

# FARÉCLA PRODUCTS LIMITED

## General Terms and Conditions of Purchase of Goods and/or Services

### 1. BASIS OF PURCHASE

- 1.1 These Conditions are the only terms and conditions on which Farécla Products Limited ("Company") is prepared to deal with its supplier of the goods and/or services the subject of this Order ("Supplier") and these Conditions shall apply to the exclusion of any other express terms and conditions on which any quotation has been given or subject to which this Order is purported to be accepted by the Supplier.
- 1.2 In these Conditions: "Order" means the Company's purchase order for goods and/or services to which these Conditions relate; "Goods" means all products, articles or materials the subject of this Order; "Services" means the services or work the subject of this Order, in each case as described on the front of this Order; "Address" means the delivery address stated on this Order or such other address as the Company may subsequently notify in writing; "Contract" means this Order and these Conditions; "Specification" means any description and/or sample of the Goods and/or Services including any plans, drawings, data or other information relating to the Goods and/or Services; "Data Protection Laws" 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) EU Directive 2002/58/EC (as amended by 2009/139/EC) and any legislation implementing or made pursuant to such directive, including the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (b) the Data Protection Act 2018; and (c) EU Regulation 2016/679 ("GDPR"); and (d) any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR; in each case, to the extent in force, and as such are updated, amended or replaced from time to time; "Data Subject" shall have the meaning set out in GDPR; "DP Regulator" means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws; "Personal Data" shall have the meaning set out in GDPR; and "Processing and Process" shall have the meaning set out in GDPR.
- 1.3 This Order will not be binding upon the Company unless signed by an authorised representative of the Company.

### 2. PURCHASE

This Order constitutes an offer on the part of the Company and no contract shall be concluded until the Supplier either expressly by giving of notice of its acceptance to the Company, or impliedly by fulfilling this Order in whole or in part, accepts the offer.

### 3. CANCELLATION

The Company may cancel this Order without liability to the Supplier at any time prior to the receipt of express or implied acceptance in accordance with clause 2 by giving written notice to the Supplier.

### 4. PRICE

- 4.1 The price payable for the Goods and/or Services shall be that stated on the front of this Order and, unless otherwise so stated, shall be:-
  - (a) exclusive of any applicable Value Added Tax (which shall be payable by the Company subject to receipt of a VAT invoice);
  - (b) inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Address and any taxes, levies or duties other than Value Added Tax.
- 4.2 No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise), nor any additional charges submitted, without the prior written consent of the Company.
- 4.3 Where no price is shown this Order is conditional upon the price being acceptable to the Company.
- 4.4 Unless otherwise agreed in writing the price shall include payment for all tools, patterns, dies, moulds, jigs, fixtures, drawings, data, artwork or other material created under this Contract.
- 4.5 The Company will be allowed all discounts normally offered by the Supplier for bulk purchases, prompt payment and other reductions.
- 4.6 In the event that the Supplier recovers a refund of or credit for taxes paid by the Company to the Supplier in connection with this Order, the Supplier agrees to pay the Company the amount of such refund or credit.

