

I. General

1. These terms and conditions shall govern the purchasing agreement between us. No other terms and conditions of the supplier shall form part of the contract, even if we do not expressly object to them or we are aware of the supplier's contrary terms and conditions and accept the goods without reservation.
2. Each order for goods, works or services shall be deemed to be an offer by us to buy such goods, works and/or services from the supplier subject to these terms and conditions. Acceptance of an order shall be deemed to incorporate these terms and conditions and shall only be valid if confirmed in writing by us.
3. All orders, consents, side agreements and amendments shall only be valid if mutually agreed in writing and signed by an authorised signatory of each party.

II. Prices

1. The prices set forth in the order are fixed prices without indexation unless otherwise agreed in writing. The prices include the price for all ancillary works and services required under the agreement (e. g. packaging, insurance, inspection costs and any duties or levies other than value added tax).
2. We reserve the right to withhold, deduct or set-off from any monies due or becoming due to the supplier, any monies due or claimed by us to be due from the supplier to us in respect of the goods, works and/or services supplied pursuant to the order or otherwise including under any other contract.

III. Delivery

1. The agreed delivery/completion times and dates are binding, must be unconditionally met and are of the essence for the performance of the supplier's obligations under these conditions. For part delivery or delivery in advance, our written consent is required. Additional/alteration work does not entitle the supplier to extension of the delivery period, unless mutually agreed in writing in advance.
2. If the supplier believes that he will be wholly or partially unable to fulfil his contractual obligations, he must promptly inform us in writing stating the reason and expected length of the delay.
3. Without prejudice to any other rights or remedies we may have, if the supplier does not comply with its delivery/service/works obligation within the agreed time, then we may, at our election, proceed with the contract and/or the order but deduct from the price payable to the supplier by way of partial compensation for the supplier's failure to comply, an amount equal to 2% of the order for each week of delay or part thereof but not more than 10% of the total contract price. After four weeks' delay we are entitled to cancel the purchase in full or in part. Goods shall be provided "DDP" according to the Incoterms 2020.

IV. Packaging, marking and receiving

1. Packaging must be supplied by the supplier so the goods are protected from damage and decline in value during transport to the delivery point and a reasonable period of storage.
2. Supplier shall ensure that marking of the goods is carried out in accordance with our instructions but this does not limit the supplier's liability for ensuring that the goods are also marked in accordance with best industry standards and their properties as regards fragility, weather resistance, etc. Our order number must be specified on the delivery note, which must always be enclosed with delivered goods and on all other related correspondence. The supplier will bear any costs resulting from goods supplied without a delivery note.
3. Supplier shall in good time before delivery provide us with the necessary information of importance for transport and receipt of the goods. If the delivery contains dangerous goods, we must be informed of this separately in writing in advance.

