

**COMPLETED ACQUISITION BY JEWSON LIMITED OF THE BUILD CENTER  
BUSINESS OF WOLSELEY UK LIMITED**

**PROPOSED UNDERTAKINGS TO BE GIVEN BY SAINT-GOBAIN LIMITED TO  
THE OFFICE OF FAIR TRADING PURSUANT TO SECTION 73 OF THE  
ENTERPRISE ACT 2002**

**WHEREAS:**

- (A) Jewson Limited acquired the Build Center business of Wolseley UK Limited ("**Wolseley**") by way of an asset purchase that completed on 4 November 2011;
- (B) Jewson Limited is an indirect wholly-owned subsidiary of Saint-Gobain Limited ("**SGL**");
- (C) The OFT believes that, as a consequence of that transaction, a relevant merger situation has been created in the UK;
- (D) The OFT has a duty to refer a merger to the CC for further investigation where it believes that it is or may be the case that the creation of that merger situation may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services;
- (E) Under section 73 of the Act the OFT may, instead of making such a reference and for the purpose of remedying, mitigating or preventing the substantial lessening of competition concerned or any adverse effect which may be expected to result from it, accept undertakings to take such action as it considers appropriate, from such of the parties concerned as it considers appropriate, in particular having regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
- (F) The OFT considers that, in the absence of appropriate undertakings, it would be under a duty to refer the acquisition of the Build Center business by Jewson Limited to the CC; and
- (G) The OFT further considers that the undertakings given below by SGL are appropriate to remedy, mitigate or prevent the substantial lessening of competition, or any adverse effect which has or may have resulted from it, or may be expected to result from it, as specified in the Decision.

**NOW THEREFORE** SGL hereby gives to the OFT the following undertakings for the purpose of remedying, mitigating or preventing the substantial lessening of competition, or any adverse effect which has or may have resulted from it or may be expected to result from it.

**1. EFFECTIVE DATE OF THE UNDERTAKINGS**

- 1.1 These undertakings shall take effect from the date that, having been signed by SGL, they are accepted by the OFT.

## 2. **DIVESTMENT OF THE DIVESTMENT BUSINESSES**

- 2.1 SGL shall, using its best endeavours and acting in good faith, as soon as reasonably practicable, effect to the satisfaction of the OFT the divestment of each of the Divestment Businesses as a going concern by the end of the Divestment Period to a purchaser or purchasers approved by the OFT in accordance with the provisions of these undertakings.
- 2.2 Without prejudice to the generality of paragraph 2.1 above, SGL shall use all reasonable endeavours to ensure the transfer of Key Staff with the divestment of the Divestment Businesses.
- 2.3 SGL shall be deemed to have complied with the obligation at paragraphs 2.1 and 2.2 if, prior to the acceptance of these undertakings by the OFT, or as soon as reasonably practicable after that time but in any event by the end of the Divestment Period, it has entered into a legally binding agreement or agreements with a purchaser or purchasers approved in advance by the OFT in writing pursuant to these undertakings (or a legally binding agreement or agreements conditional on such approval) provided that the completion of the divestment of each of the Divestment Businesses contemplated by such agreement or agreements, if later than the end of the Divestment Period, takes place
- (a) within a period not exceeding three months after the approval of the relevant purchaser or purchasers by the OFT (or within three months of the effective date of these undertakings, as set out in paragraph 1.1 above, whichever is later); or
  - (b) within a period not exceeding 10 Working Days after all the necessary approvals and consents from third parties have been obtained,
- whichever is later.
- 2.4 Without prejudice to the generality of paragraph 2.1 above, SGL shall take the following measures to the extent they may be necessary in the opinion of the OFT to effect the sale of the Divestment Businesses in accordance with the provisions of these undertakings:
- (a) the transfer or vesting of property, assets, rights, personnel, liabilities or obligations (including without prejudice any contracts, licences, authorisations, permits or consents);
  - (b) the adjustment of contracts, whether by discharge or reduction or assignment of any liability or obligation or otherwise;
  - (c) the creation, allotment, transfer, surrender or cancellation of any shares, stock or securities; and
  - (d) the formation or winding up of a company,

provided that, for the avoidance of doubt, nothing in this paragraph 2.4 shall be interpreted as (i) preventing or precluding SGL from using any Build

Center (or similar) brand used to denote branches or (ii) requiring SGL to transfer or licence any such brand to a third party.

