entitle SGBD, at its option, to reject the whole delivery of Goods and claim damages suffered as a result.
- D.11** Direct to Site Deliveries to any single third party customer are subject to a limitation of £10,000 per Purchase Order in one or more Deliveries. For an order of a value over this limit the Supplier must obtain clearance from SGBD credit control and clearly show this release reference on any invoices. Failure to adhere to this instruction will mean SGBD will refuse payment for any Goods delivered to its customer, until SGBD has received payment from the customer in question.
- D.12** Deliveries to SGBD branches should not be made between the hours of 7:00am and 10:00am without express permission of an authorised representative of SGBD. In case of dispute, written confirmation from SGBD of such authorisation will be required to substantiate exceptions.
- D.13** The Supplier shall:
- (i) perform the Services in accordance with the Required Standards and by any applicable dates agreed between SGBD and the Supplier;
  - (ii) co-operate with SGBD in all matters relating to the Services, and comply with all instructions of SGBD;
  - (iii) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract; and
  - (iv) provide all equipment, tools and vehicles and such other items as are required to provide the Services.
- D.14** The Supplier hereby assigns to SGBD, with full title guarantee and free from all third party rights, all intellectual property rights in the products of the Services, including for the avoidance of doubt the Deliverables. The Supplier shall also obtain waivers of all moral rights in the Goods and any goods that are transferred to SGBD as part of the Services under the Contract, including without limitation the Deliverables or any part of them, to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- D.15** The Supplier hereby grants to SGBD a non-exclusive licence to use any intellectual property rights on or in relation to the Goods (including their packaging), including in connection with the promotion, distribution and sale of the Goods. On expiry or termination of the Contract for any reason SGBD shall continue to have the right to dispose of all stocks of the Goods in its possession and the non-exclusive licence to use any intellectual property rights as granted in this clause shall continue for the period that SGBD requires to sell or otherwise dispose of the Goods in its possession.

## **Part E: Passing Of Risk and Lien**

- E.1** Risk of loss or damage of any kind to the Goods shall pass to SGBD when Delivery or collection has been completed.
- E.2** In respect of the Goods and any goods that are transferred to SGBD as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to SGBD, it will have full and unrestricted rights to sell and transfer all such items to SGBD.

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- E.3** The Supplier shall not be entitled to exercise a right of retention on any Goods in SGBD's possession and which are the property of SGBD nor exercise a lien over SGBD's property which is in the Suppliers possession.

### **Part F: Time**

- F.1** The Supplier acknowledges that, to SGBD and their customers, the time or times or scheduled date or dates of delivery of Goods or Services notified by SGBD to the Supplier are of the utmost importance. The Supplier will use all best endeavours to meet and comply with these times. If a Supplier on more than 3 occasions during the Term does not complete Services or effect Delivery of Goods on time or within a reasonable and agreed time thereafter, SGBD may terminate the Contract forthwith by giving written notice to the Supplier.
- F.2** Where it is necessary for SGBD to procure other goods or services of the same or similar description to make good such default by the Supplier and honour its obligations under contracts with its customers, SGBD may forthwith treat a Purchase Order as terminated without liability to SGBD at any time after the time for Delivery or provision of Services has elapsed and recover from the Supplier all damages, costs and expenses incurred including the amount by which the cost of the said procurement exceeds the price which has been paid or would have been payable to the Supplier in respect of the Goods or Services which should have been provided by the Supplier.
- F.3** The exercise of any of its rights under Clauses F.1 or F.2 is without prejudice to any other right or remedy SGBD may have and SGBD's failure to invoke any of its rights under this Clauses F.1 or F.2 on a continual or regular basis will not render them unenforceable.

### **Part G: Quality and Fitness**

- G.1** The Goods and Deliverables shall comply with the Purchase Order, any applicable Specification, be free from defects and be of the best design, material and workmanship and will be fit for any purpose for which they are designed or any purpose which is specified or may be reasonably inferred from the Contract or Purchase Order or correspondence and dealings between the Parties relating to the Contract.
- G.2** All Goods and Services must comply with the Regulations. In the event that any Regulation is amended or replaced, the Supplier shall give immediate notice to SGBD of such proposed amendments or changes and shall agree with SGBD a timetable to phase out the original Goods and introduce new Goods which comply in all respects with the new Regulations in sufficient time before the amendments or changes are effected. The Supplier shall collect the original Goods or Deliverables, if required to do so, from SGBD and deliver the replacement goods or deliverables at its own cost at such times as are agreed between the Parties.
- G.3** The Supplier shall give to SGBD at least three months prior written notice of the date that any of the Goods or Services will become Discontinued Stock. The Supplier also undertakes to pay for any/all point of sale information to assist in the sale of Discontinued Stock. This enables SGBD to sell through and effectively manage its stock of Goods which will become Discontinued Stock. The Supplier acknowledges and agrees that if it fails to give such notice, then within 30 days of the date the Goods become Discontinued Stock (which precise date shall be the earlier of the date the Supplier is no longer selling the Discontinued Stock or the date an updated model, version or range of the Discontinued Stock is available for purchase in the market place), the Supplier will purchase and uplift from SGBD branches, at the Supplier's cost and within one month, the Discontinued Stock which then remains unsold by SGBD. The value of the unsold Discontinued Stock will be credited to SGBD in full at original invoice value. If the Supplier provides at least three months prior written notice of the date that any of the Goods will become Discontinued Stock but any of such Discontinued Stock is not sold within 6 months of the date the Goods become Discontinued Stock, the Supplier shall at SGBD's request collect from the locations provided by SGBD at the Supplier's cost and within 1 month following the request by SGBD, such remaining Discontinued Stock and credit SGBD, at the full invoice value, the value of the unsold Discontinued Stock.
- G.4** The Services shall conform with the Purchase Order and any applicable Specification and shall meet any other standards indicated in any document supplied by the Supplier (if accepted by SGBD) or as otherwise specified by SGBD. If no standard is specified or offered the Services shall be provided in a professional manner to the highest standards applicable thereto and in any event with reasonable care and skill. In any event, the Services shall be fit for any purpose expressly or impliedly made known to the Supplier by SGBD. In providing the Services, the Supplier shall: (i) obtain and at all times maintain all necessary licences and consents, and comply with all applicable Regulations; (ii) observe all health and safety rules and regulations and any other security requirements that apply at any of SGBD's premises or any premises where the Services are to be performed; (iii) hold all materials, equipment and tools, drawings, specifications and data supplied by SGBD to the Supplier ("**SGBD Materials**") in safe custody at its own risk, maintain SGBD Materials in good condition until returned to SGBD, and not dispose or use SGBD Materials other than in accordance with SGBD's written instructions or authorisation; and (iv) not do or omit to do anything which may cause SGBD to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that SGBD may rely or act on the Services.
- G.5** The standards for the Goods and Services set out in Clauses G.1, G.2 and G.4 are the "Required Standards".
- G.6** Without limiting the provision of Clause G.2 and subject to Clause G.7, if Goods or Services prove to be defective during the period of 2 years from the date of provision of the Services or Delivery or collection of