### 5. DELIVERY

- 5.1 Delivery of the Goods must be made and/or the Services must be performed on or (with the Company's prior written consent) before the date or within the period stated on this Order and time shall be of the essence. Unless the Company specifies otherwise in writing, delivery or performance will only be accepted by the Company during normal working hours. Without prejudice to any other rights which it may have the Company reserves the right to refuse payment and/or terminate this Contract in the event that delivery is not so made or the Services not so performed and to claim damages for any loss incurred, including without limitation in obtaining the Goods and/or Services from another supplier.
- 5.2 If the Company agrees to accept delivery or performance after the stipulated date, this shall not prejudice its right to seek full compensation for all and any loss of whatsoever nature, which might be caused by, or derive from, the delay.
- 5.3 The Company shall be entitled to reject any Goods delivered which are not in accordance with this Contract and shall not be deemed to have accepted any Goods until the Company has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.
- 5.4 If Goods are delivered to the Company in error, or of the wrong description or quality, or in excess of the quantity specified in the Order, the Company shall not be bound to pay for such Goods and, without prejudice to any claim the Company may have against the Supplier in respect thereof, such Goods will be and will remain at the Supplier's risk and will be returnable at the Supplier's expense.
- 5.5 If the Goods are to be delivered and/or the Services are to be performed by instalments, this Contract will be treated as a single contract and not severable. Nevertheless failure by the Supplier to deliver and/or perform any one instalment shall entitle the Company at its option to treat the whole Contract as repudiated.
- 5.6 The Supplier shall not make material commitments or production arrangements in advance of reasonable flow-time needed to meet the Company's delivery schedule. No claims shall be made for such advance effort in case of change, suspension or termination.
- 5.7 Weights and measures of Goods supplied are subject to verification by the Company at the place of delivery and the quantities so determined shall be taken as final. In the event of a discrepancy the Supplier shall be given reasonable facilities to verify the quantities delivered.
- 5.8 The Supplier shall be responsible for satisfying itself that any tank, car or other bulk container is clean and suitable prior to loading, whether or not such tank, car or other bulk container is the property of the Company.
- 5.9 In effecting delivery of the Goods to the Address the Supplier (and its sub-contractors) shall comply with the Company's safety regulations.
- 5.10 Unless otherwise specifically agreed between the parties in writing, all packages, containers, pallets, crates etc. will be supplied at no additional cost to the Company and will be non-returnable.

### 6. PACKAGING

- 6.1 All Goods must be properly packaged to survive transit undamaged and to resist pilferage, distortion, corrosion or contamination and shall be clearly and legibly labelled and addressed. Notwithstanding this, the Supplier shall be responsible for any damage, shortage or loss in transit in respect of any deliveries made by the Supplier or its carrier(s) to the Company.
- 6.2 The Supplier warrants that the packaging, packing and labelling of the Goods shall comply in all respects with all relevant requirements of any applicable law or regulation which may be in force at the time when the Goods are despatched.
- 6.3 All containers of hazardous goods (and all documents relating thereto) shall bear prominent and suitable warnings.
- 6.4 All shipments must be accompanied by a packing advice note stating the Order/Contract number and listing in full the contents.
- 6.5 The Company seeks to reduce its environmental impact to the minimum. Therefore all packaging on Goods supplied MUST comply with The Packaging (Essential Requirements) Regulations 2003 (or any replacement or re-enactment thereof).
- 6.6 The Supplier must ensure that:-
  - (a) Packaging is limited to the minimum amount of material required to comply with clause 6.1 above and 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 and energy recovery, composting or biodegradation;
  - (b) 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 (or any lower concentration limit imposed by law or regulation from time to time).
- 6.7 The Supplier must ensure that all packaging complies with the relevant legislation or regulations and complies with the Company's instructions and requirements of the carriers. In the event of any conflict between the provisions of any legislation or regulations and any requirements of the Company or carriers, the former shall prevail.
- 6.8 To ensure the Company's compliance with the Producer Responsibility Obligations (Packaging Waste) Regulation 2007 (as amended, or any replacement or re-enactment thereof), the Company requires 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 the Company.

## **7. DOCUMENTATION**

The Supplier shall provide the Company with such invoices, advice notes, delivery notes, and other documentation connected to this Order as the Company may from time to time specify.

## **8. PAYMENT**

- 8.1 Unless otherwise agreed in writing, the Supplier shall only be entitled to invoice the Company after delivery of the Goods and/or performance of the Services, with all trade discounts to be deducted and settlement terms shown on the invoice.
- 8.2 All invoices must state the Company's Order/Contract number and the Supplier's advice number. Documents not bearing the above information will become disputed invoices until such time as the relevant information is provided. Furthermore the Supplier shall provide all other documentation in relation to the Goods and/or Services which the Company may from time to time reasonably require.
- 8.3 Unless otherwise agreed in writing between the parties or as stated on this Order, payment will be made at the end of the second calendar month following the month of delivery provided the invoice includes all information required by the Company and reaches the Company by the 5th of the month following the month of delivery. Failure to comply with this clause 8.3 could result in delayed payment.
- 8.4 Payment of the price (or any part thereof) shall not constitute any admission by the Company as to the performance by the Supplier of its obligations under this Contract.
- 8.5 The Company reserves the right to set off against the price any amounts owed by the Supplier to the Company, whether or not under this Contract and whether now existing or arising later.
- 8.6 The Company reserves the right to withhold payment in respect of disputed invoices and the Company shall notify the Supplier of any disputed invoices within 14 working days of receipt. 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. If either party fails to make payment on the due date of any sum due under this Contract, interest on that sum shall accrue from the date such amount was originally payable to the date of actual payment at a rate of interest equal to the aggregate of the base lending rate of the Bank of England plus three per cent (3%).