V. Quality and warranties

1. The supplier warrants that goods delivered, works performed and services provided (a) shall meet the agreed specification, sample and/or any relevant drawings; (b) conform to accepted technical rules and to all applicable laws and regulations; (c) do not and will not have defects which would eliminate or diminish their value or their suitability for their customary or contractually prescribed use; (d) are of satisfactory quality; (e) correspond with the order; and (f) are fit for our purpose.
2. If UK REACH Regulation applies to the goods supplied, the supplier warrants the goods supplied comply with the requirements of such regulations (including registration) and shall indemnify us from any claims asserted against us by third-parties (including public authorities) due to non-compliance with UK REACH.
3. The supplier shall provide such evidence (and access to premises) to us and any person acting on our behalf, to show that the goods are manufactured, designed and supplied in accordance with these terms and conditions and the supplier shall indemnify us and keep us indemnified for any loss or damage sustained by us as a result of any breach of these conditions.
4. We reserve the right to reject any goods, works and/or services which in our absolute opinion a) are faulty or do not conform to the quality standards or description as specified in the order; b) are not delivered by the supplier on the agreed delivery date; or c) do not comply with these terms and conditions. We may return rejected goods to the supplier at the supplier's risk and expense.
5. Without prejudice to the warranties set out above or implied at law, the supplier warrants that the goods and works will be free from defects in design, material and workmanship and will remain so for a period of 24 months (or such other period as may be agreed between us in writing), after delivery. The supplier bears full responsibility for ensuring that the goods maintain their contractual quality during the agreed warranty period. The warranty period will be extended by the period, during which the goods and/or works, as a result of a defect, cannot be used for their intended purpose. For a repaired or replaced part, a new warranty period will apply for the same period of time as for the original part.
6. Independent of any rights we may have at law we may, at our option where any goods, works and/or services supplied to us by the supplier do not comply with these terms and conditions, demand (i) the removal of such goods/works; (ii) the removal or rectification of defects in such goods/works; or (iii) replacement of such goods/works, and the supplier shall bear all costs necessary for such removal, rectification or subsequent redelivery. We expressly retain the right to claim for costs, losses and damages (including, without limitation, consequential losses). We have no liability for the Supplier's indirect and consequential losses, which the parties agree shall include, without limitation, loss of profit or anticipated profit, loss of goodwill, loss of business or opportunity or business interruption, loss of revenue, damage to reputation or loss of or waste of staff costs.
7. We may carry out such tests and inspections as we consider necessary to see that any relevant services are being performed and that goods are in accordance with our requirements at any time (including at the supplier's premises). Goods, works and services shall not be deemed accepted until we have had 20 working days to inspect and/or test them following performance or delivery of the final instalment or, if later, within a reasonable time after any latent defect in the goods/works have become apparent. Failure to make an inspection, examination or test, or acceptance of goods, works and services shall in no way relieve the supplier from his obligations under these terms and conditions.
8. Supplier shall ensure and demonstrate on demand that he has all appropriate corporate social responsibility policies and has satisfied all applicable legal requirements, regarding a) health and safety (including, without limitation, the Construction (Design and Management) Regulations 2015); b) conservation of the environment, rectification of environmental damage and shall have a sustainability policy which is consistent with our Supplier Code of Conduct; c) treatment of workforce including non discrimination and equal opportunities; d) practice of fair trade; e) quality assurance systems for goods and services; and f) ensuring the supplier does not fall within any of the criteria for rejection of operators by contracting authorities in the award of public contracts, such as criminal conspiracy, corruption, bribery, fraud, theft and money laundering, whether by the supplier or its officers. The supplier shall and shall procure that its employees, affiliates, subcontractors, representatives and agents ("Delegates") shall comply with our Supplier Code of Conduct in force from time to time. We may inspect the supplier's systems for evidence of such compliance. If the Supplier and/or its Delegates are not in compliance, we may terminate this contract on 30 days' written notice.
9. Supplier shall, in performing its obligations under this Agreement, use all reasonable endeavours to minimise energy consumption of any goods/works supplied and of any plant and equipment to which any goods, works and/or services relate and to minimise the supplied Goods, works and/or services impact on energy consumption of our existing plant, including consideration of potential changes in such energy consumption over the intended life-cycle of such goods, plant and equipment. If requested, Supplier shall provide us with suitable data to demonstrate compliance with this obligation.

VI. Intellectual property and data protection

1. Supplier guarantees that the goods, works and/or services delivered are free of third party rights including, that they do not infringe third party intellectual property rights.
2. The party who supplied information and designs is responsible for the correctness of the same. The approval of the other party does not exempt such responsibility. However, the supplier is responsible for alterations to the supplier's design proposed by us.
3. Supplier hereby assigns to us the full and beneficial title and copyright in and all other intellectual property rights in respect of all designs, drawings, models, materials, statistical profiles, data carriers and the like that the supplier has produced or had produced pursuant to this contract, for the full extent and period thereof including all extensions and renewals thereof.
4. The intellectual property rights in any designs, drawings, models, materials, statistical profiles, data carriers and the like furnished by us shall remain our property. Neither they nor other goods produced using them may be a) given to third parties without our permission; b) used by third parties or used for advertising purposes even after the expiration of the contractually established period during which damages may be awarded for breach of contract. Any such conduct entitles us to immediately withdraw from the contract, either in whole or in part, without payment of compensation.
5. Supplier shall process any personal data in accordance with applicable data protection laws. We process personal data in accordance with our Privacy Policy available at www.heidelbergmaterials.co.uk.

VII. Insurance and health and safety and indemnity

1. Supplier shall arrange at his own cost the following insurance with a reputable insurer a) employers' liability as required by law; b) sufficient to cover damages caused by and to himself, his employees, his agents, and the delivered goods/works themselves; c) public liability and product liability insurance with a limit of not less than £5 million per event; and d) if providing services professional indemnity insurance with a limit of indemnity of not less than £2 million per event; and shall, at our request provide us with satisfactory evidence of the same and of payment of all relevant premium(s). If the supplier omits to do so, we may, at the supplier's expense, take out such insurance(s) ourselves to provide the equivalent insurance cover.
2. Supplier shall be responsible for ensuring in accordance with best practice the safety of the supplier, its Delegates, and equipment. The supplier shall and shall procure that its Delegates shall comply with our site

specific standards, rules and/or procedures as we notify to the supplier and that the supplier and any of its Delegates shall enter our sites at their own risk.

