

# **GENERAL BUSINESS TERMS AND CONDITIONS (PURCHASING)**

**of Saint-Gobain Construction Products CZ a.s., Isover Division**

*In force from 1st January 2020*

## **I. Introduction**

1. These General Business Terms and Conditions (Purchasing) form an integral part of Purchase Agreements concluded by and between Saint-Gobain Construction Products CZ a.s. (this applies to goods and services purchasing for Isover Division) (hereinafter referred to as the "Buyer") and the Seller.
2. Express arrangements between the parties in the Purchase Agreement differing from these General Business Terms and Conditions (Purchasing) shall take precedence over the provisions of these General Business Terms and Conditions (Purchasing).

## **II. General Provisions**

1. By the Purchase Agreement the Seller undertakes to deliver to the Buyer chattel personal identified individually or by its quantity and kind and to transfer the title to such chattel personal and the Buyer undertakes to pay the purchase price.
2. The Purchase Agreement must be executed in writing. Relevant manifestations of will do not need to be contained in the same document.
3. The Seller shall confirm the Buyer's written order in writing no later than within 2 business days from its receipt. The individual purchase contract arises, when the Seller confirms the order of the Buyer in the agreed period of time. The Parties expressly agree to exclude application of § 1740 par 3 of the Civil Code and § 1751 par 2 of the Civil Code.
4. Timely acceptance of the proposal shall come into force at the moment when the approval of the proposal contents is delivered to the proposer. Late acceptance of the proposal shall have the effects of a timely acceptance if the proposer informs the addressee of the proposal thereof without delay by fax or by electronic communication means.
5. The concluded Purchase Agreement is the only and complete document between the parties concerning the same matter. All prior arrangements between the parties concerning the same matter, whether written or oral, are replaced by the concluded Purchase Agreement.
6. The subject-matter of the Purchase Agreement shall be only the Goods expressly specified and determined in the Purchase Agreement.
7. The Seller shall be responsible for the fact that the Goods are not subject to any rights of third parties which would in any way limit or prevent their acquisition by the Buyer and their use. If in relation to the Goods production the Seller uses items delivered by the Buyer for this purpose, the Seller's responsibility according to the foregoing sentence shall not apply.
8. In the order, Purchase Agreement, bill of delivery and invoice, individual items of the Goods shall be identified inter alia by the Buyer's internal identification, by his so-called stock item number.
9. In addition to the elements laid down by the Commercial Code, the essential element of the Purchase Agreement shall be the term of delivery.

## **III. Prices**

1. The purchase price is set by agreement of the parties.
2. The purchase price shall mean the price according to the delivery clause DAP pursuant to INCOTERMS 2020 unless both parties agree otherwise in advance.
3. The purchase price can be agreed, usually in relation to repeated deliveries, also in the form of a pricelist. In such case the order, its confirmation and/or the Purchase Agreement have to contain reference to a specific pricelist forming an integral part of the Purchase Agreement. The pricelist can be changed only by agreement between the parties.

## **IV. Terms of Payment**

1. The Buyer undertakes to pay the purchase price according to the Seller's invoice. The invoice shall be delivered to the Buyer in two original copies.
2. The Seller shall become entitled to issue the invoice upon due fulfilment of the order.
3. The Seller is obliged to send the invoice to the Buyer without undue delay after he becomes entitled to issue the invoice sending to address [isover-fakturace@saint-gobain.com](mailto:isover-fakturace@saint-gobain.com) in PDF.
4. The invoice must include the elements of a tax document and a commercial document. The invoice must inter alia specify the name of the Goods, their type and Buyer's internal identification, quantity of the Goods, full number or identification of the Buyer's order or the Purchase Agreement, date of rendering taxable supplies, date of the invoice issuing, date of sending the invoice, identification of the bill of delivery, bank details of the Seller.
5. The invoice shall be due in 60 (sixty) days from proper fulfilment of the order unless both parties agree otherwise in advance. The due date of invoices due in December of the relevant calendar year shall be postponed to 10

January of the next year at the latest; the due date of invoices due in June of the relevant calendar year shall be postponed to 10 July of the relevant calendar year.

The due date of invoices due on 25th or later day of other calendar months shall be postponed to the 5th day of the next month at the latest. The Parties hereby declare that the extension of the maturity date under the preceding sentence shall not be considered grossly unfair to the Seller.