- 2.5 Where SGL divests a Divestment Business over which it holds or Wolseley held a freehold interest by way of the grant of a long lease on normal commercial terms of not less than 25 years duration to the relevant purchaser, it shall in addition sell the freehold interest in that Divestment Business to a person independent of and unconnected to SGL and the Group of Interconnected Bodies Corporate to which SGL belongs and any Associated Person or Affiliate of SGL or such Group of Interconnected Bodies Corporate with the completion of that sale occurring within a period not exceeding three months from the date of the commencement of the lease.
- 2.6 SGL shall ensure that each sale and purchase agreement entered into for the purposes of paragraphs 2.1 and 2.3 above include a warranty that the purchaser has the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate the relevant Divestment Business as part of a viable and active business in competition with SGL and other competitors in the distribution of general builders' materials.
- 2.7 In the event that SGL fails to divest one or more of the Divestment Businesses in accordance with paragraphs 2.1, 2.2, 2.3 and 2.5 above, the OFT may, whether or not initiating the Trustee Functions set out below, require SGL to divest that or those Divestment Businesses as a going concern to a purchaser or purchasers approved by the OFT.
- 2.8 SGL shall notify the OFT in writing of the identity of each proposed purchaser that makes an offer for any of the Divestment Businesses together with the value and terms of such offers as soon as reasonably practicable following the receipt of such offers and in any event within 10 Working Days of receipt of such offers.

### **3. APPROVAL OF PURCHASER AND TERMS OF DIVESTMENT**

- 3.1 For the purposes of the OFT approving a Divestment Purchaser in accordance with these undertakings, SGL shall, save as required or permitted by the OFT, satisfy the OFT that:
  - (a) the acquisition by the Divestment Purchaser remedies, mitigates or prevents the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it, or may be expected to result from it, in particular, having regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
  - (b) the Divestment Purchaser is independent of and unconnected to SGL and the Group of Interconnected Bodies Corporate to which SGL belongs and any Associated Person or Affiliate of SGL or such Group of Interconnected Bodies Corporate;
  - (c) the Divestment Purchaser has the financial resources, expertise (including the managerial, operational and technical capability) incentive and intention to maintain and operate the Divestment Businesses as part of a viable and active

business in competition with SGL and other competitors in the distribution of general builders' materials;

- (d) the Divestment Purchaser is reasonably to be expected to obtain all necessary approvals, licences and consents from any regulatory or other authority; and
- (e) the acquisition by the Divestment Purchaser of the Divestment Businesses does not create a realistic prospect of a substantial lessening of competition within any market or markets in the UK.

3.2 The OFT may require SGL to provide it with such information and documentation as it may reasonably require to satisfy the OFT that the Divestment Purchaser will fulfil the requirements set out in paragraph 3.1 above.

#### 4. **APPOINTMENT OF A TRUSTEE**

4.1 The provisions of paragraph 4.2 to paragraph 4.7 below shall apply only as long as SGL has not satisfied, or where the OFT has reasonable grounds for believing that SGL will not satisfy, all or any part of the obligation to divest the Divestment Businesses in accordance with paragraphs 2.1, 2.2, 2.3 and 2.5 above.

4.2 Within 15 Working Days of the OFT notifying in writing SGL that it must do so, SGL shall propose to the OFT for approval:

- (a) the names of at least two individuals to exercise the Trustee Functions; and
- (b) the full terms of a mandate in accordance with which the Trustee shall carry out the Trustee Functions.