the Goods or from the date of dispatch by the Supplier of any product of the Supplier incorporating the Goods, whichever is the later (or such longer period as specified in the Supplier's or manufacturer's (if the Supplier is not the manufacturer) guarantee or warranty), SGBD may, at its option and without prejudice to any other right or remedy it may have, require the Supplier to re-render the Services or replace or repair the defective Goods. The Supplier shall re-render the Services or replace or repair such defective Goods at its own cost and expense upon demand and if for any reason the Supplier is unable to do so within reasonable time, then SGBD may arrange for such Services replacement or repair of Goods to be effected and the Supplier shall forthwith upon demand reimburse SGBD all costs and expense incurred.

- G.7** Should any of the Goods or Services fail in the reasonable opinion of SGBD to meet the Required Standards in any manner whatsoever at any time, SGBD may either, at its sole option without prejudice to any other right or remedy it may have:
- (i) Be entitled to terminate the Purchase Order forthwith without liability to SGBD and procure other goods or services of the same or similar description and make good such default; and/or
  - (ii) Serve notice in writing on the Supplier indicating the problem, specifying what improvements are required and specifying such reasonable time by which the Supplier shall ensure that the Goods or Services reach the Required Standards. Should the Goods or Services not, in the reasonable opinion of SGBD, meet the Required Standards in such time as may have been specified as provided for above, SGBD may then forthwith and without further notice terminate the Contract; and/or
  - (iii) Be entitled to terminate the Contract forthwith by giving written notice to the Supplier if the Supplier has on 3 or more occasions supplied Goods or provided Services which have initially failed in the reasonable opinion of SGBD to meet the Required Standards all of which failures will have been notified to the Supplier in writing under G.7 (ii) previously.

## **Part H: Guarantees and Spare Parts**

- H.1** If the Supplier supplies any Goods, whether manufactured by a third party or otherwise, the Supplier undertakes that it will honour any guarantee or warranty offered by it or the manufacturer in respect of the Goods and provide all spare parts (together with adequate instructions) at a reasonable cost to SGBD, so that SGBD can make these available to its own customers for the purpose of maintaining the Goods in good working condition for a minimum period of the expected life of the Goods or a period of 6 years whichever is the greater.

## **Part I: Public and Product Liability and Insurance**

- I.1** The Supplier shall have in place a suitable policy of insurance to cover its liabilities to SGBD and other parties under the Contract and SGBD shall have the right to request evidence of such insurance. Such insurance shall be for a minimum of £5 million.

## **Part J: Termination**

- J.1** Without prejudice to any right of SGBD to terminate the Contract as expressly contained herein, should SGBD wish to terminate the Contract for any reason it may give three months written notice, to the Supplier to that effect and the Contract shall terminate on expiry of the said three months notice.
- J.2** If the Supplier (being a company) has a petition presented for its winding-up or the appointment of any administrator or passes a resolution for voluntary winding-up otherwise than for the purpose of a bona fide amalgamation or reconstruction or enters a scheme of arrangement or voluntary arrangement or compounds or makes any proposal to or enters into any arrangement with its creditors or makes or has made an application for a moratorium in connection with a proposal to its creditors or has a receiver or manager or an administrative receiver appointed over all or any part of its assets or (being an individual) has a petition presented for his bankruptcy or becomes bankrupt or insolvent or enters into any arrangement with its creditors or makes or has made an application for an interim order in connection with a proposal to creditors for a voluntary arrangement SGBD may terminate the Contract or any Purchase Order without liability to SGBD forthwith by giving written notice to the Supplier.
- J.3** If the Supplier (being a company) undergoes a change of control within the meaning of S.1124 of the Corporation Tax Act 2010 then SGBD may at its sole option and discretion terminate the Contract by giving one month's written notice to the Supplier at any time up to one year following such change of control.
- J.4** On termination of the Contract under Clauses F.1, G.7 (ii) or (iii) 6, J.2, M.5, Z.3 or Z.4 any outstanding accepted Purchase Orders will be cancelled without liability to SGBD unless SGBD gives written notice requiring a Purchase Order or Orders to be fulfilled in which case SGBD will pay the Price for Goods and/or Services delivered or performed in accordance with the Contract.
- J.5** On termination of the Contract under Clauses J1. or J.3 all outstanding Purchase Orders as at the date of termination will be fulfilled by the Supplier unless SGBD gives written notice cancelling all or any Purchase Orders in which case SGBD will pay the price of the Goods or Services in respect of which the Purchase Order

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has been cancelled less the sum saved by the Supplier as a result of the cancellation of the Purchase Order subject to the Supplier's duty to mitigate its loss.

**J.6** On termination of the Contract for whatever reason:

- (i) all monies or sums payable from the Supplier to SGBD including Rebates on Rebatable Purchases up to the date of termination shall be due and payable within 14 working days at the date of termination;
- (ii) all monies and sums payable from SGBD to the Supplier shall be due and payable in accordance with the Contract;
- (iii) all items belonging to one party in the possession of the other party for whatever reason shall be made available for return to the owning party;
- (iv) SGBD will have no liability to the Supplier whether direct, indirect or consequential including loss of supply rights, loss of goodwill, loss of anticipated profit or any similar loss or out of pocket expenses save as expressly provided for in the Contract;
- (v) the provisions of N.4 shall apply as if SGBD had made such request;
- (vi) if applicable, the provisions of Section X shall come into effect and the Supplier shall co-operate fully with SGBD to ensure an orderly migration of the Services to SGBD or, at SGBD's request, a new service provider.

**J.7** The express rights to terminate the Contract or any Purchase Order shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach of the Contract.

**J.8** The termination of the Contract, howsoever arising, will save as expressly provided be without prejudice to the rights and duties of the Parties accrued prior to termination.