## **9. RISK AND PROPERTY**

- 9.1 Risk of damage to or loss of the Goods shall pass to the Company upon delivery to the Address in accordance with this Contract. Until then all Goods to be delivered against this or any other Contract are at the sole risk of the Supplier.
- 9.2 Without prejudice to any rights of rejection, property in the Goods shall pass to the Company upon payment being made for the relevant Goods, provided always that the Company shall be entitled to resell or use the Goods at any time in the ordinary course of its business. Where advance payments have been made, either in part or in full, title to the Goods shall pass to the Company at the time when any instalment or payment is made.
- 9.3 The Supplier shall not be entitled to exercise a right of retention on any Goods in the Company's possession and which are the property of the Company nor exercise a lien over the Company's property which is in the Supplier's possession.

## **10. QUALITY CONTROL AND INSPECTION**

The Company's inspectors shall have access at all reasonable times (and on giving reasonable notice) to the premises of the Supplier and its sub-contractors for the purpose of monitoring progress, quality auditing, inspecting and/or testing the Goods during or after manufacture, repairs and/or servicing and may reject or require the making good of anything that does not conform with this Contract. Any such inspection or tests shall not in any way relieve the Supplier from any of its obligations under this Contract nor be deemed to constitute acceptance of the Goods by the Company.

## **11. WARRANTIES**

- 11.1 The Supplier warrants to the Company that the Goods:-
- (a) will be of satisfactory quality and free from defects in design, material or workmanship;
  - (b) will be fit for any purpose held out by the Supplier or made known to the Supplier by the Company;
  - (c) will comply in every respect with any relevant specifications, drawings, samples or descriptions; and
  - (d) will comply with all statutory requirements and regulations and standards relating to the Goods.
- 11.2 The Supplier warrants to the Company that the Services will comply with all statutory requirements and regulations and standards relating to the Services and will be performed by appropriately qualified and trained personnel with due care and diligence and to such high standard of quality as it is reasonable for the Company to expect. The Supplier shall comply with, and shall ensure that its sub-contractors comply with, the Company's site regulations at any site where the Services are to be provided and in particular (but without limitation) those regulations in relation to safety and health and to hygiene.
- 11.3 If within: (i) 18 months after delivery or performance; or (ii) 12 months of putting the Goods into service (whichever is earlier), there shall appear to be a breach of any warranty (express or implied) in relation to the Goods and/or the Services, then without prejudice to any other remedy the Company shall be entitled to exercise any one or more of the following remedies in its sole discretion:-
- (a) to rescind this Order;
  - (b) to return the Goods to the Supplier (at the Supplier's expense) on the basis that a full refund for such Goods shall be paid forthwith by the Supplier;
  - (c) to require the Supplier at the Supplier's expense to replace the Goods, or remedy defects in the Goods and/or Services and carry out any other necessary work to ensure that the terms of this Order are fulfilled within 14 days of written notice;
  - (d) if any defect is not repaired or the relevant Goods not replaced within 14 days of written notice, to repair or replace (at the Company's option) those Goods from a third party source at the Supplier's expense;
  - (e) to refuse to accept any further deliveries of the Goods and/or the provision of any further Services without any liability to the Supplier; and
  - (f) to claim such damages as may have been sustained in consequence of the Supplier's breach, AND as regards any Goods so repaired or replaced the provisions of this clause 11 shall apply to such Goods for a period ending 12 months after the date of such repair or replacement.
- 11.4 If the Company considers that the Supplier has provided sub-standard, defective or negligent Services it will notify the Supplier and the Supplier shall at the option of the Company either take such steps as necessary to remedy the Services and bring them to the requisite standards or refund to the Company all sums paid by the Company in respect of the defective, sub-standard or negligently performed Services.
- 11.5 The Supplier shall indemnify the Company and keep the Company indemnified in full and on demand against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), losses, damages, injury, claims, costs and expenses (including legal and other professional fees and expenses) that may arise out of any act or omission of the Supplier and/or its employees, agents or sub-contractors in connection with this Contract including without limitation loss of or damage to any property (including that of the Company), royalties or injury to or the death of any person (including any employee of the Company) save that this clause shall not apply to claims relating to personal injury or death caused by the negligence of the Company, its employees or agents. This indemnity shall not apply if and to the extent that a claim arises from:- (i) the Company's fraudulent misrepresentation; or (ii) defects in design or any specification if the Company has supplied or furnished the design or specification and, prior to the claim, the Supplier has disclaimed any responsibility.
- 11.6 The Supplier shall supply the Company at the Supplier's expense with all reasonable assistance required by the Company to deal with any claim.
- 11.7 The warranties in this clause shall also apply to the benefit of the Company's customers or other users of the Goods.