4.3 SGL and/or any individuals nominated pursuant to paragraph 4.2 shall satisfy the OFT that, save as required or permitted by the OFT:

- (a) such nominated individuals are each EU nationals with the necessary qualifications to carry out their mandates, and employees or partners of an investment bank, retail bank, building society or law firm or accountancy firm with an established reputation either nationwide or in a substantial part of the UK or in another EU member state;
- (b) such nominated individuals are each independent of SGL and of the Group of Interconnected Bodies Corporate to which SGL belong and of any Associated Person or Affiliate of SGL or of such Group of Interconnected Bodies Corporate and of any proposed purchasers and, in the reasonable opinion of SGL, are appropriate to be appointed as Trustee; and
- (c) such nominated individuals neither are, nor are likely to become, exposed, either directly or indirectly, to a conflict of interest that impairs or may be likely to impair their objectivity or independence in discharging the Trustee Functions.

4.4 Within 20 Working Days of the OFT approving, at its discretion, one or more of the persons nominated by SGL and their proposed mandates pursuant to paragraph 4.2 above, and subject to any modifications the OFT deems necessary for the Trustee to

carry out the Trustee Functions, SGL shall use its best endeavours to appoint from the persons so approved one person to carry out the Trustee Functions in accordance with the mandate approved by the OFT pursuant to paragraph 4.2.

4.5 In the event that:

- (a) SGL fails to propose any person or persons in accordance with paragraph 4.2 above; or
- (b) none of the persons proposed by SGL pursuant to paragraph 4.2 is approved by the OFT; or
- (c) SGL is unable for any reason to appoint within the time limit stipulated in paragraph 4.4 any such person following approval by the OFT,

SGL shall use its best endeavours to appoint from persons nominated by the OFT one person to carry out the Trustee Functions on the terms of a mandate approved by the OFT. SGL shall use its best endeavours to make such appointment within seven Working Days of receiving the nominations from the OFT.

4.6 The appointment of the Trustee pursuant to paragraph 4.4 or paragraph 4.5 shall be irrevocable unless:

- (a) a conflict of interest that impairs or may be likely to impair the objectivity or independence of the Trustee in discharging the Trustee Functions arises;
- (b) the Trustee ceases to perform the Trustee Functions; or
- (c) the OFT is otherwise satisfied that there is good cause for the appointment to be terminated in advance of the satisfactory fulfilment of the Trustee Functions.

4.7 In the event that the appointment of the Trustee is terminated in accordance with paragraph 4.6 above, SGL shall, if requested to do so in writing by the OFT, use its best endeavours to appoint from persons nominated by the OFT one person to carry out the Trustee Functions in accordance with such mandate as is approved by the OFT. SGL shall use its best endeavours to make such appointment within seven Working Days of receiving the nominations from the OFT. Where required by the OFT, the outgoing Trustee shall continue as Trustee until a new Trustee is in place and a full handover of all relevant information has taken place.

## 5. **THE MANDATE**

The terms of the mandate proposed by SGL pursuant to paragraph 4.2 above shall, as a minimum, contain all provisions necessary to enable the Trustee to carry out the Trustee Functions including, without limitation to the generality of this paragraph:

- (a) an exclusive, irrevocable mandate to sell any of the Divestment Businesses as required by paragraph 6.1 below to a purchaser or purchasers approved in writing in advance by the OFT at no minimum price and on such reasonable terms and conditions as the Trustee considers appropriate to effect an expedient sale;

- (b) a mandate to take any other steps necessary for, or incidental to, the Trustee's mandate under paragraph 5(a) above;
- (c) a comprehensive power of attorney to the Trustee (including the authority to grant sub-powers of attorney to the Trustee's officers, employees and agents) to enable it to take all steps necessary or appropriate to effect the sale of such Divestment Businesses;
- (d) a mandate to comply with any orders and/or directions given by the OFT; and
- (e) a mandate to appoint at SGL's expense such advisers as the Trustee reasonably considers necessary or appropriate in connection with the performance of the Trustee Functions.