**J.9** The terms and conditions of the Contract which, expressly or impliedly have effect after termination, will continue to be enforceable notwithstanding termination.

## **Part K: Indemnities**

**K.1** The Supplier shall indemnify and keep SGBD indemnified in full and on demand against all direct, indirect or consequential liability damages claims losses costs and professional and other expenses (including legal costs on an indemnity basis) ("Claims") awarded against incurred or paid by SGBD as a result of or in connection with:

- (i) Goods supplied or Services provided which do not comply with the Contract;
- (ii) Goods supplied or Services provided which do not meet the Required Standards;
- (iii) Goods supplied or Services provided which do not comply with the Regulations;
- (iv) any dispute or claim whether in contract or tort or the assertion of a statutory right or other claims or proceedings made or brought against SGBD in respect of or in connection with Goods supplied or Services provided or the use of or any other dealing with the Goods by SGBD or by a third party including but not limited to product liability claims, claims under the Consumer Protection Act 1987 and claims by a third party alleging infringement of its intellectual property rights;
- (v) any act or omission of the Supplier or its employees or agents or subcontractors in complying with the obligations under Clauses M.1, M.2, M.3 or M.6;
- (vi) any act or omission of the Supplier or its employees or agents or subcontractors in carrying, supplying, delivering, loading, off loading or installing the Goods;
- (vii) any act or omission of the Suppliers or its employees or agents or subcontractors in connection with the performance of the Services;
- (viii) any act or omission of any third party to whom the Supplier has assigned transferred or subcontracted any of its obligations under the Contract.

**K.2** The Supplier shall supply SGBD at the Supplier's expense with all reasonable assistance required by SGBD to deal with any Claim.

**K.3** Claims under Clause K.1 shall include claims for personal injury and death save that Clause K.1 shall not apply to Claims relating to personal injury or death to the extent caused by the negligence of SGBD its employees or agents.

**K.4** This indemnity shall not apply if and to the extent that a Claim arises from:

- (i) SGBD's fraudulent misrepresentation for which SGBD shall be responsible.



- (ii) defects in design or any Specification if SGBD has supplied or furnished the design or Specification and the Supplier has disclaimed responsibility.

### **Part L: Assignment and Subcontracting**

- L.1** The Supplier shall act at all times as principal and shall not, without the prior consent in writing of a duly authorised officer of SGBD, assign, transfer or sub-contract any obligations or benefit of these conditions or the terms of the Contract. In the event that such consent is given to sub-contract, the Supplier agrees that it remains bound by these terms as principal.

### **Part M: Safety Inspection and Testing**

- M.1** The Supplier as a responsible employer shall comply with the Health & Safety at Work etc. Act 1974 and any amendments thereto, all relevant safety regulations and environmental requirements whether of a statutory, regulatory, code of practice or other nature and any regulations of SGBD (including the Health & Safety When Delivering to SGBD Sites and Premises policy (a copy of which is available from SGBD on request)) and/or the operator of the site which are communicated to the Supplier as being relevant to the site to which the Goods are delivered or Services provided.
- M.2** The Supplier shall supply SGBD with all instructions, information and warnings necessary for the safe handling storage and use of the Goods together with all Health and Safety handling and hazard data and such other information as SGBD may deem necessary to comply with any Regulation. Nothing in this Clause M.2 shall be construed as relieving the Supplier from any obligation or liability it may have under the Contract or any Regulation. The Supplier undertakes to notify SGBD immediately it becomes aware of any claim, whether actual or threatened, that the Goods are unsafe or do not comply with any Regulation.
- M.3** The Supplier shall have up-to-date test certificates and quality control certificates in respect of the Goods in place at all times and these shall be available to SGBD for inspection on reasonable notice. Photocopies of such certificates will be supplied at SGBD's reasonable request free of charge. In order to comply with its product liability obligations and any Regulation SGBD will also be entitled to have supervised access to the Suppliers premises during normal business hours to inspect and test the Goods during manufacture, processing and storage and the Supplier shall provide or procure the provision of all such facilities at its own cost (including the costs of tests carried out by an independent party) as may reasonably be required by SGBD for that purpose.
- M.4** If, as a result of any inspection or test under this Clause or upon Delivery and without prejudice to Clause D.5, SGBD's representative is of the opinion that the Goods do not comply with any Regulation, the Specification or are otherwise unsafe or are unlikely on completion of manufacture or processing so to comply or be unfit for the purposes required by SGBD or that the Services do not meet the Required Standards then SGBD shall give notice to the Supplier in writing and the Supplier shall take such steps forthwith as are necessary to ensure such compliance and notify SGBD of such steps taken.
- M.5** If the Supplier fails, in SGBD's reasonable opinion to take sufficient steps to ensure compliance with a notice served under Clause M.4 above or if, in the opinion of SGBD, the Supplier will be unable to comply with a notice served under Clause M.4 above or if, in the opinion of SGBD, the Supplier will be unable to comply with a notice served under Clause M.4 above or if, in the opinion of SGBD, the Supplier will be unable to comply with a notice served under Clause M.4 above or if, in the opinion of SGBD, the Supplier will be unable to comply with a notice served under Clause M.4 above or if, in the opinion of SGBD, the Supplier will be unable to comply with a notice served under Clause M.4 above, then SGBD may without further notice terminate the Contract or any Purchase Order without liability to SGBD with immediate effect.
- M.6** Where appropriate and as required by any Regulation, all Goods must be supplied with adequate warning and installation instructions which comply with all relevant and current standards and regulations and which would be comprehensible to the average English consumer.

### **Part N: Confidentiality**

- N.1** Any specifications, patents, drawings, samples and trading information issued and being marked as confidential by either Party in connection with any dealings with the other Party are confidential and their use must be confined to the other Party, its sub contractors or servants solely for the purpose of carrying out any instructions by the other Party which are subject to these terms and conditions. On completion thereof, the said specifications, patents, drawings and samples shall be returned upon request of the owning Party to the other Party.
- N.2** Both SGBD and the Supplier recognise that information concerning their businesses, customers, technology and other affairs ("confidential information") may be passed to each other as a result of their relationship and SGBD and the Supplier agrees to keep all such confidential information, whether or not marked as such, strictly confidential. This duty of confidence shall last throughout the occurrence of any relationship and, in the case of the Supplier, for a period of three (3) years following the termination or expiry of the relationship.
- N.3** The obligations of confidentiality contained in Clauses N.1 and N.2 do not apply to information which is or becomes generally available to the public other than as a breach of the Contract nor to information which the receiving party is required to disclose by any court of competent jurisdiction or government authority or by any applicable law or regulation.