## **12. INTELLECTUAL PROPERTY**

- 12.1 All tools, patterns, drawings, dies, moulds, jigs, fixtures, specifications and other such items supplied by or at the expense of the Company (including but not limited to goods supplied to the Supplier for servicing or repair) or created hereunder shall be and/or shall remain the Company's property (including but not limited to any intellectual property or other property rights) and must be transferred or returned to the Company in good order and condition on request or on completion of this Contract, and shall not be copied or used for any purpose other than for the carrying out of this Contract. It is the responsibility of the Supplier to insure all the Company's property against all risks whilst in the custody of the Supplier.
- 12.2 Except to the extent that the Goods embody design(s) prepared by the Company, the Supplier shall indemnify the Company against all actions, claims, costs, charges and expenses arising from any infringement or alleged infringement of any patent, registered design trademark copyright or other protected right to the extent arising out of the supply, use or re-sale of the Goods.
- 12.3 The Supplier assigns (free of all third party rights) all copyright, design rights or other intellectual property or proprietary rights created or developed as a result of or in any connection with this Contract to the Company.

## **13. HEALTH AND SAFETY AT WORK**

The Supplier shall provide the Company with all necessary instructions and manuals and take all other precautions necessary to ensure the safe usage of the Goods, together with compliance with any relevant safety regulations.

## **14. INSURANCE**

The Supplier shall maintain with a reputable insurance company such insurance cover in an amount not less than £5 million per claim against all risks of liability for death, personal injury or loss or damage to property and any and all other liabilities to the Company and other parties under this Contract and shall on request provide evidence of such insurance as the Company may reasonably require.