## **6. FUNCTIONS OF TRUSTEE**

- 6.1 The Trustee shall seek to procure, within such period as may be specified in writing by the OFT, the completion of the sale of the Divestment Businesses at no minimum price, to a purchaser or purchasers approved by the OFT in accordance with paragraph 6.3 below.
- 6.2 Without prejudice to the generality of paragraph 6.1, the Trustee shall take any of the measures set out in paragraph 2.4 above in relation to the Divestment Businesses to the extent to which such measures may be necessary to effect the divestment of the Divestment Businesses in accordance with that provision.
- 6.3 The Trustee shall not sell or permit the divestment of the Divestment Businesses to a proposed purchaser unless it has obtained the OFT's prior written approval in respect of the identity of that proposed purchaser. The Trustee shall notify the OFT of the identity of a proposed purchaser as soon as reasonably practicable prior to the signing of a legally enforceable agreement and in any event at least 20 Working Days in advance of the proposed completion of the proposed sale and purchase agreement in question.
- 6.4 Pending the divestment of the Divestment Businesses pursuant to paragraph 6.1 above, the Trustee shall monitor SGL's compliance with its obligations under paragraph 7.1 and paragraph 7.2 of these undertakings and shall take such measures as it considers necessary to ensure such compliance.
- 6.5 The Trustee may give written directions to SGL to take such steps as may be specified or described in the directions for the purpose of securing SGL's compliance with its obligations under these undertakings or enabling the Trustee to carry out the Trustee Functions. The Trustee may not require SGL to:
  - (a) Offer any reverse premium or similar inducement to a purchaser; or
  - (b) Accept any actual or contingent liability towards a purchaser or otherwise in connection with the divestment of the Divestment Businesses which would be unusual in scope, duration or financially, having regard to the price and usual market practice in relation to similar disposals.

- 6.6 The Trustee shall, as soon as reasonably practicable, comply at all times with any reasonable instructions or written directions made by the OFT for the purposes of carrying out or securing compliance with the undertakings (or any matter incidental thereto) and shall provide to the OFT such information and reports in relation to the carrying out of the Trustee Functions as the OFT may require. The Trustee shall promptly report in writing to the OFT if the Trustee concludes on reasonable grounds that SGL is failing to comply with any of its obligations under these undertakings.
- 6.7 For the purpose of fulfilling the Trustee Functions, the Trustee shall not be bound by instructions of SGL nor shall the Trustee Functions be extended or varied in any way by SGL save with the prior express written consent of the OFT.

## **7. OBLIGATIONS OF SGL FOLLOWING APPOINTMENT OF TRUSTEE**

- 7.1 SGL shall not give any instruction or request to the Trustee which conflicts with the Trustee Functions.
- 7.2 SGL shall take all such steps as are reasonably necessary to enable the Trustee to carry out the Trustee Functions, including but not limited to:
- (a) complying with such written directions as the Trustee may from time to time give pursuant to paragraph 6.5 above; and
  - (b) providing the Trustee with all such assistance and information as it may reasonably require in carrying out the Trustee Functions.

## **8. REMUNERATION OF TRUSTEE**

SGL shall pay the Trustee a reasonable remuneration for the services it provides in carrying out the Trustee Functions, and shall pay the Trustee in a way that does not impede the independent and effective fulfilment of the Trustee Functions, which shall be set out in the Trustee's mandate referred to in paragraph 5 above.

## **9. INTERIM ACTION**

- 9.1 Pending the divestment of the Divestment Businesses to the satisfaction of the OFT in accordance with the provisions of these undertakings, SGL shall ensure that:
- (a) without accepting any duty to make any substantial capital investment additional to investment arrangements in place at the time of the Acquisition, each of the Divestment Businesses is maintained as a going concern and sufficient resources are made available for the development of each of the Divestment Businesses on the basis of its pre-merger plans;
  - (b) except in the ordinary course of business, no substantive changes are made to the organisational structure of the Divestment Businesses or the management responsibilities within the Divestment Businesses;
  - (c) except with the prior written consent of the OFT, the Divestment Businesses are maintained and preserved, including facilities and goodwill;

