

## **STANDARD CONDITIONS OF SALE**

### **1. DEFINITIONS**

1.1 The "Buyer" means the other company person firm organisation or public authority specified in the order or being a party to any contract to which these terms and conditions apply.

1.2 The "Company" means Saint-Gobain Construction Products UK Limited, (a company registered in England with number 734396), trading as Saint-Gobain PAM UK, Registered Office: Saint-Gobain House, East Leake, Loughborough, Leicestershire LE12 6JU.

1.3 The "Contract" means the contract for the sale of the Goods comprising these standard conditions of sale together with any special conditions agreed by the Company in writing and included on the Order Acknowledgment.

1.4 The "Goods" means the goods specified on the Company's Order Acknowledgement.

1.5 The "Order" means the order for Goods submitted to the Company by the Buyer.

1.6 The "Order Acknowledgement" means the order acknowledgement issued by the Company in response to the Buyer's Order.

### **2. PRICE**

2.1 The price payable by the Buyer for the Goods shall be the Company's price notified on the Order Acknowledgement, unless expressly provided otherwise in writing by the Company.

2.2 Unless notified otherwise to the Buyer, prices quoted are inclusive of carriage within mainland U.K. However, the Company reserves the right to make an additional charge in exceptional circumstances or for deliveries outside mainland U.K.

2.3 All prices quoted are exclusive of VAT unless otherwise stated and VAT and any other tax or duty relating to the sale or delivery of the Goods shall be added to the price payable by the Buyer.

2.4 Where the Company invoices the Buyer for export Goods which are VAT exempt and VAT subsequently becomes payable, the Company may invoice the Buyer for a sum equivalent to the VAT which becomes payable and such sum shall be payable within 14 days of the date of the invoice.

### **3. TERMS OF PAYMENT**

3.1 Payment shall be made in full by the end of the calendar month following the month in which the Goods were delivered (in accordance with clause 4.2).

3.2 Without prejudice to its other rights and remedies, in the event of late or non-payment the Company shall be entitled to:

(a) charge interest on overdue accounts at 4% over the current base rate of the Lloyds TSB Bank plc, and/or

(b) suspend outstanding deliveries under this Order or any other order the Buyer has placed with the Company, and/or

(c) set-off any amounts the Company owes the Buyer by way of rebate payments or any other monies due from the Company to the Buyer against any monies owed by the Buyer to the Company.

3.3 The Company shall be entitled, at its reasonable discretion, to withdraw credit facilities at any time in which event all sums outstanding from the Buyer to the Company (whether or not due and whether relating to this Contract or any other contract) shall forthwith become due and payable.

### **4. DELIVERY**

4.1 The Company will use all reasonable endeavours to deliver the Goods on the date or dates specified in the Order and will specify on the Order Acknowledgement the Company's best estimate of delivery dates. However, for the avoidance of doubt, time of delivery shall not be of the essence of the Contract.

4.2 Unless otherwise agreed in writing, delivery shall be deemed to take place on the physical handing over of the Goods to the Buyer or the Buyer's designated carrier or agent or on transferring

the Goods into storage at the Buyer's request, or in accordance with clause 4.4 below (whichever is the earlier).

4.3 Where the Order provides for delivery to the Buyer's premises or to site, unless otherwise agreed in writing, the Buyer shall be responsible for:-

- (a) the costs and provision of suitable offloading equipment and manpower.
- (b) safe access to the offloading area which must be suitable for the purposes of delivery and offloading, and
- (c) ensuring that the offloading is completed by the Buyer and without undue delay. In the event of delays in offloading the Buyer shall be liable for the costs of any such delay.

4.4 If for any reason the Buyer shall fail to take or refuses to accept delivery of any of the Goods the Company may:

- (a) invoice the Buyer for the value of the Goods and then store such Goods until actual delivery and charge the Buyer reasonable costs (excluding insurance) of storage and re-delivery, or
- (b) without affecting the continuation of the Contract, sell the Goods.

## **5. DAMAGE OR LOSS IN TRANSIT**

5.1 Where the Company agrees in writing to be responsible for the transportation of the Goods to the Customer or any place, the Company will only entertain a claim by the Buyer for damage in transit to or non-delivery of the Goods provided the Buyer:

- (a) in respect of non-delivery, gives written notice to the Company within 10 days after the date of the Company's advice note or invoice advising of the despatch of the Goods that such Goods have not been received, or
- (b) in respect of damage in transit gives written notice to the Company, within 3 days after delivery of the Goods.

## **6. FORCE MAJEURE**

The Company shall not be liable for any failure or delay in manufacture and/or delivery of any of the Goods if it is prevented or hindered in manufacturing and/or delivering the Goods directly or indirectly by fire, the elements, war, civil commotion, national strikes, lock outs or industrial disputes, major failure of plant or machinery, late receipt of necessary information from the Buyer, acts, orders or regulations of Government, or any cause whatsoever beyond the reasonable control of the Company, then time for the delivery of the Goods shall be extended for a reasonable period.

