



GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

This General Terms and Conditions for the Supply of Goods is an agreement between O'Brien Building Products Limited, a company registered in Ireland under company number 684832 and having its registered office at Belview Port, Waterford, Ireland (the "Supplier") and the Customer and sets out the terms and conditions governing the supply of the Goods to the Customer.

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 12 (LIMITATION OF LIABILITY).

1. INTERPRETATION

THE FOLLOWING DEFINITIONS AND RULES OF INTERPRETATION APPLY IN THESE CONDITIONS.

1.1 Definitions:

"Business Day"	a day other than a Saturday, Sunday or public holiday in Ireland when banks in Dublin are open for business.
"Charges"	the charges payable by the Customer for the supply of the Goods in accordance with clause 9 (Charges and payment).
"Commencement Date"	has the meaning given in clause 3.2.
"Conditions"	these terms and conditions as amended from time to time.
"Contract"	the contract between the Supplier and the Customer for the supply of Goods in accordance with these Conditions.
"Control"	shall mean 50% or more of the total voting power of the issued share capital of the company.
"Customer"	the person or firm who purchases Goods from the Supplier. For the avoidance of doubt, the customer is a business customer and not an individual consumer.
"Delivery Service"	means the third-party delivery service engaged by the Supplier to complete the delivery of the Goods.
"Insolvency Event"	means (i) a voluntary termination of operations, (ii) a general assignment for the benefit of the Party's creditors or (iii) any other liquidation, dissolution or winding up of the Party, whether voluntary or involuntary.
"Order"	the Customer's order for Goods as set out in one or more of the following:



- (i) the Customer's purchase order form;
- (ii) the Customer's written acceptance of a quotation by the Supplier;
- (iii) the Customer's written order for the Goods;
- (iv) or overleaf, as the case may be,

and any supplemental terms or conditions now or subsequently agreed in writing between the Customer and the Supplier.

- "Goods"** the Supplier's bagged products, which shall include the packaging of said bagged products.
- "Specification"** the description, quantity and/or specification of the Goods, that may be provided in writing by the Supplier to the Customer as part of the Order.
- "Supplier Prices"** means the price per tonne charged for the Goods by the Supplier at the date of the Order.
- "Trade Marks"** means any registered or unregistered trade marks that the Supplier may permit the Customer to use in respect of the Goods.
- "Warehouse"** shall mean any warehouse or storage unit operated by the Supplier to store the Goods to be supplied to the Customers.

1.2 Interpretation:

- 1.2.1 Unless expressly provided otherwise in this Contract, a reference to legislation or a legislative provision:
- (a) is a reference to it as amended, extended or re-enacted from time to time; and
 - (b) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.2.2 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.3 A reference to **writing** or **written** includes faxes and emails.

2. ACCEPTANCE

- 2.1 Any instructions received by the Supplier from the Customer for the supply of Goods and the acceptable (i) delivery of Goods by the Supplier, or (ii) collection of the Goods by the Customer, shall constitute an agreement by the Customer to be bound by and accept these terms and conditions. No variation sought by the Customer to these terms and conditions shall form part of any agreement unless specifically accepted by the Supplier in writing.



2.2 The terms and conditions set out in this Contract apply to the provision of the Goods to the Customer by the Supplier, and the Customer is deemed to be bound by these terms and conditions from the Commencement Date.

2.3 All Orders shall be subject to acceptance by the Supplier in accordance with clause 3.2. The Supplier may, at its absolute discretion, refuse any Order and is not obliged to accept any Order.

3. BASIS OF CONTRACT

3.1 The Order constitutes an offer by the Customer to purchase Goods in accordance with these Conditions.

3.2 The Order shall only be deemed to be accepted when the Supplier confirms acceptance of the Order in writing at which point, and on which date the Contract shall come into existence ("**Commencement Date**").

3.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3.4 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 30 days from its date of issue or for such longer period as the Supplier may, at its discretion, agree in writing.

4. SUPPLY OF GOODS

4.1 The Supplier shall supply the Goods to the Customer in accordance with the Order and Specification (where applicable) in all material respects.

4.2 The Supplier shall use all reasonable endeavours to meet any delivery or collection dates for the Goods specified in the Order or Specification (where applicable), but any such dates shall be estimates only and time shall not be of the essence for the performance of the Goods.

4.3 The Supplier reserves the right to amend the Order or Specification (where applicable) if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Goods, and the Supplier shall notify the Customer in any such event.