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- N.4** At the request of SGBD, the Supplier shall promptly:
- (i) destroy or return to SGBD all documents and materials (and any copies) containing, reflecting, incorporating, or based on SGBD's confidential information;
  - (ii) erase all SGBD's confidential information from its computer systems to the extent possible; and
  - (iii) certify in writing to SGBD that it has complied with the requirements of this clause N.4.

### **Part O: Set-Off**

- O.1** SGBD reserves the right to deduct from any monies due or to become due from SGBD to the Supplier, any monies due from the Supplier to SGBD and for the purposes of The Insolvency Act 1986 and Rules, a mutual arrangement is hereby established in order to effect the provisions of this Clause O.1.

- O.2** In addition to clause O.1, SGBD may set off:
- (i) any claim for a sum of money that SGBD has against the Supplier;
  - (ii) any claim for a sum of money that SGBD has against any other company in the Group of which the Supplier is a member;
  - (iii) any claim for a sum of money that any company within the same Group as SGBD has against the Supplier; and/or
  - (iv) any claim for a sum of money that any company within the same Group as SGBD has against any other company in the Group of which the Supplier is a member

against any claim for a sum of money that the Supplier and/or any company in the Group of which the Supplier is a member has:

- (v) against SGBD; and/or
- (vi) any other company within the same Group as SGBD whether under this Contract or otherwise.

### **Part P: Product Recall**

- P.1** The Supplier shall notify SGBD immediately on becoming aware of any reason which may lead to the Supplier or SGBD carrying out a product recall, including, but without limitation, any claim concerning the safety of the Goods or their non-compliance with any Specification or Regulation.

- P.2** If, in the opinion of SGBD, it is necessary to withdraw all or some of the Goods from its premises or from sale or to recall all or some of the Goods from its customers or any other third party which may have ownership or possession of the same, then:-

- (i) SGBD shall give immediate written notice to the Supplier of its decision and its reasons;
- (ii) the Supplier shall have 24 hours to respond in writing to such notice by either agreeing to such recall, (in which event Clause P.2 (iv) shall prevail) or giving reasons why it does not agree to such recall;
- (iii) if any dispute over the proposed recall cannot be agreed within a further 12 hours, but SGBD has been notified by any regulatory authority or has other justifiable reason to believe that the Goods are unsafe or may cause damage to third parties or their property, SGBD may commence a product recall in its own name;
- (iv) in the event that the Supplier agrees with SGBD that a product recall should take place, it will conduct the product recall in its own name (or if it is a SGBD 'own brand' product in joint names or SGBD's sole name at SGBD's sole option) with the assistance of SGBD at the Supplier's own cost and will indemnify SGBD for all reasonable costs and expenses incurred in relation thereto;
- (v) the Parties will use their best endeavors to agree a product recall procedure in advance. In the absence of such agreement, a product recall will be conducted in accordance with SGBD's standard product recall procedure if it is a SGBD "own brand" product. The Supplier's procedure shall be used for Supplier branded products if it is, in SGBD's opinion, a satisfactory procedure to ensure the safety of its customers is paramount. The Supplier shall have in place a suitable policy of insurance for adequate amounts in respect of any product recall, which should as a minimum have coverage of £5 million.
- (vi) The Supplier shall indemnify and keep SGBD indemnified in full and on demand for all direct, indirect or consequential liability damages claims, losses including without limitation loss of anticipated profit costs and expenses including professional and legal costs on an indemnity basis suffered incurred or paid as a result of or in connection with any product recall of any Goods including without limitation the costs of undertaking the recall, costs associated with the testing of the Goods, selling or supplying replacement goods, all associated distribution and storage of recalled goods costs, advertising and mailing costs, loss of reputation and brand name damage. SGBD shall use its reasonable endeavours to mitigate any loss which the Supplier may suffer as a result thereof.

## **Part Q: Identification of Goods and Branding**

- Q.1** All Goods will bear the Supplier's name or identification mark, even if the Goods are not manufactured by the Supplier. In addition, each of the Goods will bear a unique batch number which shall correlate with the batch numbers on the invoice, delivery and advice notes. The Supplier will record this batch number. In the event that the Goods cannot be physically marked as described, the Goods shall either be labelled or packaged with the relevant information contained thereon.
- Q.2** If SGBD requests the Supplier to consider branding the Supplier's Goods using SGBD name, logo or get-up as specified by SGBD, the Parties shall use all reasonable endeavours to agree the procedures for such own branding and the Supplier will comply with SGBD's branding guidelines, a copy of which can be supplied upon request. Notwithstanding such branding, the Supplier will ensure that the Goods state a unique batch number in such style, typeface and position as shall be agreed with SGBD.
- Q.3** If requested to do so by SGBD, the Supplier shall supply Goods at no extra cost to SGBD with bar codes in accordance with SGBD's instructions.

## **Part R: Customer Complaints**

- R.1** In the event that SGBD is given notice of any claim, whether actual or threatened, concerning some or all of the Goods or Services, it will inform the Supplier as soon as practicable of the nature of such claim. The Supplier will, within 14 days of a SGBD's request, inspect the said Goods and/or Services, whether at SGBD's or third party's premises and prepare and submit to SGBD a written report of its findings within the following 14 days. In addition, and if SGBD or its customer so requests, it will reimburse SGBD the cost of instructing an industry independent expert to inspect the said Goods and/or Services to give an opinion in relation to their conformity with the Contract. Neither Party shall be bound by any report or opinion provided under this clause.