- (d) the nature, description, range and standard of goods and services currently supplied by the Divestment Businesses are maintained and preserved;
- (e) the Divestment Businesses continue to operate under the Build Center brand and / or the Jewson brand, as appropriate;
- (f) except in accordance with paragraphs 2 or 6 above, no assets of the Divestment Businesses are disposed of, and no Interest in such assets is created or disposed of, other than in the ordinary course of business;
- (g) there is no integration of the information technology used by SGL with that used by the Divestment Businesses and the software and hardware platforms of the Divestment Businesses shall remain essentially unchanged, except for routine changes and maintenance (and other than to the extent necessary to enable SGL to maintain the Divestment Businesses as a going concern pursuant to these undertakings);
- (h) all reasonable steps are taken to encourage all Key Staff to remain with the Divestment Businesses; and
- (i) to the extent it has not already occurred and except as detailed below, no Confidential Information relating to the Divestment Businesses shall pass, directly or indirectly from the Divestment Businesses (or any employees, directors, agents or Affiliates of the Divestment Businesses) to SGL (or any of its employees, directors, agents or Affiliates), or vice versa, except where strictly necessary in the ordinary course of business or in any of the following circumstances:
  - (i) the transfer of any accounting information necessary to allow the Chief Executive, Chief Financial Officer and Company Secretary and the Board of SGL's Affiliate Saint-Gobain Building Distribution UK Limited to monitor and review the financial performance of the Divestment Businesses provided that such accounting information is not passed on to any other person within SGL;
  - (ii) the transfer of any information required in connection with SGL's dealings with the OFT;
  - (iii) the transfer of any information necessary for compliance with any statutory or accounting obligations to the extent that such compliance cannot be achieved separately by each of the Divestment Businesses and including for the avoidance of doubt the compilation of consolidated accounts in line with SGL's existing accounting practices; and
  - (iv) any steps necessary in order for SGL to comply with these undertakings,

provided that, upon divestment of any of the Divestment Businesses, any records or copies (electronic or otherwise) of Confidential Information held by SGL in relation to the Divestment Businesses (or vice versa) shall be returned



to the relevant business and any copies destroyed (except as may be necessary for the purposes of compliance with the obligations in sub-paragraph (iii) of paragraph 9.1(i) above).

## 10. CONTINUED SEPARATION

10.1 Except with the prior written consent of the OFT, following the divestment of a Divestment Business, SGL or any member of the Group of Interconnected Bodies Corporate to which SGL belongs:

- (a) shall not, directly or indirectly, hold, acquire, re-acquire or use:
  - (i) any Interest in that Divestment Business other than (a) any freehold interest in the property associated with a Divestment Business pending divestment of that freehold proprietary interest pursuant to paragraph 2.5, or (b) any leasehold reversionary interest of that Divestment Business where that Divestment Business is divested by way of granting a sublease, or (c) any overriding leasehold interest reversionary to a leasehold interest of that Divestment Business granted pursuant to section 19 Landlord and Tenant (Covenants) Act 1995; or (d) any leasehold interest in a property associated with a Divestment Business following a default by the owner of the relevant Divestment Business in complying with the terms of the relevant lease;
  - (ii) any Interest in any company carrying on or having Control of that Divestment Business (other than any investments made in the ordinary course of the operation of any of the employee benefit and pension schemes of SGL or of any members of the Group of Interconnected Bodies Corporate to which SGL belongs of not more than five per cent in aggregate of the issued equity share capital in any such company, whose shares are listed or dealt with on any recognised investment exchange, which carries no more than five per cent of the voting rights exercisable at meetings of such company); or
  - (iii) other than in the ordinary course of business, any of the assets of that Divestment Business;
- (b) shall procure that no employee or director of SGL or of any member of the Group of Interconnected Bodies Corporate to which SGL belongs, for as long as they are an employee or director of SGL or of any member of the Group of Interconnected Bodies Corporate to which SGL belongs, holds or is nominated to any directorship or managerial position in that Divestment Business or any company or other undertaking utilising or having Control of that Divestment Business without the OFT's prior written consent;
- (c) shall not participate in the formulation of, or (other than in the ordinary course of business) influence or attempt to influence, the policy of that Divestment Business or any company or other undertaking carrying on or having Control of that Divestment Business; and