4.4 The Supplier warrants to the Customer that the Goods will be provided using reasonable care and skill.

5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

5.1.1 ensure that the terms of the Order and any information it provides in the Specification (where applicable) are complete and provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Goods, and ensure that such information is complete and accurate in all material respects;

5.1.2 co-operate with the Supplier in all matters relating to the Goods;

5.1.3 obtain and maintain all necessary licences, permissions and consents which may be required for the Goods before the date on which the Goods are to start;



- 5.1.4 comply with any additional obligations as set out in the Specification (where applicable);
 - 5.1.5 not use any advertising materials and promotional literature in respect of the Goods, without the Supplier's consent; or
 - 5.1.6 not make any written statement about the quality or manufacture of the Goods without the prior written approval of the Supplier, whether such statements are in printed advertising materials, in correspondence, on a website, or otherwise.
- 5.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):
- 5.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Goods until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
 - 5.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 5.2; and
 - 5.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

6. DELIVERY AND COLLECTION

- 6.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note that shows the date of the Order and the type and quantity of the Goods (the "**Proof of Delivery**"), and this Proof of Delivery is to be signed by a Customer representative.
- 6.2 Delivery is completed on the completion of unloading of the Goods at the delivery location, and the risk in the Goods shall pass at the completion of Delivery. Title in the Goods shall not pass to the Customer until payment has been received (in accordance with clause 9).
- 6.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 6.4 The Supplier engages a Delivery Service to deliver the Goods to the Customer. If the Delivery Service fails to deliver the Goods, or if the Goods are damaged in transit, the Supplier's liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier



with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

- 6.5 The Customer may choose to elect to collect the Goods from the Warehouse, and in such circumstances (i) the collection is deemed completed; and (ii) the risk in the Goods shall pass, when the Goods are loaded to the Customer's haulage vehicle (or to a third-party haulage vehicle sent by the Customer) at the Warehouse. Title in the Goods shall not pass to the Customer until payment has been received (in accordance with clause 9).

7. QUALITY AND PACKAGING

- 7.1 The Supplier warrants that on delivery or collection, and for a period of 3 months from the date of delivery or collection (**Warranty Period**), the Goods (including its packaging) shall:

- 7.1.1 conform in all material respects with the Specification (where applicable); and
- 7.1.2 be free from material defects in design, material and workmanship; and
- 7.1.3 be of merchantable quality (within the meaning of the Sale of Goods Act 1980);
- 7.1.4 be fit for any purpose held out by the Supplier.

- 7.2 Subject to clause 7.1, if:

- 7.2.1 the Customer gives notice in writing to the Supplier during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 7.1;
- 7.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and
- 7.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, replace the defective Goods, or refund the price of the defective Goods in full.

- 7.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 7.1 if:

- 7.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 7.2;
- 7.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 7.3.3 the defect arises as a result of the Supplier following any drawing, design or Specification (where applicable) supplied by the Customer;
- 7.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;
- 7.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or



- 7.3.6 the Goods differ from the Specification (where applicable) as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 7.4 Except as provided in this clause 7, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 7.1.
- 7.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1893 are, to the fullest extent permitted by law, excluded from the Contract.
- 7.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 8. INSPECTION**
- 8.1 The Supplier is certified by the National Standards Authority of Ireland (“NSAI”), and all necessary testing procedures are carried out by the Supplier at their on-site laboratory.
- 8.2 The Customer is responsible for the conduct and results of any inspection of the Goods that the Customer or the Customer’s nominated inspectors may carry out at the time of delivery or collection.
- 8.3 The Customer accepts and acknowledges that any such inspection shall be carried out at the expense of the Customer and in a timely manner. The Customer shall ensure that all such inspections are conducted with minimal disruption to, delay or effect on the business of the Supplier, the Delivery Service and/or the fulfilment of any Order.
- 9. CHARGES AND PAYMENT**
- 9.1 The Supplier Prices will be used to determine the Charges for the Goods, unless otherwise agreed between the Parties at the time of the Order.
- 9.2 The Supplier shall invoice the Customer following each Order.
- 9.3 The Customer shall pay each invoice submitted by the Supplier:
- 9.3.1 either:
- (a) upfront (where specifically requested by the Supplier)
 - (b) within 60 days from the date of delivery or collection;
 - (c) or on such dates or at such other intervals as may be agreed by the Supplier, at its discretion, with the Customer; and
- 9.3.2 in full and in cleared funds to a bank account nominated in writing by the Supplier, and
- time for payment shall be of the essence of the Contract.
- 9.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (“VAT”). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.



9.5 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 13, the Supplier may apply and demand, and the Customer shall pay on demand, interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.5 will accrue each day at 8% a year above the Central Bank of Ireland's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.

9.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

10. TRADE MARKS

10.1 The Supplier grants to the Customer the non-exclusive right to use the Intellectual Property in the promotion, advertisement and sale of the Goods, subject to, and for the duration of, this Contract. The Customer acknowledges and agrees that all rights in the Trade Marks shall remain in Supplier, and that the Customer has and will acquire no right in them by virtue of the discharge of its obligations under this Contract, except for the right to use the Trade Marks as expressly provided in this Contract.