## **15. PRODUCT RECALL**

- 15.1 The Supplier shall notify the Company immediately on becoming aware of any reason which may lead to the Supplier or the Company carrying out a product recall, including, without limitation, any claim concerning the safety of the Goods (or any product(s) incorporating the Goods) or their non-compliance with any specification, law or regulation.
- 15.2 If, in the opinion of the Company, due to concerns over the safety or performance of the Goods, it is necessary to withdraw all or some of the Goods (or any product(s) incorporating the Goods) from its premises or from sale or to recall all or some of the Goods (or any product(s) incorporating the Goods) from its customers or any third party which may have ownership or possession of the same, then:-
- (a) the Company shall promptly give written notice to the Supplier of its decision and its reasons;
  - (b) the Supplier shall have 24 hours to respond in writing to such notice by either agreeing to such recall (in which event the provisions of sub-clause (d) below shall prevail), or giving reasons why it does not agree to such recall;
  - (c) if any dispute over the proposed recall cannot be agreed within a further 12 hours, but the Company has been notified by any regulatory authority or has other justifiable reason to believe that the Goods (or any product(s) incorporating the Goods) are unsafe or may cause damage to third parties or their property, the Company may commence a product recall in its own name;
  - (d) in the event that the Supplier agrees with the Company that a product recall should take place, the product recall shall be conducted in joint names or in the Company's sole name (at the Company's sole option) and at the Supplier's own cost and the Supplier will indemnify the Company for all reasonable costs and expenses incurred in relation thereto;
  - (e) the parties will use their best endeavours to agree a product recall procedure in advance. In the absence of such agreement, a product recall will be conducted in accordance with the Company's standard product recall procedure. 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 £5million;
  - (f) the Supplier shall indemnify and keep the Company 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 (or any product(s) incorporating the Goods) including without limitation the costs of undertaking the recall, costs associated with the testing of the Goods (or any product(s) incorporating the Goods), selling or supplying replacement goods, all associated distribution and storage of recalled goods, advertising and mailing costs, loss of reputation and brand name damage. The Company shall use its reasonable endeavours to mitigate any loss which the Supplier may suffer as a result thereof.
- 16. IDENTIFICATION OF GOODS AND BRANDING**
- 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 will 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.
- 17. DEFECTS AND COMPLAINTS**
- In the event that the Company believes that some (or all) of the Goods and/or some (or all) of the product of the Services is/are defective, it will inform the Supplier as soon as practicable of the nature of such claim. The Supplier will, within 14 days of a request by the Company (or if circumstances demand such shorter period as the Company may require), inspect the said Goods and/or product of the Services, whether at the Company's or third party's premises and prepare and submit to the Company a written report of its findings within the following 14 days (or if circumstances demand such shorter period as the Company may require). In addition, and if the Company or its customer so requests, it will reimburse the Company the cost of instructing an industry independent expert to inspect the said Goods and/or product of the Services to give an opinion in relation to their conformity with this Contract. Neither party shall be bound by any report or opinion provided under this clause.
- 18. CONFIDENTIALITY**
- Unless otherwise agreed in writing by the Company, the Supplier agrees that it will not, during the period of this Contract, or at any time after the termination or expiry of this Contract, use or disclose to any person or persons firm or company, any manufacturing process design confidential information drawings or trade secrets in connection with the subject matter of this Contract or any information in relation to the same. The Supplier acknowledges that damages alone would not be an adequate remedy for a breach of this clause and accordingly, without prejudice to any other rights and remedies it may have, the Company shall be entitled to the granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this clause.
- 19. TERMINATION**
- 19.1 The Company shall have the right at any time by giving written notice to the Supplier to terminate this Order forthwith without liability to the Supplier if:-
- (a) the Supplier refuses or fails to deliver the Goods and/or perform the Services within the time specified;
  - (b) the Supplier commits a breach of any of the terms or conditions of this Contract;
  - (c) the Supplier being a company enters into liquidation or has a petition presented for the appointment of an administrator or compounds with its creditors or has a receiver or administrative receiver appointed over all or any part of its assets or takes or suffers any similar action in consequence of debt, or being an individual or partnership shall suspend payment or propose to enter into any composition with creditors or become unable to pay its debts or suffer a bankruptcy order or if anything equivalent to any of these events occurs under the law of any jurisdiction in relation to the Supplier.
- 19.2 In the event of a termination for default, the Company's liability shall be limited to the payments for Goods delivered or the Services performed, and accepted, by the Company under this Contract.
- 19.3 The Company may terminate this Contract at any time for its convenience, in the whole or in part, in which event, the Company's sole obligations and liability to the Supplier shall be to reimburse the Supplier for those Goods actually delivered and accepted by the Company and those Services performed and accepted up to the date of termination.
- 19.4 The Company may order suspension of this Order, or part thereof, by notice in writing. In such event the Supplier will minimise the cost of such suspension and the Company will upon request make an equitable adjustment to this Contract to reflect the period of the suspension.
- 19.5 In no event shall the Company be responsible for loss of the Supplier's anticipated profit or other consequential or purely economic loss nor shall the Company's liability exceed the Contract value.
- 19.6 The Company may at any time make changes in shipping and packing instructions, quantities, drawing, designs, specifications, place and/or time of delivery or performance, for which an appropriate adjustment to this Contract shall be made and agreed between the parties in writing.
- 19.7 Where the Company has issued a "Blanket Order" for the sake of administrative convenience, such a "Blanket Order" will be deemed to be an estimate of orders only and the Company may cancel any part of these instructions without any obligation or liability to the Supplier whatsoever.
- 20. FORCE MAJEURE**
- 20.1 The obligations of a party shall be suspended during the period and to the extent that the party in question is prevented or hindered from complying with them by Force Majeure, provided that the party claiming Force Majeure has taken all reasonable steps to avoid such Force Majeure circumstance. The party claiming Force Majeure shall notify the other party as soon as reasonably possible stating the date and extent of suspension and the cause of it. A party whose obligations have been suspended shall use its best endeavours to minimise and overcome the effects of the Force Majeure event, shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause and shall so notify the other party.
- 20.2 Force Majeure means: Acts of God; War, invasion, civil war, rebellion, revolution, acts of terrorism, riot; Flood, fire, earthquake, lightning, hurricane (Beaufort Force 12 and above); Radiation or contamination by radioactivity; marine disasters; General national strikes or similar official labour disputes; and/or Acts of government within the European Union.
- 20.3 The shortage or lack of labour, materials or other resources shall not constitute Force Majeure unless caused by circumstances which are themselves Force Majeure.
- 20.4 Subject to clauses 20.5 and 20.6, each party shall be liable for and shall bear its own costs, expenses and losses incurred as a result of a Force Majeure occurrence.
- 20.5 If due to a Force Majeure event the Supplier is prevented from or delayed or hindered in making delivery, the Company shall be entitled but not obliged to purchase the whole or any part of the Goods and/or Services elsewhere and this Contract shall be varied accordingly.
- 20.6 Notwithstanding clause 20.5, if a party claims Force Majeure for a continuous period, which exceeds agreed delivery lead times by a period of one month, the other party may terminate this Contract immediately on written notice to the first party. If the Company serves such notice as a result of a Force Majeure event claimed by the Supplier, the Company shall be entitled to exercise its right of set-off under clause 8.5 against monies owed to the Supplier in respect of additional costs it may reasonably have incurred since the Supplier's notice under this clause, such costs having been incurred by the Company to ensure the Company honoured its obligations to its customers. These costs, without limitation, include the additional costs