## **Part S: Force Majeure**

- S.1** In the Contract "force majeure" shall mean any cause preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented including without limitation act of God, war, terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood or storm but not including strikes, lock-outs, or other industrial disputes of the Supplier's workforce.
- S.2** If either party is prevented or delayed in the performance of any of its obligations under the Contract or any Purchase Order by force majeure, that party shall forthwith serve notice in writing on the other party specifying the nature and extent of the circumstances giving rise to force majeure, and shall subject to service of such notice and to Clauses S.3 and S.4 have no liability in respect of the performance of such of its obligations as are prevented by the force majeure events during the continuation of such events, and for such time after they cease as is necessary for that party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations.
- S.3** If either party is prevented from performance of its obligations for a continuous period, which exceed agreed delivery lead times as stipulated on the Supplier Terms Sheet by a multiple of 3 or by one month, whichever is the lesser, either party may terminate any Purchase Order or the Contract forthwith on service of written notice upon the party so prevented. If SGBD serves such notice as a result of a force majeure event claimed by the Supplier, SGBD shall be entitled to exercise its right of set-off under Clause O.1 against monies owed to the Supplier in respect of additional costs it may reasonably have incurred since the Supplier's notice under Clause S.2, such costs having been incurred by SGBD to ensure SGBD honoured its obligations to its customers. These costs, without limitation, include the additional costs and charges of sourcing the Goods and/or Services from a third party. To the extent set-off does not fully reimburse SGBD in respect of such extra costs the Supplier shall indemnify and keep indemnified SGBD in respect of the same.
- S.4** The party claiming to be prevented or delayed in the performance of any of its obligations under the Contract or any Purchase Order by reason of force majeure shall take all steps as are necessary to bring the force majeure event to a close or to find a solution by which the Contract or any Purchase Order may be performed despite the continuance of the force majeure event.

## **Part T: Rebates and Marketing Payments**

- T.1** Unless shown differently in the Supplier Terms Sheet, where the Supplier has agreed Rebate terms with SGBD these monies shall be paid monthly, one month in arrears from the start date of the Contract. Where the Rebate involves volume or monetary increments, then 11 equal payments shall be made, with the final payment for that year being the balancing payment.
- T.2** Any amounts set out within the "Additional Support" section of the Supplier Terms Sheet (the "**Additional Support**") that are stated to be "conditional", shall become "guaranteed" following a agreement being reached

between a representative of the Supplier and the SGBD Category Manager in writing. Any Additional Support that is stated to be "guaranteed" or which becomes guaranteed are sums that are due and owing by the Supplier to SGBD and will be collected by SGBD in line with the payment method and collection frequency as recorded within the Supplier Terms Sheet. Where a Supplier has authorised additional spend by SGBD over and above the Additional Support, then this will be treated as guaranteed Additional Support and paid in the same way as Additional Support to SGBD by the Supplier. Any Additional Support which is or becomes guaranteed and which is unused in the year of intended use must be converted to rebate and paid by the Supplier to SGBD at calendar year end.

- T.3** All marketing and advertising allowances referred to in the Supplier Terms Sheet shall be allocated as decided by SGBD and shall be paid by the Supplier to SGBD prior to the relevant allocated event or promotion taking place.

### **Part U: Reducing Environmental Impact**

- U.1** SGBD seeks to reduce its environmental impact to the minimum. Therefore, all packaging on Goods supplied MUST comply with The Packaging (Essential Requirements) Regulations 2015.
- U.2** The Supplier must ensure that: -
- (i) Packaging is limited to the minimum amount of material required to maintain the necessary level of safety and hygiene and be designed, produced and commercialised in such a way as to permit its recovery through material recycling, incineration with energy recovery, composting or biodegradation;
  - (ii) Noxious or hazardous substances in packaging is minimised in emissions, ash or leachate from waste management operations. In addition, the total concentration of specified heavy metals (lead, mercury, cadmium and hexavalent chromium) must not exceed 100 parts per million.
- U.3** SGBD reserve the right to audit or view the Supplier's systems and/or data to ensure all packaging complies with the relevant legislation or regulations.
- U.4** To ensure SGBD's compliance with the Producer Responsibility Obligations (Packaging Waste) Regulation 2007 (as amended), SGBD require packing weight data (by waste type) from the Supplier for all packaging supplied, that may be passed onto its customer. The provision of this information is required for all Goods supplied to SGBD.
- U.5** **purposely left blank.**
- U.6** **purposely left blank.**
- U.7** The Saint-Gobain Group notably expects its suppliers:
- (i) to make sure that they have control of environmental risks related to both their processes and the products they use whether in their activity or when intervening on Group sites;
  - (ii) to provide their employees with the best possible conditions of health and safety and to observe, during their interventions on Group sites, all applicable health and safety rules.

### **Part V: General**

- V.1** The Contract and any Purchase Order shall be deemed to have been made in England and the Parties hereby submit to the exclusive jurisdiction of the English courts. English law shall be the proper law of the Contract and any Purchase Order.
- V.2** If any provision of these Terms and Conditions of Purchase is held by a competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected thereby.
- V.3** The failure by either party to exercise or enforce any rights contained in any contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.
- V.4** Each right or remedy of SGBD under the Contract is without prejudice to any other right or remedy of SGBD whether under the Contract or not.
- V.5** The Parties agree that at the end of the Term, if the Parties continue to trade and do business in accordance with the Contract, then the provisions of the Contract including entitlement to Rebate on Rebatable Purchases shall continue to apply in full, as a minimum, at the percentage level achieved in the previous calendar years trading, save that the duration of the Contract as defined in the Term shall no longer be applicable, clause J.1 shall no longer apply and without prejudice to any right of either party to terminate the Contract as expressly contained herein, from the end of the Term, should either party wish to terminate the Contract for any reason it may give one month's written notice, to the other party to that effect and the Contract shall terminate on expiry of the said one month's notice.