3. Supplier shall be liable for and shall indemnify us against any expense, liability, loss, claim or proceedings caused to us or for which we may be liable to third parties in respect of: (i) defective workmanship or unsound quality of the goods, works and/or services supplied; (ii) any wrongful or negligent act or omission by the supplier and/or its Delegates in manufacturing, packing, delivering, installing or supplying the goods, works and/or any services or otherwise performing its obligations under the contract and/or these terms and conditions, including damage to our property, plant and/or equipment; (iii) claims for death or injury, howsoever caused by any of our employees and/or agents and/or contractors and/or to any Delegates while in and about our site (iv) direct loss and consequential loss or damages sustained by us or for which we may be liable, as a result of the failure of the supplier to supply the goods, works and/or any services in accordance with these terms and conditions; (v) any claim against us that the goods, works and/or any services infringe or their importation, use or resale infringes the intellectual property or other rights to any third party; (vi) any recall of any defective goods/works; (vii) all income tax, National Insurance Contributions, including secondary contributions to the extent permitted by law, (and including any interest, penalties, fines, expenses or gross-up thereon other than where such interest or penalties arise from our negligence or wilful default) and any other liability, deduction, contribution, assessment or claim ("Tax Liabilities") which we are required to pay or account for to the relevant taxing authority, arising from or made in connection with either the performance of the services or any payment or benefit received by the supplier or Individual in relation to the provision of the services, where such recovery is not prohibited by law, except this indemnity shall not extend to any Tax Liabilities if we have made deductions from the fees/monies due in respect of such Tax Liabilities prior to payment to the supplier. In this regard we shall be deemed to be obliged to pay any such amount if we receive a written demand from HMRC. If we become liable to pay any such Tax Liabilities, we may deduct from any amounts payable to the supplier pursuant to this agreement all amounts required to be paid by us.

VIII. Invoicing and payment

1. Unless we otherwise agree in writing, invoices showing a relevant VAT number must be submitted to our purchasing address after delivery or performance, failure to do so shall result in rejection of the supplier's invoice. An invoice shall be rendered for each order save where an order for goods is delivered on more than one delivery date, when an invoice shall be rendered for each delivery.
2. Subject to our right to dispute any amounts due, the price for the provision of goods, works and services as set out in the order shall be paid to the supplier within 60 days of the end of month of receipt of invoice. The parties acknowledge the payment period is fair given their commercial needs. The invoice will only be accepted for payment following successful delivery of the goods/works as required herein. If any interest is due from us to the supplier, both parties agree it shall be at the rate of 3% per annum above the base of the Bank of England from time to time calculated from the date when payment of the invoice becomes due for payment up to and including the date of actual payment, whether before or after judgement, and that this is a fair and substantial remedy within the meaning of the Late Payment of Commercial Debts (Interest) Act 1998 (as amended by the Late Payment of Commercial Debts Regulations 2013). Supplier shall not suspend deliveries of goods as a result of any sums being outstanding. Except (i) for our obligation to pay any amounts validly due hereunder, and (ii) any liability which cannot be legally be limited, our liability to the Supplier shall be limited to 10% of the total amount paid to the Supplier under the relevant order at the date of the claim.
3. Claims for payment for additional or alteration work will only be approved if we have stated in writing that the work may be carried out for extra payment at a price we have prior agreed.
4. Title to goods ordered shall pass to us upon delivery of or payment for the goods/works, whichever is earlier. If payment is made before delivery, the supplier shall (i) clearly identify the goods as our property by visible marking; (ii) keep the goods separated from other goods in the supplier's possession; and (iii) maintain the goods in a satisfactory condition insured on our behalf of their full price against all reasonable risks to our satisfaction. We only accept responsibility for such quantities of goods stated in the order.
5. We may demand a bank guarantee or another security acceptable to us, to be issued at the supplier's cost, for any agreed advance payments.
6. Supplier shall pay and/or deduct and account for any income tax, National Insurance Contributions and any other liability, deduction, contribution, assessment or claim required by law to be paid or deducted and accounted for by it arising from or in relation to the provision of the Services, or receipt by it of any payment or benefit relating to the Services, (including any interest or penalties imposed in respect of such payments).
7. Supplier shall, and shall procure that any individual supplied by the supplier to perform the services, ("Individual") shall, promptly give to us (and any material changes thereto), all such information and documentation as we may reasonably require from time to time, or as the supplier considers material relevant, in order for us to determine whether the appointment of the supplier hereunder is or will be 'Deemed Employment' as defined by the applicable laws and regulations and, if we do so determine, in order for us to comply with any legal obligation on us to deduct tax or National Insurance Contributions from the fees/monies due to the supplier in relation to the services.
8. We shall be entitled to make deductions from payments made to the supplier under this agreement in respect of income tax and National Insurance Contributions under Pay As You Earn ("PAYE") if we reasonably consider that we are required by law to do so.
9. Supplier represents and warrants that (i) it shall not delegate or sub-contract the services to, or (ii) procure the provision of the Services or the supply of individuals used to perform the services through or from, any intermediary, person or entity other than the supplier's staff themselves (or any individual person who shall act as a substitute for a member of the supplier's staff), except with our prior written agreement and (iii) it is not nor will it prior to the cessation of this agreement, become a managed service company ("MSC"), within the meaning of section 61B of ITEPA. Supplier acknowledges and agrees that we do not wish to engage the services of any worker(s) via a MSC.

