BakerHicks.

Purchase Order Terms

1.

In these Conditions of Purchase Order the following definitions shall apply:

1.1 "the Buyer" means BakerHicks Ltd;
1.2 "the Seller" means the person with whom the Buyer has placed the Contract;
1.3 "the Goods" means the subject matter of the Contract;
1.4 "the Specification" includes the description of the Goods set out in the Contract, any drawings forming part of the Contract and any samples or patterns referred to in the Contract;
1.5 "the Contract" means the Buyer's enquiry, its Purchase Order and any supplement there to and the Seller's acknowledgement thereof (if any) but excluding any terms or conditions of contract in which the Seller's acknowledgement is made;
1.6 "the Purchase Order" shall mean the document issued by the buyer to the Seller defining the materials, goods and/or services to be provided together with any requirements, documents listed or referred to, and these conditions
1.7 "Conditions" means the terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and The Seller.
1.8 The "postal rule of acceptance" shall not apply
1.9 "Delivery Address" means the address stated on the Order.
1.10 A reference to one gender includes a reference to the other gender.
1.11 Condition headings do not affect the interpretation of these conditions.

2 Basis of Contract

2.1 These conditions shall form the basis of the Contract. Unless accepted by the Buyer in writing no terms or conditions endorsed upon delivery or contained in the Sellers quotation, acknowledgement or acceptance of order, specification or similar document shall form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.
2.2 Where such terms or conditions are included in the Contract but conflict with the Buyer's Conditions then the latter shall take precedence.
2.3 No person is authorised by the Buyer to amend this Purchase Order or the Contract in any respect (except authorised site personnel in matters concerning delivery times) other than by issue of written instructions on a further Purchase Order.
2.4 No claim for payment shall be valid unless supported by an official Purchase Order and/or Purchase Order reference number and related delivery note signed by the authorised signatory of the Buyer (referred to on the Purchase Order).
2.5 Goods shall only be supplied by the Seller on receipt of an authorised signed Purchase Order and Purchase Order reference number issued by the Buyer.
2.6 Any performance or partial performance by the seller of its obligations under this Contract shall constitute acceptance of the Order

3. Quality and Quantity

3.1 It is a condition of the Contract that the Goods delivered by the Seller shall:
3.1.1 Correspond as to description, quality and conditions with the particulars stated or referred to in the Purchase Order;
3.1.2 Conform to any sample, pattern, and drawing or design approved in writing or supplied by the Buyer;
3.1.3 Be of sound materials and workmanship;
3.1.4 Meet any standard or inspection or performance stated or referred to on the Purchase Order or otherwise communicated by the Buyer to the Seller;
3.1.5 Be fit for any purpose expressly or impliedly made known to the Seller, or otherwise for their ordinary purpose;
3.1.6 Comply with the relevant requirements of common law and any statute, statutory rule or order or other regulation having the force of law which may be in operation on delivery. In particular but without prejudice to the generality of the foregoing, the Seller undertakes to comply in every respect with the requirements of the Health and Safety at Work Act 1974;
3.1.7 Where the goods or materials are required for inclusion in works in which the Buyer is the contractor, the goods or materials shall be to the satisfaction of the Buyer and any architect/engineer or supervising officer named in the construction contract to which the Buyer is a party.
3.1.8 Where applicable be of equal or greater quality or standard than any relevant statutory provision or recommendation, British Standard or B.S. Code of Practice, E.C. Regulation or European Directive.
3.2 The Buyer's rights under these Conditions are in addition to the statutory conditions implied in favour of the Purchase by the Sale of Goods Act 1979.
3.3 If the Goods are delivered to the Buyer in excess of the quantities ordered the Buyer shall not be bound to pay for the excess. Any excess shall be and shall remain at The Seller's risk and shall be collected and returned at the Seller's expense within a reasonable period of time. Any additional disposal/moving costs incurred by the Buyer due to the Seller not collecting the Goods shall be levied against the Seller.