and charges of sourcing the Goods from a third party. To the extent set-off does not fully reimburse the Company in respect of such extra costs the Supplier shall indemnify and keep indemnified the Company in respect of the same.

## **21. DATA PROTECTION**

- 21.1 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.
- 21.2 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.
- 21.3 To the extent the Supplier receives from, or processes any Personal Data on behalf of, the Company, the Supplier shall:
- (a) process such Personal Data (i) only in accordance with the Company'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 the Company of the relevant legal requirement before processing the Personal Data), and (ii) only for the duration of the Contract;
  - (b) not process such Personal Data for any purpose other than those set out in the Contract or otherwise expressly authorised by the Company;
  - (c) 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;
  - (d) 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;
  - (e) not transfer such Personal Data outside the European Economic Area without the prior written consent of the Company;
  - (f) inform the Company 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;
  - (g) only appoint a third party (including any subcontractors and affiliates) to process such Personal Data with the prior written consent of the Company;
  - (h) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of the Company or as expressly provided for in the Contract;
  - (i) as the Company 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 the Company accordingly);
  - (j) provide to the Company and any DP Regulator all information and assistance necessary or desirable to demonstrate or ensure compliance with the obligations in this clause 22 and/or the Data Protection Laws;
  - (k) permit the Company 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 clause 22;
  - (l) take such steps as are reasonably required to assist the Company in ensuring compliance with its obligations under Articles 30 to 36 (inclusive) of GDPR;
  - (m) notify the Company 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
  - (n) provide the Company 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.
- 21.4 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.
- 21.5 The Supplier agrees to indemnify and keep indemnified and defend at its own expense the Company against all costs, claims, damages or expenses incurred by the Company or for which the Company may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this clause 22.

## **22. TUPE REGULATIONS**

Unless the parties expressly agree in writing to the contrary, on the termination of this Contract should any employee of the Supplier transfer to the Company by virtue of Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) the Supplier shall fully indemnify and hold the Company harmless against all and any actions, awards, claims or other legal recourse, complaints, costs, debts, demands, expenses, fines, liabilities, losses, outgoing, penalties or proceedings (including legal and other professional fees and expenses) which the Company may suffer, sustain, incur, pay or be put to arising from or in connection with the employment (including but not limited to the termination of employment) of any such employee(s).