IX. Termination

1. Force majeure events, being circumstances beyond our reasonable control, including (without limitation) acts of God, governmental actions, war, terrorism and similar events as well as business disruptions of all kinds, strikes, lock-outs, fire, explosion, flood and other causes or events which lead to a restriction or suspension of our business operations, shall entitle us to postpone acceptance of delivery or wholly or partially withdraw from the contract without any liability.
2. If a) the supplier becomes, enters into and/or applies for or calls meetings of members or creditors with a view to one or more of a moratorium, administration, bankruptcy, liquidation (of any kind), or composition and/or arrangement with creditors, and/or have any of his property subjected to one or more of appointment of a receiver, enforcement of security, distress, or execution of a judgment (in each case to include similar events under the laws of other countries) and/or otherwise become unable to pay his debts; b) the supplier commits a material or persistent breach of this contract including without limitation, breach of clause VIII.3; c) the supplier ceases or threatens to cease or we have reason to believe that the supplier shall cease to carry on in business; and/or d) the supplier has a change in his management or of control in his ownership; then we may, at our option, terminate the contract and/or any order on notice to the supplier. On termination all sums owing to us on any account shall immediately become due and payable.
3. We may at any time on 30 days' written notice terminate a contract and/or an order for any of the goods or services not provided by the end of such notice period.
4. Termination shall not affect or relieve any of the supplier's obligations in respect of any goods, works or services provided prior to the date of termination and shall not prejudice any rights accrued to either party before termination. On termination of this contract for any reason, the supplier shall immediately deliver to us a) all materials provided for the purposes of the contract; and b) and all other materials incorporating our intellectual property existing at the date of termination, whether or not then complete. If the supplier fails to fulfil his obligations under this condition, we may enter the supplier's premises and take possession of any items which should have been returned to us.

XI. General

1. The place of performance shall be the place the goods/works are to be delivered or at which performance is to be rendered. These conditions shall be governed by English law and we both submit to the exclusive jurisdiction of the English courts save that any other jurisdiction may apply for our enforcement of any judgement.
2. Should any provisions in these terms be or become invalid or void, this shall have no effect on the other provisions. The parties shall endeavour to replace the invalid provision with an arrangement that comes as close as possible to its original business purpose.
3. The term "we" and "our" refers to our legal personality stated in the order and, where the interpretation permits, shall include all of our subsidiaries, holding companies, ultimate holding company or subsidiaries of such holding companies or ultimate holding company, and "subsidiary" and "holding company" shall bear the meanings attributed to them in Section 1159 Companies Act 2006.
4. If the contract of employment of any person is at any time deemed or is likely to be deemed to transfer to us or any successor contractor by operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended or replaced) ("TUPE"), the supplier shall (a) comply with his obligations under TUPE; and (b) keep us indemnified against all losses arising from or in connection with any such transfer or any claimed transfer including, without limitation, any act, omission, default, breach of obligation or negligence of the supplier or his agents, expenses of employment of any such person, and the consequences of any dismissal of any such person including without limitation as a result of any indemnity we give to a successor contractor.
5. Neither party shall at any time disclose to any third party or use, other than for the purposes of discharging its obligations or exercising its rights under these terms and conditions, any information of a secret or confidential nature acquired by it concerning the trade business or affairs of the other party including the terms of this contract and each party will use its reasonable endeavours to prevent its employees or former employees from doing so. This condition shall not apply to information which either party is required by law to disclose.
6. The supplier may not assign, transfer, sub-let or otherwise sub-contract the order or any part thereof without our prior written consent. We may assign all or any part of this contract and the supplier will enter into such further documentation as may reasonably be required to effect such assignment.
7. Any notice required under these conditions shall be in writing, addressed to the other party at its registered office or principal place of business or such other address notified pursuant to this provision to the party giving the notice.
8. Any member of the Heidelberg Materials UK group of companies may enforce the terms of this contract in accordance with the Contracts (Rights of Third Parties) Act 1999. No other person or body who is not a party to this contract shall have the right to enforce any of its terms by virtue of that Act.