10.2 The Customer shall market and sell the Goods only under the Trade Marks, and not in association with any other trade mark, brand or trade name.

10.3 The Supplier makes no representation or warranty as to the validity or enforceability of the Trade Marks nor as to whether they infringe any intellectual property rights of third parties.

10.4 Each Party shall promptly give notice in writing to the other if it becomes aware of:

10.4.1 any infringement or suspected infringement of the Trade Marks or any other intellectual property rights relating to the Goods; and

10.4.2 any claim that any Goods or the manufacture, use, sale or other disposal of any Goods, whether or not under the Trade Marks, infringes the rights of any third Party.

10.5 In respect of any matter that falls within clause 10.4

10.5.1 the Supplier shall in its absolute discretion, decide what action to take in respect of the matter (if any);

10.5.2 the Supplier shall conduct and have sole control over any consequent action that it deems necessary.

11. PRODUCT RECALLS

11.1 The Customer undertakes to maintain appropriate, up-to-date and accurate records to enable the immediate recall of any Goods from the retail or wholesale markets, to the extent that the Supplier decides at its sole discretion, or is required by any regulatory or other competent authority, to recall the Goods.

11.2 The Customer shall, at the Supplier's cost, give any assistance that the Supplier shall reasonably require to recall, as a matter of urgency, Goods from the retail or wholesale market.



12. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 12.1 The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange, and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 12.2 References to liability in this clause 12 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 12.3 Nothing in this clause 12 shall limit the Customer's payment obligations under the Contract.
- 12.4 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 12.4.1 death or personal injury caused by negligence; or
 - 12.4.2 fraud or fraudulent misrepresentation.
- 12.5 Subject to clause 12.4 (Liabilities which cannot legally be limited), the Supplier's maximum liability to the Customer for any and all loss, damage, claims or series of claims arising out of or in connection with this Contract shall not exceed the aggregate value of the Goods purchased by the Customer from the Supplier, which are giving rise to the specific liability or claim.
- 12.6 Subject to clause 12.3 (No limitation of customer's payment obligations) and clause 12.4 (Liabilities which cannot legally be limited), this clause 12.6 sets out the types of loss that are wholly excluded:
- 12.6.1 loss of profits
 - 12.6.2 loss of sales or business.
 - 12.6.3 loss of agreements or contracts.
 - 12.6.4 loss of anticipated savings.
 - 12.6.5 loss of use or corruption of software, data or information.
 - 12.6.6 loss of or damage to goodwill; and
 - 12.6.7 indirect or consequential loss.
- 12.7 This clause 12 shall survive termination of the Contract.

13. TERMINATION

- 13.1 Without affecting any other right or remedy available to it, either Party may terminate the Contract by giving the other Party one month's written notice.
- 13.2 Without affecting any other right or remedy available to it, either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:
- 13.2.1 the other Party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of that Party being notified in writing to do so;
 - 13.2.2 the other Party experiences an Insolvency Event;



- 13.2.3 the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 13.2.4 the other Party's financial position deteriorates to such an extent that in the terminating Party's opinion the other Party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment; or
 - 13.3.1 there is a change of Control of the Customer.
- 13.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Goods under the Contract or any other contract between the Customer and the Supplier if:
 - 13.4.1 the Customer fails to pay any amount due under the Contract on the due date for payment;
 - 13.4.2 the Customer becomes subject to any of the events listed in clause 13.2.3 to clause 13.2.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them; and
 - 13.4.3 the Supplier reasonably believes that the Customer is about to become subject to any of the events listed in clause 13.2.2.

14. CONSEQUENCES OF TERMINATION

- 14.1 On termination or expiry of the Contract the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied (or any Orders) for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 14.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

15. COMPLIANCE WITH LAWS AND REGULATIONS

- 15.1 The Customer shall at all times refrain from acting in breach of or contrary to any law, statute, regulation, code of conduct or similar requirement which is or at any time was applicable to it or to which it is or has been subject whether in Ireland or elsewhere, in particular in respect of any health and safety or regulatory requirements applying to the importation, transportation, resale and/or storage of Goods.
- 15.2 The Supplier and the Customer shall co-operate at all times to ensure compliance with the relevant regulatory and compliance requirements in respect of Goods as required by applicable law.



15.3 The Customer shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any failure by the Customer to comply with clause 15.1.