## **23. RESPONSIBLE PURCHASING**

- 23.1 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 policy of responsible purchasing, an integral part of the Group's Responsible Development policies.
- 23.2 The approach and expectations of the Saint-Gobain Group with regard to its suppliers are formalized in Saint-Gobain's "Suppliers Charter" (hereinafter referred to as the "Charter"), a copy of which can be made available to the Supplier by the Company upon request.
- 23.3 In addition to this Charter, Saint-Gobain 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 Charter. Any alert may be sent by e-mail to: [external.csr-alert@saint-gobain.com](mailto:external.csr-alert@saint-gobain.com).
- 23.4 As part of its "Responsible Purchasing" policy, and in application of its vigilance plan, Saint-Gobain 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, Saint-Gobain 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 this agreement and all other agreements concluded with the Saint-Gobain Group companies.
- 23.5 The Supplier confirms that it has read, and complies with, the Charter. The Supplier acknowledges that the Company may conduct Evaluations on the Supplier and agrees to provide the necessary assistance for that purpose.
- Evaluations and audits
- 23.6 The Supplier authorizes Saint-Gobain to conduct Evaluations and audits at any time in order to make sure that the Supplier is complying with its obligations under this clause 23. 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.
- 23.7 Organization and performance of Evaluations or audits may include exchange and storage of personal data, mainly work-related.
- Agreement suspension
- 23.8 If the Company has reasons to believe that the Supplier is not fulfilling the obligations contained in this clause 23, the Company shall inform the Supplier and may suspend performance of the Agreement until the Supplier provides reasonable proof that it has not committed or is not about to commit a breach. The Company shall under no circumstances be liable for any damage or loss caused to the Supplier by the suspension of the Agreement.
- Agreement termination
- 23.9 In case of an actual breach by the Supplier or the Supplier's Representatives of the provisions of this clause 23, the Company shall be entitled to terminate the Agreement, ipso jure with immediate effect, by registered letter with acknowledgement of receipt, without paying any compensation and without prejudice to any damages or remedies which the Company may be able to claim as provided for by law.
- 23.10 Any and all general exclusions or limitations of liability mentioned elsewhere in the Agreement shall not be applicable to claims arising from or in connection with the Supplier's breach of obligations under this clause 23.

## **24. REACH REGULATIONS**

Caring for the environment and respecting health and safety in the work environment are part of the Saint-Gobain Group's Principles of Conduct and Action.

- 24.1 As manufacturer, importer or distributor (as the case may be) of the chemical substances sold to the Company, 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.

- 24.2 As part of this commitment, the Supplier undertakes to permanently comply with any regulatory change and, consequently, to adapt its own obligations towards the Company for the whole duration of this Contract.
- 24.3 In this respect, the Supplier shall in particular ensure that the substances provided to the Company are duly registered for the uses that have been indicated to him by the Company. The Supplier undertakes to provide the Company with the registration numbers of the substances.
- 24.4 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 the Company as soon as he is aware of such application. This obligation shall also apply in the case of sale to the Company of mixtures or articles containing such substances.
- 24.5 In addition, in the event that the substances supplied to the Company are subject to authorisation or restriction, the Supplier undertakes to inform in writing the Company of any restrictions and prohibitions of use that affect these substances and of any possibility to substitute such substances.
- 24.6 The Supplier undertakes to inform the Company with a minimum of six (6) months' written notice if, in the course of this Contract, it intends either to modify the ingredients and/or technical characteristics of the substances, mixtures or articles supplied or to stop selling them.
- 24.7 The substances and/or mixtures shall be accompanied by any information that are necessary in order to enable the Company 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.
- 24.8 The Supplier guarantees the Company against any financial consequences arising from the Supplier's non-compliance with its obligations resulting both from the REACH and CLP Regulations and the present clause. Any limitation of liability provided elsewhere in this Contract does not apply to liability incurred by the Supplier in this respect.

## **25. COMPLIANCE**

- 25.1 The Supplier undertakes to fulfil the compliance obligations set forth in this clause. In addition, the Supplier shall require its own suppliers and subcontractors to comply with the same rules. Saint-Gobain is entitled to conduct audits in order to ensure the compliance to these rules.
- 25.2 Depending on the situation, the term "Saint-Gobain", as used in this clause may refer to the Company 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 18 avenue d'Alsace, 92400 Courbevoie, France.
- Fight against corruption
- 25.3 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 Agreement.
- 25.4 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 applicable laws on preventing corruption. 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.
- 25.5 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 Agreement shall be correctly recorded; and shall inform Saint-Gobain, as soon as it may be aware, of any solicitation to commit an act of bribery or corruption occurring during the performance of the Agreement.