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- V.6** Any Acquisitions made by SGBD shall not give the Supplier the automatic right under this Contract to supply the Acquisitions with Goods or Services unless agreed by the parties in writing and for the avoidance of doubt the Supplier hereby waives any right he may have to supply as a result of any Acquisitions.
- V.7** In the event of any Acquisitions the price for the Goods or Services shall be the lower of the price paid by SGBD for the Goods or Services and the price paid by the acquired company or business and such price shall apply from the date of acquisition. For the avoidance of doubt any Goods or Services supplied to the Acquisitions post acquisition date shall be subject to these Terms and Conditions of Purchase.
- V.8** The Supplier acknowledges that 'Jewson' and 'Graham' are examples of the portfolio of registered trade marks owned by SGBD and neither the Supplier nor its agent will infringe the intellectual property rights of SGBD nor otherwise seek to use the 'Jewson' or 'Graham' or any other name or trademark owned by SGBD from time to time for any purpose unless expressly authorised in writing by SGBD. In the event of unauthorised use or infringement by the Supplier pursuant to this clause SGBD reserves the right to seek an injunction to prevent such infringement and the Supplier will indemnify and keep indemnified SGBD for all reasonable costs and expenses incurred in relation to such breach by the Supplier.
- V.9** Save for any Subsidiary of SGBD from time to time and including any new Subsidiaries arising from Acquisitions (wherever incorporated) which it is expressly agreed are to benefit from and be entitled to enforce the terms of the Contract a person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act. The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under the Contract is not subject to the consent of any person that is not a party to the Contract.
- V.10** Any notice required to be given under the Contract shall not be effective unless given in writing and delivered by:
- (i) first class pre paid post, effective two business days after posting; or
  - (ii) registered post, special delivery or personal delivery effective at the time of delivery; or
  - (iii) fax, effective upon the transmission of the entire fax as confirmed by a transmission report,
- to the Party's registered office address or main administration office or if notified, a fax number notified to the other Party. Notice may not be given by electronic or e-mail communications.
- V.11** SGBD may novate all or any part of the Contract to any company of which it is a Subsidiary (its holding company) and any other Subsidiaries of any such holding company from time to time including any new Subsidiaries arising from Acquisitions and the Supplier shall be deemed to consent to any such novation. Upon any such novation, unless otherwise agreed in writing by SGBD, the terms of all or any part of the Contract being novated which confer any rights or benefits on the Supplier over any specific corporate entity of SGBD and/or any trading style of SGBD such as Jewson, Graham and others as an example but not exhaustive list, shall continue to have effect over the same specific corporate entity of SGBD and/or trading style as was the case immediately prior to the novation and shall not be extended to any other corporate entity of SGBD or trading style as a result of the novation.

## **Part W: Data Protection**

- W.1** The Supplier shall comply with the provisions and obligations imposed on it by the Data Protection Laws at all times when processing Personal Data in connection with the Contract. SGBD shall comply with its obligations under applicable Data Protection Laws.
- W.2** The Supplier shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Laws, and shall make such information available to any DP Regulator on request.
- W.3** To the extent the Supplier receives from, or processes any Personal Data on behalf of, SGBD, the Supplier shall:
- (i) process such Personal Data (a) only in accordance with SGBD's written instructions from time to time (including those set out in the Contract), unless it is otherwise required by applicable law (in which case, unless such law prohibits such notification on important grounds of public interest, the Supplier shall notify SGBD of the relevant legal requirement before processing the Personal Data), and (b) only for the duration of the Contract;
  - (ii) not process such Personal Data for any purpose other than those set out in the Contract or otherwise expressly authorised by SGBD;
  - (iii) take reasonable steps to ensure the reliability of all its personnel who have access to such Personal Data, and ensure that any such personnel are committed to binding obligations of confidentiality when processing such Personal Data;

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- (iv) implement and maintain technical and organisational measures and procedures to ensure an appropriate level of security for such Personal Data, including protecting such Personal Data against the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access;
- (v) not transfer such Personal Data outside the European Economic Area without the prior written consent of SGBD;
- (vi) inform SGBD within 24 hours if any such Personal Data is (while within the Supplier's or its subcontractors' or affiliates' possession or control) subject to a personal data breach (as defined in Article 4 of GDPR) or is lost or destroyed or becomes damaged, corrupted or unusable;
- (vii) only appoint a third party (including any subcontractors and affiliates) to process such Personal Data with the prior written consent of SGBD;
- (viii) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of SGBD or as expressly provided for in the Contract;
- (ix) as SGBD so directs, return or irretrievably delete all Personal Data on termination or expiry of the Contract, and not make any further use of such Personal Data (except to the extent applicable law requires continued storage of the Personal Data by the Supplier and the Supplier has notified SGBD accordingly);
- (x) provide to SGBD and any DP Regulator all information and assistance necessary or desirable to demonstrate or ensure compliance with the obligations in this Part W and/or the Data Protection Laws;
- (xi) permit SGBD or its representatives to access any relevant premises, personnel or records of the Supplier on reasonable notice to audit and otherwise verify compliance with this Part W;
- (xii) take such steps as are reasonably required to assist SGBD in ensuring compliance with its obligations under Articles 30 to 36 (inclusive) of GDPR;
- (xiii) notify SGBD within two (2) Business Days if it receives a request from a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data; and
- (xiv) provide SGBD with its full co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data.

**W.4** If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with the Data Protection Laws, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.

**W.5** The Supplier agrees to indemnify and keep indemnified and defend at its own expense SGBD against all costs, claims, damages or expenses incurred by SGBD or for which SGBD may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this Part W.

### **Part X: Exit Management Plan**

- X.1** On termination of the Contract for any reason, if required by SGBD, the Supplier will provide all reasonable assistance to SGBD to facilitate the orderly transfer of the Services back to SGBD or to enable another party chosen by SGBD (in this Part X, a "**New Service Provider**") to take over the provision of all or part of the Services. The remaining provisions of this Part X will not prejudice or restrict the generality of this obligation.
- X.2** The Supplier shall promptly and fully answer all reasonable questions about the Services which may be asked by SGBD for the purpose of adequately understanding the manner in which the Services have been provided or for the purpose of allowing any New Service Provider (or potential New Service Provider) to conduct 'due diligence'.
- X.3** Where the Services provided to SGBD are dependent on equipment which is not used exclusively for the provision of the Services to SGBD (and which is not owned by SGBD) the Supplier will ensure the necessary migration of programs, data and other materials from such equipment to similar equipment owned by SGBD or a New Service Provider. Implementation of the change shall be carried out by the Supplier in such a way as to cause the minimum possible disruption to the supply of the Services.
- X.4** SGBD shall be entitled to use (and to authorise any New Service Provider to use), free of charge but on a non-exclusive basis, all know-how and other information acquired by the Supplier in the course of providing the Services or otherwise used by the Supplier in the provision of the Services, whether or not such know-how or information was produced specifically or used exclusively to provide the Services.