16. FORCE MAJEURE

16.1 For the purpose of this Contract, a “**Force Majeure Event**” affecting a Party means anything outside that Party's reasonable control including without limitation:

16.1.1 accident, fire, adverse weather conditions, flood, tidal conditions, earthquake, explosion, blockages of ports, civil commotion, outbreak of hostilities, terrorist act, declaration of war, war, invasion, rebellion, disease, epidemic, pandemic or declarations of a state of emergency;

16.1.2 strikes, stop works, lockouts, boycotts or any other form of labour dispute or labour shortage;

16.1.3 breakdown, damage or destruction of the Warehouse;

16.1.4 failure, disruption or delay in transportation;

16.1.5 executive or administrative order or act of either general or particular application of any Government or any official purporting to act under the authority of that Government, prohibitions or restrictions by domestic or foreign laws, regulations or policies, quarantine or custom restrictions or prohibitions on export; and

16.1.6 acts or omissions of any third Party (including without limitation Governments, Government agencies, subcontractors or Clients).

16.2 Suspension of Obligations

If a Party is wholly or partially precluded from complying in the normal manner required by this Contract with its obligations under this Contract by a Force Majeure Event (in this clause called the “**Affected Party**”), then the Affected Party's obligations to perform in accordance with the terms of this Contract, will be suspended for the duration of the Force Majeure Event.

16.3 Notice

As soon as possible after the Force Majeure Event arises, the Affected Party must notify the other Party of:

(a) the nature of the Force Majeure Event;

(b) the cause of the Force Majeure Event;

(c) which obligations the Affected Party believes it is wholly or partially precluded from complying with as a result of the Force Majeure Event (in this clause 16 called the “**Affected Obligations**”);

(d) the extent to which the Force Majeure Event precludes the Affected Party from performing the Affected Obligations;

(e) the expected duration of the delay arising as a result of the Force Majeure Event;



- (f) the steps that are being taken to minimise the impact of the Force Majeure Event; and
- (g) the steps which would be taken (subject to the Parties reaching an agreement as to the payment of any additional costs involved) to minimise the impact of the Force Majeure Event.

16.4 Minimisation of Impact

- 16.4.1 Upon receiving a notice under clause 16.3 the Parties will meet to discuss and agree:
 - (a) what action can be taken to minimise the effect of the Force Majeure Event on the performance by the Affected Party of the Affected Obligation;
 - (b) whether the Affected Party is able to work around the Force Majeure Event either to prevent the delay in the performance of the Affected Obligations or to minimise the impact of that delay; and
 - (c) what modifications or additions to the terms of this Contract or any other agreements between the Parties (including without limitation any modifications or additions relating to the appointment of any additional costs) are required to give effect to any proposal to minimise the effect of the Force Majeure Event.

16.5 Obligation to Mitigate: The Affected Party must:

- 16.5.1 keep the other Party fully informed of its plan to minimise the effect of the Force Majeure Event; and
- 16.5.2 subject to reaching agreement concerning any modifications or addition required to give effect to any proposal to minimise the effect of the Force Majeure Event;
- 16.5.3 comply with all reasonable requests made by the other Party relating to the prevention or minimisation of the impact of the Force Majeure Event; and
- 16.5.4 use all reasonable endeavours to resolve, and minimise the impact of, the Force Majeure Event.

16.6 Payments

An obligation to pay money is never excused by a Force Majeure Event.

16.7 Labour Disputes

The requirement to use all reasonable endeavours to resolve or minimise the impact of the Force Majeure Event will not require either Party to settle any strike, lockout, boycott or other dispute or claim, or any demand by a third Party, on the terms contrary to the wishes of that Party.

17. GENERAL

17.1 Assignment and other dealings.

- 17.1.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.



- 17.1.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.
- 17.2 **Confidentiality.**
- 17.2.1 Each Party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, Customers or suppliers of the other Party, except as permitted by clause 17.2.2.
- 17.2.2 Each Party may disclose the other Party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the Party's obligations under the Contract. Each Party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other Party's confidential information comply with this clause 17.2; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 17.2.3 Neither Party shall use the other Party's confidential information for any purpose other than to perform its obligations under the Contract.
- 17.3 **Entire agreement.**
- 17.3.1 The Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 17.3.2 Each Party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 17.3.3 Nothing in this clause shall limit or exclude any liability for fraud.
- 17.4 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).
- 17.5 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or default. A failure or delay by a Party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.



- 17.6 **Severance** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract. If any provision or part-provision of this Contract deleted under this clause 17.6 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 17.7 **Notices.**
- 17.7.1 Any notice or other communication given to a Party under or in connection with the Contract shall be in writing and shall be delivered by hand or by registered post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to sales@obrienbuildingproducts.ie.
- 17.7.2 Any notice or other communication shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
 - (b) if sent by registered post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause (c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 17.7.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 17.8 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Ireland.
- 17.9 **Jurisdiction.** Each Party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.