## **7. RISK AND PROPERTY**

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer on delivery.

7.2 The Buyer shall become the legal owner of the Goods only when the Company has received full payment, in cleared funds, for the Goods and for all other goods supplied by the Company to the Buyer.

7.3 Following delivery and until legal ownership in the Goods has passed in accordance with clause 7.2 above:

- (a) the Buyer shall store the Goods separately and identifiably as the Company's property, but shall be entitled to resell or use the Goods in the ordinary course of its business; and
- (b) the Company shall be entitled at any time to require the Buyer to make such Goods available for collection and if the Buyer fails to do so immediately the Company may enter any premises occupied or controlled by the Buyer to repossess such Goods.

## **8. SPECIFICATIONS**

Provided that any amended or substitute goods comply in all material respects with any requirements of the Buyer previously made known to the Company in writing and conform to relevant recognised standards and are of reasonably equivalent material and/or finish, the Company may alter the specification of the Goods and/or supply substitute goods without prior reference to the Buyer.

## **9. SELECTION HANDLING AND INSTALLATION**

9.1 The Company provides a range of technical guidance in the form of brochures and oral and written advice from its Technical Department ("Technical Guidance"). However, the Technical Guidance is advisory only and shall not be deemed to be a prescription as to how the Goods must be selected, handled and/or installed (whether by the Buyer or any third party) and, save where expressly agreed in writing by the Company, the Buyer shall (whether itself or through a third party) be solely responsible for the selection, safe handling and installation of the Goods and the Company shall not be responsible for any loss or damage incurred or arising from the inappropriate selection, handling or installation of the Goods.

9.2 The Company accepts no responsibility for the adequacy of any special or non-standard specifications laid down by the Buyer to which the Goods may have been manufactured.

## **10. TERMINATION**

10.1 The Contract may be terminated immediately, by either party, on written notice in the event that the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a Company) goes into liquidation, or if an encumbrancer takes possession, or if a receiver is appointed over any of the property or assets of the relevant party, or the relevant party ceases or threatens to cease to carry on business, or if any similar or analogous event occurs in any jurisdiction PROVIDED ALWAYS that if any of the Goods have been delivered at the time of such termination the price for such Goods shall become immediately due and payable notwithstanding any previous agreement to the contrary.

10.2 Without affecting any other right or remedy available to it, the Company may terminate any Contract with the Buyer with immediate effect by giving written notice to the Buyer if the Buyer commits a material breach of any term of these conditions and/or the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven (7) days after being notified in writing to do so.

## **11. CANCELLATION CHARGES**

In the event that either party seeks to cancel the Contract or any part of it, for any reason otherwise than in accordance with clause 10, then the other party may, in its discretion, agree to such cancellation on such terms as it seems fit, including as to indemnification against all costs, expenses and loss of profits arising from such cancellation. Suspension of deliveries, withdrawal of credit facilities or sale of the Goods in accordance with clauses 3.2, 3.3 and 4.4(b) shall not constitute cancellation of the Contract for this purpose.

## **12. WARRANTY**

12.1 The Goods are warranted (subject to clauses 12.2 and 13 below):

(a) fit for the purpose set out in the BS, EN, Water Industry or International Standard to which they are manufactured and

(b) of satisfactory quality and free from defects in materials and workmanship at the time of delivery.

12.2 The Company shall not be liable for any breach of the warranty in clause 12.1 in respect of any defect in the quality or state of the Goods:

(a) which would be apparent on a reasonable examination, unless the Buyer shall have given to the Company written notice within 14 days after delivery; or

(b) which would not be apparent on a reasonable examination unless such defects shall have been discovered within 12 months after delivery and the Buyer shall have given written notice to the Company within 14 days of such discovery; or

(c) arising from the Goods being modified or otherwise tampered with or stored in unsuitable conditions or for an excessive period or being subject to misuse, faulty installation negligence or accident; or

(d) arising as a result of the Company manufacturing the Goods to a design and/or specification provided by the Buyer.

12.3 All written notices alleging breach of warranty shall specify the matters complained of and the Buyer shall thereafter afford the Company a reasonable opportunity of inspecting the Goods in their allegedly defective or non-compliant state.

12.4 The Company shall at its option and in full satisfaction of any liability arising from any breach of this clause 12, either replace or repair faulty Goods or refund the price (or the relevant part of the price) of the faulty Goods and satisfy any further substantiated claim in accordance with clause 13.

### **13. LIABILITY**

13.1 Nothing in these terms and the Contract shall restrict or exclude a party's liability for: (a) death or personal injury arising out of that party's negligence; (b) fraud; or (c) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.