6. The purchase price shall be paid by a bank transfer to the Seller's account specified in the invoice.
7. Payment shall mean the moment when the agreed purchase price credits the Seller's account.
8. In case of a defective delivery the invoice due date shall be postponed by the time necessary to remove the defects.
9. The Seller is not authorized to assign his claims against the Buyer in writing to third parties without a prior written approval of the Buyer, the approval not to be unreasonably withheld.

#### **V. Delivery Terms**

1. The Seller is obliged to deliver the Goods on a due and timely basis by the deadline agreed by the parties in the Purchase Agreement.
2. All delivery terms shall be governed by international rules of interpreting delivery clauses (INCOTERMS 2020) issued by the International Chamber of Commerce in Paris.
3. The delivery clause applicable to the Purchase Agreement shall be DAP Buyer's production plant platform according to INCOTERMS 2020 unless both parties agree otherwise in advance.
4. The Seller is obliged to inform the Buyer of readiness for delivery by fax or e-mail no later than 2 (two) business days in advance.
5. The Seller is obliged to enclose to each delivery a bill of delivery containing at least a full number or identification of the Buyer's order or the Purchase Agreement, the date of the Goods handover to the carrier, type identification, Buyer's internal identification and quantities of individual items of the Goods, type and number of containers, manner of transport, vehicle licence number, carrier's certificate of quantitative check performed when accepting the Goods for transport.
6. The Seller is obliged to make sure that when accepting the Goods for transport the carrier carries out a quantitative check of the Goods and confirms such check in the bill of delivery.
7. It is agreed that the Goods shall be unloaded at the Buyer's Isover plants between 6:00 a.m. and 3:00 p.m. on business days unless both parties agree otherwise in advance.

#### **VI. Containers and Packing**

1. The Goods shall be delivered on a pallet allowing handling by fork lifts unless agreed otherwise.
2. The pallet must suit the nature of the Goods as well as the requirements on their safe transport.
3. The Goods must be packed and transported so that they are not damaged by mechanic, atmospheric or other influences.
4. Containers must be identified as agreed between the Seller and the Buyer, however at least by stating the following data on the Goods supplied in them: Seller's name, Buyer's stock item number, quantity of the Goods in the concerned container, identification of the Purchase Agreement (Buyer's order number). The packing identification must be secured against any destruction or damage during transport or storage.

#### **VII. Interest on Late Payment, Contractual Penalties, Damages**

1. If the Buyer is in default in payment of the purchase price the Seller shall be entitled to ask the Buyer to pay a contractual interest on late payment amounting to 0.05% p.a. of the due amount per each day of such default.
2. If the Seller is in delay in delivery of the Goods he shall pay a contractual penalty to the Buyer in the amount of 0.5% (half percent) of the purchase price of the Goods delayed by 1–2 days per each day of such delay.  
If the Seller is in delay in delivery of the Goods he shall pay a contractual penalty to the Buyer in the amount of 5% (five percent) of the purchase price of the Goods delayed by 3 days and more per each day of such delay.
3. In the event that as a result of the Seller's delay in delivery of the Goods the Buyer's production line stops, the contractual penalty is agreed:
  - for each even commenced hour from the provable notification of the defect of the Goods the amount of 2,500.- CZK until the expiration of twelfth hour from the notification
  - after non-removal of the defect of the Goods even after expiration of twelve hours since the provable notification of the defect of the Goods the Seller shall pay the contractual penalty amounting to 8,700.- CZK for each further commenced hour of duration of the defect of the Goods until the complete removal of the defect.
4. The Seller shall further pay to the Buyer the contractual penalty amounting to 5% of the value of the Goods for each further case of the breach of legal provisions relating to the environment arising in connection with the supply of the Goods.
5. Arrangements concerning contractual penalty shall not affect any possible obligation to provide damages and immaterial damages which represent a separate claim and shall be paid in full as caused and proven.

#### **VIII. Quality Requirements**

1. The Seller is obliged to produce the Goods or to arrange their production so that their quality and characteristics fully comply with the relevant technical documentation, applicable technical conditions, national standards, legal regulations and quality standards.