- (d) shall not enter into or carry out any agreement or arrangement with any person, if the carrying out of the agreement or arrangement is intended to result or will result in any Associated Person or Affiliate of SGL or of any member of the Group of Interconnected Bodies Corporate to which SGL belongs directly or indirectly acquiring that Divestment Business or doing any of the things listed in paragraphs 10.1(a), 10.1(b) and 10.1(c) above.
- 10.2 Where SGL (or any member of the Group of Interconnected Bodies Corporate to which SGL belongs) divests a Divestment Business by way of granting a sub-lease and remains the landlord of the purchaser of the Divestment Business (or the purchaser's successor where the Divestment Business Property continues to be used for carrying on a business of a general builders' merchant), then for the duration of the sub-lease, SGL shall within 10 Working Days of being requested to do so (unless agreed otherwise by the OFT):
- (a) consent to any matter requiring landlord's approval under the terms of the lease between SGL and the purchaser of the Divestment Business (except where SGL is required to obtain such consent from another person); and/or
  - (b) pass on any request for consent to the freehold owner of the property or relevant third party, as appropriate.
- 11. NEW DIVESTMENT IF SGL OBTAINS POSSESSION OF A DIVESTMENT BUSINESS PROPERTY**
- 11.1 In the event that, following divestment of a Divestment Business in a manner that has involved SGL assigning an existing lease or granting a sub-lease to the purchaser of the Divestment Business, SGL benefits from or becomes subject to an Occupation Interest (so long as SGL so benefits or becomes so subject during the term of the lease assigned or sub-lease granted by SGL as part of such divestment), SGL shall:
- (a) within 10 Working Days of becoming aware that it is so benefitting or is so subject inform the OFT in writing of that fact; and
  - (b) using its best endeavours and acting in good faith comply with such written directions as the OFT may give to SGL to effect a new divestment of the Occupation Interest to a new purchaser approved by the OFT in accordance with the provisions of these undertakings, provided always that such written directions must be of a similar nature to those contained in these undertakings with regard to the original divestment of the Divestment Business.
- 11.2 In determining, for the purposes of paragraph 11.1(b), whether to require SGL to effect a new divestment of the Occupation Interest to a new purchaser approved by the OFT in accordance with the provisions of these undertakings, the OFT may have regard to any change of circumstances since the Decision.
- 11.3 In the event that SGL fails to divest the Occupation Interest in accordance with paragraph 11.1 above, the OFT may, whether or not initiating the Trustee Functions set out in these undertakings, require SGL to divest the Occupation Interest at no minimum price to a purchaser approved by the OFT.

11.4 SGL shall notify the OFT in writing of the identity of each proposed purchaser that makes an offer for the Occupation Interest together with the value and terms of such offers as soon as reasonably practicable following the receipt of such offers and in any event within 10 Working Days of receipt of such offers.

11.5 In the event that the OFT gives written directions under paragraph 11.1 for SGL to effect a new divestment of the Occupation Interest, paragraphs 3, 4, 5, 6, 7 and 8 shall apply to the new divestment in the same way that they applied to the original divestment obligation save that references to 'Divestment Business' in those paragraphs shall be construed as references to 'Occupation Interest'.

## 12. **COMPLIANCE**

12.1 SGL shall comply promptly with such written directions as the OFT may from time to time give:

(a) to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings; or

(b) to do or refrain from doing anything so specified or described which it might be required by these undertakings to do or to refrain from doing.

12.2 SGL shall procure that any member of the same Group of Interconnected Bodies Corporate as SGL complies with these undertakings as if it had given them and actions and omissions of the members of the same Group of Interconnected Bodies Corporate as SGL shall be attributed to SGL for the purposes of these undertakings.

12.3 Where any Affiliate of SGL is not a member of the same Group of Interconnected Bodies Corporate as SGL, SGL shall use its best endeavours to procure that any such Affiliate shall comply with these undertakings as if it had given them.