### Economic sanctions

- 25.6 The Supplier undertakes to comply with any laws and regulations on economic sanctions applicable to the activities covered by this Agreement. These may include instruments adopted by the United Nations, the United States or the European Union.
- 25.7 For all matters pertaining to the execution of this Agreement, 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.
- 25.8 The Supplier also undertakes to inform Saint-Gobain promptly in the event that any of the materials, products and/or components (including software or services) covered by this Agreement, are wholly or partly subject to any re-export restriction; 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.

### Suspension of obligations

- 25.9 Either Party shall be entitled to suspend temporarily or definitively the performance of its obligations under the Agreement 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 Agreement either impossible or illegal for one Party.

### Competition

- 25.10 The parties intend that the Contract and their actions in relation to it shall comply at all times with all applicable competition laws, and in particular with EC and UK competition laws, and the parties are satisfied that the Contract does so comply as at the start date of this Contract.
- 25.11 The parties agree during the term of the Contract to take all appropriate steps to ensure that there are no discussions, exchanges or disclosures of information or documents, or other acts or omissions by or between them in relation to the Contract which might contravene applicable competition laws.
- 25.12 In the event that either Party believes, for any reason, that the Contract no longer complies with all applicable competition laws, it must notify the other Party immediately. Both parties must then as soon as reasonably practicable enter into negotiations in good faith and they must use all reasonable endeavours to amend or vary the Contract so that it complies with all applicable competition laws while giving effect so far as possible to the parties' original intentions in relation to the Contract.
- 25.13 Notwithstanding clause 25.12 where in the future the Company should consider that the Contract does not comply with the applicable competition rules, then it will allow the Supplier to supply a sufficient quantity of its output to the Company's competitors to remove any anti-competitive effects of the arrangement.

## **26. GENERAL**

- 26.1 The Supplier shall not without the prior written consent of the Company sub-contract, transfer or assign this Contract or any part of its obligations under this Contract.
- 26.2 The failure by the Company to exercise or enforce any rights contained in Contract shall not be deemed to be a waiver of any such right nor shall any such failure be considered as a waiver of any subsequent breach of the same or any other provision.
- 26.3 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. Notices sent by first class pre-paid post shall be effective 2 business days after posting. Notices sent by registered post, special delivery or personal delivery shall be effective at the time of delivery. Notice may not be given by electronic or e-mail communications.
- 26.4 If any provision of this Contract is held by any court or competent authority to be invalid or unenforceable in whole or in part, this Contract shall continue to be valid as to the other provisions of this Contract and the remainder of the affected provision.
- 26.5 No variation may be made to this Contract without the prior written approval of a duly authorised representative of the Company and any agreed amendments will be recorded on a separate amendment sheet.
- 26.6 Each right or remedy of the Company under this Contract is without prejudice to any other right or remedy of the Company whether under this Contract or not.
- 26.7 Save as provided in clause 11.7, a person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 26.8 If there is any conflict between the provisions of the Specification and these Conditions, unless the parties agree otherwise, the provisions of these Conditions shall prevail. If there is any conflict between the provisions on the face of the Order and these Conditions, unless the parties agree otherwise, the provisions on the face of the Order shall prevail.
- 26.9 This Contract and all documents referred to in it contain the entire agreement between the parties with respect to the subject matter of this Contract and supersedes all previous agreements and understandings between the parties with respect to it, provided that nothing in this Contract shall prejudice any condition or warranty (express or implied) or any legal remedy to which the Company may be entitled in relation to the subject matter of this Contract by virtue of any statute, custom or any general law or local law or regulations.
- 26.10 The Supplier shall comply with the contents of any supplier charter that applies at the date of the Contract, or which the Supplier is notified of as applying at a later date, a copy of which is available from the Company upon request. The Company reserves the right to amend the form of any supplier charter and shall notify the Supplier when a new version of the supplier charter shall take effect.

- 26.11 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 and regulations. The Company may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of this clause 26.11 and for the avoidance of doubt, this right to terminate includes where the Company 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.
- 26.12 This Contract shall be governed and construed in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the English Courts.