2. Each individual item of the Goods must be identified by
  - manufacturer's brand, trademark or logo,
  - Goods (product) identification number,
  - serial code containing production date,
  - other identification as long as it follows from generally binding legal regulations, homologation regulations, approved technical documentation or the Purchase Agreement. The form of identification, its design and placing shall be agreed by the parties unless it follows from the approved technical documentation.
3. The Seller shall be responsible for the fact that the introduced Seller's system of inspections and tests creates conditions for the Goods to be released by the Buyer for further processing, assembly or other use without Buyer's subsequent inspections.
4. The Seller is obliged to keep conclusive records of all inspections, measuring and tests during production of the Goods as prescribed by the approved documentation. The records shall be archived at least for the period of 5 (five) years from the Goods production date.
5. On the Buyer's request the Seller is obliged to submit to the Buyer for review any reports of the Goods inspections, measuring and tests carried out during production of the Goods even if those reports do not form a part of the Goods delivery according to these General Business Terms and Conditions (Purchasing) or the Purchase Agreement.
6. Within each delivery the Seller is obliged to deliver, together with the goods, the "Goods Quality Certificate" confirming that the Goods comply with the approved technical documentation and the Seller has released them for delivery. Without the Goods Quality Certificate no delivery can be considered duly fulfilled and the Buyer is authorized to refuse to accept the Goods. The Goods Quality Certificate may form a part of the bill of delivery.
7. The Seller shall be responsible for the fact that the Goods subject to provisions of Act No. 22/1997 Coll., on Technical Requirements on Products and Amending and Supplementing Certain Acts, as amended, meet requirements of the applicable technical regulations valid in the Czech Republic and that the Seller followed the procedure of their conformity evaluation.
8. The Seller is obliged to deliver to the Buyer on request and in relation to the Goods under Article VIII Paragraph 7 of these General Business Terms and Conditions (Purchasing) copies of the relevant "EC Certificates of Conformity" or "Certificates of Conformity".
9. The Buyer is authorized to carry out, at his discretion, any tests and inspections of the Goods in order to check compliance with the agreed quality, characteristics and parameters of the Goods.
10. The Buyer is entitled to check with the Seller or possibly the Seller's subcontractors engaged in any way in delivery of the Goods in the form of an audit whether their quality-ensuring measures meet the Buyer's needs. The audit may cover the whole system, production process or product. The Seller is obliged to allow the Buyer to carry out the audit.
11. If any nonconformities are detected during the audit pursuant to Article VIII Paragraph 10 of these General Business Terms and Conditions (Purchasing) the Seller is obliged, upon agreement with the Buyer, to compile and implement a plan of remedies aimed at removal of those nonconformities.
12. The Seller's subcontractors engaged in any way in the delivery of the Goods shall be subject to the same rules in the field of quality management system as the Seller, the Seller being obliged to take care thereof.

#### **IX. State Quality Verification**

1. The Seller agrees that when the Buyer uses the Goods in his or with his own final products within the so-called public contracts, the Goods may be subject to state quality verification.
2. Both parties undertake to define the scope of the state quality verification in a separate annex to the Purchase Agreement.

#### **X. Quality Guarantee**

1. The Seller provides a guarantee for the Goods quality of 24 (twenty-four) months from the due delivery of the Goods to the Buyer.

#### **XI. Liability for Defects, Complaints (making a claim from defects of the Goods or from quality guarantee), Withdrawal from the Agreement.**

1. The Seller is obliged to deliver the Goods in the quantity, quality and version determined by these General Business Terms and Conditions (Purchasing) and the Purchase Agreement.
2. The Seller is obliged to pack and secure the Goods for transport in the manner specified by these General Business Terms and Conditions (Packing) and the Purchase Agreement.
3. If the Seller breaches obligations laid down in Article XI Paragraphs 1 and 2 of these General Business Terms and Conditions (Purchasing), the Goods suffer of defects.
4. Defects of the Goods shall also include delivery of Goods other than determined by the Purchase Agreement and defects of documents as specified by law, these General Business Terms and Conditions (Purchasing) and the Purchase Agreement.
5. The Goods suffer of legal defects if the sold Goods are burdened with a right of a third party.
6. Claims from the defects as well as from the quality guarantee shall be governed by provisions of the Civil Code.
7. A complaint regarding the supplied quantity may be filed within 1 month as of the Goods acceptance by the Buyer.

**8.** The Buyer has to make claims from rights of defective performance as well as from the quality guarantee with the Seller in writing without undue delay after their detection. The written form of making a claim shall be considered observed by the parties in case of a notice served in writing by fax or e-mail. The Seller is obliged, at his own expense and without undue delay, to deliver perfect or missing Goods, to repair the Goods or to take measures so that continuity of the Buyer's production is not endangered. The Buyer is entitled to choose the remedy from those specified in the foregoing sentence. The action must be taken immediately after receiving the Buyer's complaint regarding a defect. The Seller shall be responsible to the Buyer for damage occurred as a result of any breach of this obligation. The deadline by which the Goods under complaint should be evaluated by the Seller may not exceed 3 (three) business days from the date of notifying the Seller of the complaint. Once the deadline expires the Buyer has the right to send the Goods to the Seller at the Seller's expense, including the costs of their storage.