## 13. **PROVISION OF INFORMATION**

SGL shall furnish promptly to the OFT such information as the OFT considers necessary in relation to or in connection with the implementation and/or enforcement of and/or the compliance with these undertakings, including for the avoidance of doubt, any Confidential Information.

## 14. **EXTENSION OF TIME LIMITS**

The OFT may, in response to a written request from SGL, or otherwise at its own discretion, grant an extension to any time period referred to in these undertakings.

## 15. **INTERPRETATION**

15.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.

15.2 References in these undertakings to any English law term for any legal status, interest, concept or thing shall in respect of any jurisdiction other than England and Wales be deemed to include what most nearly approximates in that jurisdiction to the English law term.

15.3 In these undertakings the word "including" shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.

15.4 For the purposes of these undertakings:

**"Acquisition"** means the acquisition by Jewson Limited of the Build Center business of Wolseley pursuant to the Business Sale Agreement;

**"the Act"** means the Enterprise Act 2002;

**"Affiliate"** of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

**"Associated Person"** means a person or persons associated with SGL within the meaning of section 127(4) of the Act and includes any Subsidiary of such a person or persons;

**"Build Center"** means the Build Center business of Wolseley;

**"the Build Center business"** means the business of Build Center carried on as from 4 November 2011;

**"business"** has the meaning given by section 129(1) and (3) of the Act;

**"Business Sale Agreement"** means the agreement dated 24 July 2011 entered into between (1) Wolseley (2) Jewson Limited and (3) Saint-Gobain Building Distribution Limited for the sale and purchase of certain assets of Build Center;

**"CC"** means the Competition Commission;

**"Confidential Information"** means any business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature;

**"Control"** shall be construed in accordance with section 26 of the Act, and in the case of a body corporate, a person shall be deemed to Control it if he holds, or has an interest in, shares of that body corporate amounting to 10 per cent or more of its issued share capital or carrying an entitlement to vote at meetings of that body corporate of 10 per cent or more of the total number of votes which may be cast at such meetings;

**"Decision"** means the OFT's decision under section 22 of the Act dated 8 February 2012 in connection with the Acquisition;

**"Divestment"** shall include, in addition to the sale of freehold property, the transfer of a leasehold interest or the grant of a long lease on normal commercial terms of not less than 25 years duration and the word "divest" and its derivatives shall be construed

accordingly; and "purchase", "purchaser", "acquire" and "acquisition" and "attempted divestment" shall be construed to include both freehold and leasehold transactions;

**"Divestment Business Property"** means the relevant property associated with each of the Divestment Businesses as at the date of these undertakings;

**"Divestment Business"** means either the Build Center branch and / or, where relevant, the Jewson branch(es) from each numbered row of the table in **Annex 1** comprising, in respect of each such business, the whole or substantially the whole of the rights, assets, interests and obligations of or associated with that business as operated immediately prior to the date of the Acquisition, including without prejudice to the foregoing, save as required or permitted by the OFT:

- (a) where capable of being transferred, all or substantially all tangible and intangible assets which contribute to the current operation or are necessary to ensure the viability or competitiveness of the business;
- (b) where capable of being transferred, all or substantially all licences, permits, consents and authorisations issued by any governmental organisation for the benefit of the business;
- (c) where capable of being transferred, all or substantially all contracts, leases, commitments and customer orders of or associated with the business; and
- (d) all customer, credit and other records of the business,

provided that where any of those assets, licences and/or contracts listed in (a) to (c) above are not used exclusively in relation to a particular Divestment Business, the only requirement shall be to seek to provide the benefit of such assets, licences and/or contracts in connection with that business, subject to any restrictions which may apply;

**"Divestment Period"** means the period of time determined by the OFT and notified in writing to SGL by the OFT;

**"Divestment Purchaser"** means a proposed purchaser for a Divestment Business;

**"Group of Interconnected Bodies Corporate"** has the meaning given in section 129(2) of the Act; references to a Group of Interconnected Bodies Corporate shall be to the Group of Interconnected Bodies Corporate as constituted from time to time;