13.2 Subject to clause 13.1, the Company shall not under any circumstances be liable for:

(a) any indirect or consequential damages, costs or losses (including, without limitation, loss of business, loss of reputation, loss of anticipated saving and loss of goodwill); or

(b) any direct or indirect loss of profits suffered or incurred by the Buyer; or

(c) any direct or indirect loss arising from any claim made against the Buyer by any third party, arising out of or relating to the Contract, any supply by the Company of defective or damaged Goods, negligence, breach of statutory duty or any other breach or cancellation of the terms of any contract to which these conditions are applicable, whether or not such losses were foreseeable by the Company, except as otherwise provided in these conditions.

13.3 Except for the type of liability referred to at clause 13.1, the Company's total liability in respect of any contractual breach or representation, statement or tortious act or omission arising under or in connection with the Contract (a "Default") shall not exceed the total sums paid or payable by the Buyer to the Company in respect of the quantities of Goods to which the Default relates.

13.4 The parties agree that the limitations of liability in this clause 13 are reasonable in all the circumstances, particularly taking into account the availability of insurance for the Buyer and the price of the Goods offered by the Company.

### **14. DISPUTE RESOLUTION**

If any dispute arises out of the Contract the parties will have good faith discussions to attempt to settle the matter. If these discussions are initially unsuccessful, the parties shall escalate the dispute to their relevant respective directors. If, following such escalation, the parties are still in dispute, the parties shall attempt to settle that dispute by mediation in accordance with the Centre for Dispute Resolution's (CEDR) Model Mediation Procedure.

### **15. INTELLECTUAL PROPERTY**

15.1 The Buyer acknowledges that it shall neither have nor acquire any intellectual or industrial property rights in the Goods, except where the Goods are manufactured to the Buyer's own design and in respect of which the Buyer has provided prior written evidence of the existence of such rights. Where, notwithstanding the provision of written evidence to the contrary, a claim is made against the Company in respect of Goods which were manufactured to the Buyer's own design, the Buyer shall indemnify the Company against all losses, damages, costs (including, without limitation, legal expenses on a solicitor client basis) and expenses awarded against or incurred by the Company in connection with any such claim.

15.2 Where an industrial or intellectual property rights claim is made against the Buyer in respect of Goods which were manufactured to the Company's design, the Company shall indemnify the Buyer against all losses, damages, costs and expenses awarded against or incurred by the Buyer in connection with any claim that the Goods infringe or that their use or resale infringes the patent, copyright, design, trademark, or other industrial or intellectual property rights of any other person provided always that:

(a) the Buyer does not settle such a claim or admit liability in respect of the claim;

(b) the Company is given full control of any proceedings or negotiations in connection with any such claim; and

(c) the Buyer shall (at the Company's cost) provide its reasonable assistance with the defence and/or settling of the claim.

## **16. WAIVER**

No waiver by either party of any breach of the Contract by the other party shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

## **17. CONFIDENTIALITY**

17.1 Each party to the Contract shall keep strictly confidential all information concerning the business and affairs of the other obtained from the other either pursuant to the Contract or prior to and in contemplation of it, shall use the same exclusively for the purposes of the Contract, and shall disclose the same only to those of its directors and employees to whom and to the extent that such disclosure is reasonably necessary for the purposes of the Contract.

17.2 The obligations of clause 17.1 above shall survive the expiry or termination of the Contract for a period of 5 years but shall not apply to any information which:

- (a) the recipient can demonstrate was already in its possession and at its free disposal prior to receipt under the circumstances mentioned at clause 17.1 above;
- (b) is subsequently disclosed to the recipient without any obligation of confidence by a third party who has not derived it directly or indirectly from the disclosing party;
- (c) enters the public domain through no act or default of the recipient, its agents or employees; or
- (d) is required by law to be disclosed.

## **18. THIRD PARTY RIGHTS**

The Parties do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

## **19. EXPORT TERMS**

19.1 Except as varied by this Contract or otherwise agreed between the parties in writing the export delivery terms used in the Contract such as FOB, CIF and CFR shall have the meanings assigned to them by Incoterms 2010 published by the International Chamber of Commerce.

19.2 Where the Goods are supplied for export from the United Kingdom, the provision of this clause 19 shall (subject to any special terms agreed in writing between the Buyer and the Company) apply notwithstanding any other provision of these Conditions.

19.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.

19.4 Unless otherwise agreed in writing between the Buyer and the Company, the Goods shall be delivered ex works and the Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979 as amended.

19.5 Any maritime insurance required to be effected by the Company under the Contract shall unless otherwise agreed in writing be ten per cent over the invoice price and shall cover the interest from the commencement of transit to the destination named in the Contract as provided and contained in the Institute of London Underwriters ("the Institute") Cargo Clauses (All Risks) including breakage subject to the provision of the cutting clause contained in the relevant insurance policy details of which will be provided upon request the Institute War Clauses and the Institute Strikes Riots and Civil Commotion Clauses current at the time of shipment.