**9.** Complaints regarding hidden defects of the Goods (products), i.e. defects detected during the guarantee period, shall be sent to the Seller in writing and without undue delay after their detecting. The Seller is obliged to remove those defects free of charge or to replace the Goods with perfect products not later than within 5 (five) business days after being notified thereof by the Buyer and he shall do so at his own expense. In the same time the Seller is obliged to reimburse the Buyer for the incurred costs connected with installation and dismantling of defective products and costs connected with processes necessary to detect defects of the Goods (measuring, analyses or other tests). Costs of installation and dismantling of defective products shall be charged separately by the Buyer and the Seller shall reimburse such costs on the basis of an invoice due in 30 (thirty) days from the date of sending.

**10.** In case the Seller receives a notice of defects (except for a quantity-related defect), if requested by the Buyer, the Seller is obliged

– to analyse the cause of the defect and to inform the Buyer of adopted immediate remedies within 5 (five) business days;

– to carefully check the delivery of perfect Goods and to mark it in the manner agreed with the Buyer.

**11.** The Buyer is entitled to withdraw from the Agreement if the Seller is in delay in delivery of the Goods for more than 10 days, if the Seller is in delay in removal of defects for more than 5 days or if insolvency proceedings have been initiated against the Seller. The notice of withdrawal must be executed in writing and sent by fax, e-mail or recorded delivery letter to the Seller's known addresses. Withdrawal from the Agreement shall not affect claims following from any breach of contractual obligations by the Seller until the date of withdrawing from the Agreement.

## **XII. Spare Parts**

**1.** The Seller is obliged to ensure supplies of spare parts for the Goods for the Buyer for the period of at least 10 (ten) years after completion of the delivery according to the Purchase Agreement and under the standard market terms and conditions.

## **XIII. Liability Insurance**

**1.** No later than at the moment when the Purchase Agreement takes effect the Seller undertakes to submit to the Buyer a document proving that the Seller has duly taken out a liability insurance and product liability insurance in the extent the Buyer considers reasonable in the specific case.

**2.** The Seller has to maintain the insurance until all claims and rights from the concluded Purchase Agreement, including claims from quality guarantee, are settled.

## **XIV. Protection of Information**

**1.** As concerns confidential information disclosed or otherwise provided by the Buyer to the Seller on the basis of or in connection with the Purchase Agreement or negotiations regarding conclusion thereof, as a whole or its individual parts,

the Seller:

– will not publish it or otherwise disclose it to third parties,  
– will not use it in a manner or for a purpose other than agreed,  
– will not copy it in any manner, make duplicates, backup copies thereof etc. without the Buyer's prior approval,  
– will keep, treat and process it so that provisions of the Purchase Agreement, these General Business Terms and Conditions (Purchasing) or law are not violated,  
– will not use it for his own benefit or for the benefit of a third party unless it follows from provisions of the Purchase Agreement or these General Business Terms and Conditions (Purchasing), or  
– will not otherwise abuse it against the Buyer's interests.

**2.** Confidential information shall mean any business, technical, financial, organization and other information directly or indirectly concerning the Buyer, his specific employees, business partners, customers or suppliers, nevertheless not only the information expressly specified herein, recorded in any form on any carrier, as well as oral information provided or otherwise disclosed to the Seller during negotiations concerning conclusion of the Purchase Agreement or on the basis of and within the concluded Purchase Agreement by the Buyer, members of his bodies, his employees, consultants, persons controlled by the Buyer etc. identified as such by the Buyer.

**3.** The term "Confidential Information" shall mean any piece of information or set of information on a certain data carrier as well as the relevant data carrier on which the information is recorded. The term "Confidential Information" also includes reports or notices sent in any form.

**4.** The term "Confidential Information" according to these General Business Terms and Conditions (Purchasing) does not include information which is or becomes available to the public during the term of the Purchase Agreement or these General Business Terms and Conditions (Purchasing) in a manner other than by a breach of statutory obligations, these General Business Terms and Conditions (Purchasing) or the concluded Purchase Agreement by the Seller or by a breach of obligations by a third party.