**"Interest"** includes shares, an interest in shares and any other interest carrying an entitlement to vote at shareholders' meetings; and for this purpose "an interest in shares" includes an entitlement by a person other than the registered holder, to exercise any right conferred by the holding of these shares or an entitlement to Control the exercise of such right;

**"Jewson"** means all brands under which SGL operates its general builders' merchant businesses, including Jewson and "Gibbs and Dandy";

**"Key Staff"** means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the Divestment Businesses;

"**Leasehold Interest**" means an interest procured by way of a lease or a sub-lease;

"**Occupation Interest**" means an interest in the Divestment Business Property by virtue of which SGL enjoys an unconditional right or is under an unconditional obligation to occupy the Divestment Business Property provided always that: (i) the original purchaser (or his successor) is not in occupation of the Divestment Business Property; and/or (ii) before such interest in the Divestment Business Property arose, the most recent use to which the Divestment Business Property had been put was that of carrying on a general builders' merchant;

"**OFT**" means the Office of Fair Trading;

"**SGL**" means Saint-Gobain Limited;

"**Subsidiary**" shall be construed in accordance with section 736 of the Companies Act 1985 (as amended), unless otherwise stated;

"**Trustee**" means the person appointed pursuant to paragraph 4.4, paragraph 4.5 or paragraph 4.7 to carry out the Trustee Functions;

"**Trustee Functions**" means the functions set out in paragraph 6;

"**UK**" means the United Kingdom of Great Britain and Northern Ireland;

"**Wolseley**" means Wolseley UK Limited; and

"**Working Day**" means any day of the week other than a Saturday or a Sunday or any day that is a public holiday in England;

unless the context requires otherwise, the singular shall include the plural and vice versa.

**FOR AND ON BEHALF OF SAINT-GOBAIN LIMITED**

.....Signature

.....Name

.....Title

.....Date

Authorised Signatory

### Annex 1 – Divestment Businesses

No.	Area	Divestment Business			
		Build Center		Jewson	
		Branch	Postcode	Branch	Postcode
1.	Aberystwyth	Aberystwyth 01	SY24 5AT	N/A	N/A
2.	Galashiels	N/A	N/A	452 Galashiels	TD1 1PA
3.	Hastings	Bexhill	TN39 3LQ	513 Hastings	TN35 4JJ
4.	Northiam / Hastings	N/A	N/A	513 Hastings	TN35 4JJ
5.	Penzance	Penzance 01	TR18 3RA	N/A	N/A
6.	Sandown	Sandown	PO36 8ED	N/A	N/A
7.	St Ives	St Ives	PE27 5LA	N/A	N/A
8.	Stranraer	Stranraer	DG9 7DF	N/A	N/A
9.	Ashford, Kent	Ashford	TN23 7RX	N/A	N/A
10.	Bedford	Bedford	MK42 9SU	N/A	N/A
11.	Faversham	Faversham	ME13 8SA	N/A	N/A
12.	Helston	Helston	TR13 9JP	N/A	N/A
13.	Ashford, Surrey/Staines	Ashford 03	TW15 3DT	N/A	N/A
14.	Dumfries	Dumfries 01	DG1 1NF	N/A	N/A
15.	Epsom	N/A	N/A	Epsom	KT19 9XX
				Burgh Heath	KT20 6AA
16.	Holyhead	Holyhead	LL65 2HY	N/A	N/A
17.	Llandrindod Wells / Builth Wells	Llandrindod Wells	LD1 6BH	N/A	N/A
18.	Tunbridge Wells	Tunbridge Wells	TN2 3EY	N/A	N/A
19.	Devizes	Devizes	SN10 2EU	N/A	N/A
20.	Irvine	Irvine 01	KA12 8NL	N/A	N/A
21.	Maidstone	Maidstone 03	ME14 2RY	N/A	N/A
22.	St Neots	St Neots	PE19 6SN	N/A	N/A

Note: in all cases except Galashiels (2), Hastings (3), Northiam / Hastings (4), Sandown (6) and Epsom (15), the Divestment Business is the Build Center branch used as the reference branch for that area.