## ***Terms and Conditions of Purchase of Goods and/or Services V7 (SGBD)***

- X.5** All rights of access and occupation granted to the Supplier in respect of premises owned or occupied by SGBD will cease when the provision of Services ceases in accordance with the Contract.
- X.6** Save where the parties reasonably believe that there will be no relevant transfer for the purposes of TUPE, the parties shall co-operate in agreeing a list of those persons (and the Supplier shall supply all relevant details relating to those employees) who it is agreed were employed by the Supplier wholly and/or mainly in the Services immediately prior to the date of transfer of responsibility for the provision of the Services or part of the Services between the Supplier and SGBD and/or a New Service Provider (as the case may be) (the "**Subsequent Transfer Date**") (the "**Returning Employees**") and shall co-operate in seeking to ensure the orderly transfer of the Returning Employees to SGBD and/or the New Service Provider.
- X.7** For the purpose of clause X.8, "**Stand-Still Period**" means where any notice is given terminating the Contract, the period commencing on the date of such notice and ending on the date on which the Contract expires pursuant to the terms of such notice or such later date on which the Supplier ceases to provide the Services hereunder (both dates inclusive).
- X.8** Save where the parties reasonably believe that there will be no relevant transfer for the purposes of TUPE, during the Stand-Still Period, the Supplier will not:
- (i) initiate or make any changes in the composition/identities of; or
  - (ii) amend or vary (or promise to amend or vary) the terms and conditions of employment or engagement including for the avoidance of doubt, pay) of,
- the personnel engaged in providing the Services without the prior written consent of SGBD.
- X.9** The Supplier shall indemnify SGBD (both for itself and a New Service Provider) against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred by SGBD and/or a New Service Provider in connection with or as a result of:
- (a) any claim or demand by any Returning Employee or a trade union or other body or person representing a Returning Employee (whether in contract, tort, under statute, pursuant to European law or otherwise) arising from any act, fault or omission of the Supplier on or before the Subsequent Transfer Date;
  - (b) any failure by the Supplier to comply with its obligations under regulations 13 and 14 of TUPE, or any award of compensation under regulation 15 of TUPE, save where such failure arises from the failure of SGBD and/or New Service Provider to comply with its or their duties under regulation 13 of TUPE;
  - (c) a claim by any person who transfers or alleges that they have transferred to SGBD or the New Service Provider but whose name is not included in the list of Returning Employees.

## **Part Y: Compliance with Applicable Human Health and Environmental Laws And Regulations**

- Y.1** As Supplier of the chemical substances sold to SGBD, whether these substances are supplied to be used unaltered, contained in mixtures or articles, the Supplier undertakes to comply with all applicable laws and regulations in force and more particularly with both European Regulations n° 1907/2006 and 1272/2008 respectively regarding the registration, evaluation, authorisation and restriction of chemical substances ("**REACH Regulation**") on the one hand and the classification, labelling and packaging of substances and mixtures ("**CLP Regulation**") on the other hand.
- Y.2** As part of this commitment, the Supplier undertakes to permanently comply with any regulatory change and, consequently, to adapt its own obligations towards SGBD for the whole duration of the Contract.
- Y.3** In this respect, the Supplier shall in particular ensure that the substances provided to SGBD are duly registered for the uses that have been indicated to it by SGBD. The Supplier undertakes to provide SGBD with the registration numbers of the substances.
- Y.4** Moreover, should these substances be subject to an application for inclusion in the European Chemical Agency's (ECHA) candidate list of substances of very high concern, the Supplier shall inform SGBD as soon as it is aware of such application. This obligation shall also apply in the case of sale to SGBD of mixtures or articles containing such substances.
- Y.5** In addition, in the event that the substances supplied to SGBD are subject to authorisation or restriction, the Supplier undertakes to inform in writing SGBD of any restrictions and prohibitions of use that affect these substances and of any possibility to substitute such substances.
- Y.6** The Supplier undertakes to inform SGBD with a minimum of six (6) months' written notice if, in the course of the present agreement, it intends either to modify the ingredients and/or technical characteristics of the substances, mixtures or articles supplied or to stop selling them.

- Y.7** The substances and/or mixtures shall be accompanied by any information that are necessary in order to enable SGBD to use them totally safely. Such information shall be mentioned in the safety data sheets (SDSs) written in the language of the country of delivery when a SDS is required by the European and/or national regulations in force or, if such SDS is not mandatory, consist in all information referred to in Article 32 of the REACH Regulation.
- Y.8** The Supplier agrees to indemnify and keep indemnified and defend at its own expense SGBD against any all costs, claims, damages or expenses incurred by SGBD or for which SGBD may become liable arising from the Supplier's or its employee's or agent's non-compliance with their obligations resulting both from the REACH and CLP Regulations and under this Part Y.