19.6 The Buyer shall be liable for and shall indemnify and hold the Company harmless from any and all liability, loss, claims, damages and costs, which the Company may sustain or incur, arising out of or in any way connected with the Buyer's failure to comply with clauses 19.3 and/or 22.

## **20. GENERAL**

20.1 These terms and conditions together with any amendments agreed and referred to on the face of the Company's Order Acknowledgement shall constitute the entire Contract between the parties and the Buyer agrees and acknowledges that only these terms and conditions shall apply and that any documents received from the Buyer which contain printed or standard conditions have been sent by the Buyer and received by the Company on the sole understanding that they appear on the documents only because they are preprinted thereon and have no contractual effect whatsoever.

20.2 Save as expressly set out in these terms and conditions, or otherwise expressly acknowledged in writing by the Company all other conditions, terms or warranties implied by statute or common law are excluded to the fullest extent permitted by law.

20.3 Both parties acknowledge that the other party will have no liability in relation to any representations made by or on behalf of the other party, save to the extent that such representations are set out in the Contract, or have been set out by the Buyer on its Order and that such representations are expressly acknowledged in writing by the Company.

20.4 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

20.5 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. If such written notice is given by facsimile transmission, a copy of that notice must be sent as soon by post as is reasonably possible after such transmission.

## **21. BRIBERY ACT COMPLIANCE**

The Buyer shall ensure that in any dealings with the Company, neither it or its employees or agents shall commit any offence under the Bribery Act 2010 ("the Act") including not engaging in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Act. The Buyer shall inform the Company immediately it becomes aware of any actions between the parties that could constitute an offence under the Act.

## **22. SANCTIONS COMPLIANCE**

It is our and our group's policy to comply with all applicable sanctions and legal requirements for the import and export of goods, technology and services. We are committed to ensuring compliance with all regulatory and licensing requirements relating to international trade. We do not permit the supply of any of our goods to any individuals, companies or organisations that are subject to any trade, economic or financial sanctions, embargoes or similar restrictive measures administered, enacted or enforced by the UK, EU, UN or USA ("Sanctioned Entities"). By entering into this Contract you agree not to re-sell or otherwise transfer the Goods, either directly or indirectly, to any Sanctioned Entities.

## **23. DATA PROTECTION**

23.1 For the purposes of this clause 23, (a) "Applicable Data Protection Laws" means (i) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data, (ii) to the extent the EU GDPR applies, the law of the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data; in each case, as updated, amended or replaced from time to time; (b) "EU GDPR" means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law; (c) "UK GDPR" has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; and (d) the terms "Data Subject", "Personal Data", "processing", "processor" and "controller" shall have the meanings set out in the UK GDPR.

23.2 Each party shall comply with the provisions and obligations imposed on it by the Applicable Data Protection Laws when processing Personal Data in connection with these Conditions. Such processing shall continue for so long as these Conditions are in force and shall be in respect of the following:

- (a) Categories of data: Contacts within each of the parties and the ultimate customer details;
- (b) Types of personal data: names, addresses, email addresses, telephone numbers and other contact details;
- (c) Purpose and nature of processing: (i) manage the Contracts between the parties including ordering, fulfilment and billing and (ii) fulfilment of such Contracts by delivering goods.

23.3 To the extent that a party processes any Personal Data on behalf of the other party, the processing party shall: (a) comply with the provisions and obligations imposed on a processor by the Applicable Data Protection Laws, and any stipulations set out in the Applicable Data Protection Laws as to what shall be included in the contract between the parties shall form a part of, and are incorporated into, these Conditions as if they were set out in full, and any reference to "documented instructions" (or similar) shall include the provisions of these Conditions; and (b) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of the other party or as expressly provided for in these Conditions.

23.4 The Buyer agrees that the Company may engage third party providers including any advisers, contractors, or auditors to Process Personal Data ("Sub-Processors"). The Company shall ensure that its contract with each Sub-Processor shall impose obligations in relation to the Processing of Personal Data on the Sub-Processor that are materially equivalent to the obligations to which the Company is subject to under these Conditions in relation to the Processing of Personal Data.

23.5 If either party receives any complaint, notice or communication which relates to the processing of Personal Data by the other party or to either party's compliance with the Applicable Data Protection Laws, or if any Personal Data processed in connection with these Conditions is subject to a personal data breach (as defined in the UK GDPR), it shall immediately notify the other party and provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice, communication or personal data breach.

## **24. ENGLISH LAW**

This Contract shall be governed by the laws of England and the parties submit all matters in relation to this Contract to the non-exclusive jurisdiction of the English Courts.

Feb 2021