5. Confidential Information is and shall remain exclusive ownership of the Buyer even after its handover or other disclosure to the Seller according to these General Business Terms and Conditions (Purchasing) or the concluded Purchase Agreement.

6. The Seller undertakes to return the Confidential Information he received on the basis of or in connection with these General Business Terms and Conditions (Purchasing) or the concluded Purchase Agreement to the Buyer within 10 (ten) days of being asked to do so by the Buyer. In the same time and by the same deadline the Seller is obliged to destroy any copies, abstracts, duplicates etc. of the Confidential Information as well as to irrecoverably delete the Confidential Information from the means of computer, audiovisual or other similar technology. The Seller shall confirm destruction and deletion of the Confidential Information to the Buyer by a statutory declaration to be handed over to the Buyer when returning the Confidential Information.

#### **XV. Industrial Rights**

1. The Seller shall be responsible for the fact that the Goods as a whole or their individual components and parts do not violate any industrial or other similar rights of third parties.

2. By the Purchase Agreement, no licence to use inventions, patents, industrial designs, utility designs, trademarks, business name, know-how, copyright or other forms of industrial or intellectual ownership is granted and no right to the foregoing is transferred in any manner.

3. If the Goods are manufactured according to the Buyer's technical documentation provided or otherwise disclosed by the Buyer to the Seller for this purpose the Seller is not entitled to manufacture products (Goods) according to this technical documentation and supply them to any third party.

4. The Seller is not entitled to register or allow registration of any technical solution included in the Buyer's technical documentation as specified in the foregoing Section, for industrial or copyright protection by a third party.

5. The Seller is obliged to provide written information on use of all of his patents utility and industrial designs on the Goods as well as on the licensed use of patents, utility and industrial designs. Neither his own nor licensed industrial rights to the Goods may exclude or limit export of Buyer's final products.

6. Models, matrices, patterns, specimen, tools or any other production facilities, tools, preparations and equipment provided by the Buyer to the Seller for the purpose of Goods production or paid for by the Buyer cannot be used by the Seller for production to be supplied to third parties.

#### **XVI. Circumstances excluding the liability**

1. None of the parties is responsible to the other party if it is in delay in fulfilment of any or all of its obligations provided that such delay is caused by circumstances out of the party's control, i.e. in particular fire, storm, flood, earthquake, explosion, accident, war, terrorist act, sabotage, epidemic, quarantine restrictions, embargoes etc. (hereinafter referred to as the "Circumstances excluding the liability"). The party claiming the event of the Circumstances excluding the liability is obliged to inform the other party in writing of any emerged event of the Circumstances excluding the liability without undue delay.

2. Should the event of the Circumstances excluding the liability last continuously for more than 1 month the other party is entitled to withdraw from the Agreement by a written notice served on the party claiming the event of the Circumstances excluding the liability.

#### **XVII. Governing Law, Disputes**

1. Any legal relations between the parties following from or based on the concluded Purchase Agreements and these General Business Terms and Conditions (Purchasing) shall be governed by the laws of the Czech Republic, the Vienna Convention on Contracts for the International Sale of Goods of 1980 being hereby excluded.

2. If the Seller is a domestic entity within the meaning of generally binding regulations of the Czech Republic any disputes between the parties from the concluded Purchase Agreements and these General Business Terms and Conditions (Purchasing) shall be settled in particular by negotiations between the parties. If a specific dispute is not settled in this way within 30 (thirty) days from its emerging, the dispute shall be settled on the motion of any of the parties by the court with jurisdiction in rem and with local jurisdiction.

3. If the Seller is not a domestic entity within the meaning of generally binding legal regulations of the Czech Republic all disputes between the parties from the concluded Purchase Agreements and these General Business Terms and Conditions (Purchasing) which are not settled by negotiations between the parties within 30 (thirty) from emerging shall be settled on the motion of any of the parties exclusively and finally by the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic based in Prague, the Czech Republic, according to its rules and regulations by a panel comprising 3 (three) arbitrators appointed in accordance with the rules and regulations of the Arbitration Court. Arbitration proceedings shall be held in Czech in Prague.

#### **XVIII. Final Provisions**

1. Annexes shall form an integral part of the Purchase Agreement.

2. The Purchase Agreement may be changed and amended only in the form of written amendments.

Častolovice, 1st January 2020

Dr. Ladislav Krumpolec  
Director Isover division