## Part Z: Responsible Purchasing

- Z.1** The Saint-Gobain Group has signed up to the "United Nations Global Compact" and applies the "OECD guidelines for multinational enterprises" as well as the fundamental principles and rights at work described in the "ILO Declaration" (International Labour Organization). In this context, it has notably adopted a program of responsible purchasing, an integral part of the Group's Responsible Development policies. The approach and expectations of the Saint-Gobain Group with regard to its suppliers are formalised in the "Suppliers' Charter" which is available at <https://www.saint-gobain.co.uk/news-contacts-resources/library#policyDocs>. A copy of the Suppliers' Charter is also available from SGBD upon request. The Saint-Gobain Group and/or SGBD reserves the right to amend the form of the Suppliers' Charter and shall notify the Supplier when a new version of the Suppliers' Charter shall take effect. The Supplier confirms that it has read, and complies with, the Suppliers' Charter and shall comply with any updated version of the Suppliers' Charter. In addition to the Suppliers' Charter, SGBD has set up a professional alert system for suppliers allowing them to report any event or conduct non-compliant with applicable laws and regulations, international rules or with the principles of the Suppliers' Charter. Any alert should be sent through the following website: <https://www.bkms-system.com/saint-gobain>.
- Z.2** The Supplier shall also comply with the contents of any other SGBD policies, including its sourcing policies, relevant to the categories of Goods being sold to SGBD as noted on the Supplier Terms Sheet or as otherwise notified to the Supplier by SGBD from time to time. These include, but are not limited to, the SGBD Responsible Purchasing Policy and any Goods specific sourcing policies (for example timber and natural stone). Copies of these are available at <https://www.saint-gobain.co.uk/news-contacts-resources/library#policyDocs>. Copies of any of these policies are also available from SGBD upon request. SGBD reserves the right to amend the form of any of these policies and shall notify the Supplier when a new version of relevant policies shall take effect. The Supplier shall comply with any updated version of the relevant policies. These specific sourcing policies define the responsible conduct that the Saint-Gobain group companies must adopt when buying and / or selling the relevant products, in response to the challenges of sustainable development. In the context of timber, the Saint-Gobain Group expects its suppliers to participate to its Timber Policy, in particular by favoring FSC or PEFC certified wood supplies. The Supplier undertakes to provide SGBD with the corresponding certificates or, if the timber is not certified, provide a sworn statement attesting to the logging locations and the species of timber used, using the template enclosed in the Timber Policy. The Supplier also undertakes to update its certificates or to inform SGBD of any event affecting or likely to affect the aforementioned sworn statement. As part of the SGBD Responsible Purchasing Policy, and in application of its vigilance plan, SGBD conducts a supplier analysis based on its risks mapping before assessing, if necessary, its suppliers' environmental, social and ethical practices through documentation reviews or on-site audits, on the basis of international standards (hereinafter referred to as the "**Evaluations**"). Should these assessments show any disparities between the standard reference framework used and the Supplier's practices, SGBD will define with the Supplier the corrective measures to be implemented. Any failure to implement these measures may result in the Supplier being delisted and in the early termination for breach of the Contract and all other agreements concluded with other Saint-Gobain Group companies. The Supplier acknowledges that SGBD may conduct Evaluations on the Supplier and agrees to provide the necessary assistance for that purpose.
- Z.3** The Supplier undertakes to fulfil the compliance obligations set forth in this clause Z.3. In addition, the Supplier shall require its own suppliers and subcontractors to comply with the same obligations. Saint-Gobain is entitled to conduct audits in order to ensure compliance to these rules. Depending on the situation, the term "**Saint-Gobain**", as used in these Terms and Conditions of Purchase may refer to SGBD and/or all companies and legal entities which belong to the Saint-Gobain Group. The Saint-Gobain Group consists of any and all companies and legal entities directly or indirectly detained and/or controlled (controlled having the meaning set forth in art. L233-3 of the French Commercial Code) by "Compagnie de Saint-Gobain", a French company headquartered at Tour Saint-Gobain - 12 place de l'Iris, 92096 La Défense Cedex - FRANCE.
- a) Fight against corruption**  
The Supplier warrants that it has not provided or promised any undue advantage to Saint-Gobain, any person employed by Saint-Gobain, or any third party to obtain the benefit of this Contract. The Supplier shall comply and require that all of its affiliated companies, officers, employees, representatives, subcontractors, and agents (the "**Supplier's Representatives**") comply with the Suppliers' Charter and all applicable laws including but not limited to those preventing corruption and shall ensure that in any dealings with SGBD, neither it nor any of the Supplier's Representatives shall commit any offence under the Bribery Act 2010 including not engaging in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010. In particular, the Supplier and the Supplier's Representatives shall not directly



or indirectly promise, offer, or grant to any public official or any other person any undue advantage with a view to making this person do or abstain from doing something, in breach of their legal or professional obligations. The Supplier shall keep accurate accounts in accordance with its country's generally accepted accounting principles and in which all financial flows generated by this Contract shall be correctly recorded; and shall inform Saint-Gobain immediately it becomes aware of any actions between the parties that could constitute an offence under the Bribery Act 2010 and/or of any solicitation to commit an act of bribery or corruption occurring during the performance of the Contract.

**b) Economic sanctions**

The Supplier undertakes to comply with any laws and regulations on economic sanctions applicable to the activities covered by this Contract. These may include instruments adopted by the United Nations, the United States or the European Union. For all matters pertaining to the execution of this Contract, the Supplier undertakes that it will not enter into transactions with any person or entity with whom commercial transactions are forbidden or restricted by the United States or the European Union. The Supplier also undertakes to inform Saint-Gobain promptly in the event that any of the Goods or Services (including software or services) covered by this Contract, are wholly or partly subject to any resale or re-export restriction (eg. Dual use or military content); and/or originate from the United States or incorporate content manufactured in the United States. In any such event, the Supplier shall provide Saint-Gobain with all related (and reasonably necessary) information and documents. If, at any time, any new law or regulation renders the performance of its duties impossible or illegal for SGBD, SGBD shall be entitled to cancel the Purchase Order and terminate the Contract without any liability to the Supplier.

**c) Suspension of obligations**

Either Party shall be entitled to suspend temporarily or definitively the performance of its obligations under the Contract without any liability to the other if, at any time, new economic sanctions and/or export regulations enter into force and render the execution of the Contract either impossible or illegal for one Party.

**Z.4** In performing its obligations under the Contract, the Supplier shall and shall procure that each member of its Group shall comply with all applicable laws including the Regulations. The Saint-Gobain Group notably expects its suppliers: (i) to respect employee rights regardless of the country in which they operate; (ii) to refrain, even if permitted under applicable local legislation, from resorting to any forced or compulsory labour or to any child labour, either directly or indirectly or through sub-contractors, in the course of their production processes or when providing services or when intervening on Group sites. SGBD may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of this clause Z.4 and for the avoidance of doubt, this right to terminate includes where SGBD reasonably believes that the Supplier has not made sufficient enquiries or efforts to ensure that modern slavery is not present within the Supplier's own supply chain as covered by the Modern Slavery Act 2015. SGBD is included within the Saint-Gobain UK Modern Slavery Statement which can be found at <https://www.saint-gobain.co.uk/news-contacts-resources/library#policyDocs>.

**Z.5** The Supplier authorises Saint-Gobain to conduct Evaluations and audits at any time in order to ensure the Supplier is complying with its obligations under this Part Z. In this regard, the Supplier shall provide all the documents and data required to prepare and conduct the Evaluation or the audit and give access to the site of the Supplier or its affiliated companies. Organisation and performance of Evaluations or audits may include exchange and storage of personal data, mainly work-related. If SGBD has reasons to believe that the Supplier is not fulfilling the obligations contained in this Part Z, SGBD shall inform the Supplier and may suspend performance of the Contract until the Supplier provides reasonable proof that it has not committed or is not about to commit a breach. SGBD shall under no circumstances be liable for any damage or loss caused to the Supplier by the suspension of the Contract. In case of an actual breach by the Supplier or the Supplier's Representatives of the provisions of this Part Z, SGBD shall be entitled to terminate the Contract, with immediate effect, by serving notice in writing on the Supplier, without paying any compensation and without prejudice to any damages or remedies which SGBD may be entitled to.

**Z.6** The Supplier is aware that the Saint-Gobain group of companies of which SGBD is part supports the UN Global Compact and has adopted General Principles of Conduct and Action available on the Internet site: <https://www.saint-gobain.com/en/ensure-ethical-business-practices>. The Supplier declares that it has read these principles.