4. Time of Delivery and Vesting of Goods

4.1 The time for delivery of Goods shall be of the essence. Unless agreed by the Buyer in writing Goods shall be delivered carriage paid, to the delivery address on the date or dates or within the period or periods stated in the Purchase Order, in either case during the Buyer's usual business hours or those hours stated within the Contract. Any revised delivery address, times and dates shall be instructed by the Buyer in writing. Time shall also be of the essence for any extension of time for delivery and/or performance agreed by the Buyer.
4.2 The Seller is required to advise the Buyer forthwith of any holiday closures and/or restrictions on the manufacture and delivery process that could impact upon the delivery dates of the Goods ordered.
4.3 If Goods are not delivered by the due time, the Buyer may, without having any liability to the Seller, cancel in whole or in part the Contract and shall be entitled to purchase replacement goods from an alternative source. The Seller shall be liable to the Buyer for all loss damage costs or expenses ("the Losses") incurred by the Buyer arising out of the Seller's failure to deliver the goods by the due time. The Seller acknowledges that in addition to the Losses suffered by the Buyer, the Buyer shall also be entitled to recover from the Seller any liquidated and ascertained damages deducted from the Buyer under any contract and any loss damage costs or expense suffered by the Buyer's subcontractors arising either wholly or partially as a result of the failure to deliver the goods by the due time.
4.4 Risk in all Goods sold to the Buyer shall not pass to the Buyer until they have been unloaded at the Buyer's premises. The Seller shall insure the Goods in transit until delivery to the Buyer's premises for all risks for an amount equal to 110% of their value. The Seller shall procure that the Buyer's interest is noted on such policy of insurance and hold any proceeds of such insurance on trust for the Buyer if any such Goods are damaged or destroyed in transit.
4.5 The Goods shall become the property of the Buyer after he has accepted and unloaded them at the place designated in the Contract for delivery. The Goods shall remain at the risk of the Seller until an authorised signatory of the Buyer has accepted delivery thereof.
4.6 Where the Buyer collects materials from the Seller the Goods shall become the property of the Buyer after loading by the Seller onto the Buyer's vehicle.
4.7 A delivery note quoting the full number of the Purchase Order must accompany each delivery or consignment of the Goods. The delivery note must be signed by the Buyer's authorised signatory and must show, among other things, date of order, number of packages and contents and, in the case of part delivery the outstanding balance remaining to be delivered. The Seller should note that acceptance of the Goods by the Buyer at the time of delivery shall not constitute their approval by the Buyer. Should the Goods be found to be damaged at the time of delivery or any reasonable time thereafter they may be rejected by the Buyer and they shall be removed at the time of delivery or any other such time to suit the Buyer at the Sellers expense.
4.8 The Buyer shall be entitled to reject the Goods or any part thereof which are not in accordance with the Contract and shall not have or be deemed to have accepted the Goods or any part thereof until after the Buyer has had a reasonable time to inspect them following delivery or within a reasonable time after any latent defect in the Goods has become apparent, whichever is the later. Where such rejection is made the Seller shall at its own expense replace the defective Goods, the replacement time shall be of the essence but in no circumstances shall the Seller delay the Practical Completion date stated in the Buyers Main Contract.
4.9 The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods
4.10 If the goods are to be delivered by instalments, the Contract will be treated as a single contract and not severable.
4.11 In the event that the Buyer postpones a delivery, the Seller agrees to store the Goods that would have formed the delivery at no cost to the Buyer for a period of up to 2 months.
4.12 Where payment (either in whole or in part) is made by the Buyer for the Goods prior to delivery or where the Buyer has supplied materials to be incorporated in the Goods to be supplied under the contract a Vesting certificate shall be provided by the Seller to the Buyer. The Vesting certificate shall include a list of all items and the value of each item.
4.13 The vested goods shall be set apart, properly stored, protected and insured against loss or damage howsoever arising. They shall be free of retention of title claims in respect of any third parties and be clearly and visibly marked to show
- they are for use on the contract stated on the Purchase order
- their destination is the Site stated on the Purchase order
- they are the property of the Buyer
- they contain the Buyers order number
4.14 In the event of bankruptcy, or a Receiver and Manager being appointed, unrestricted access is to be given to the Buyer to collect the materials or goods from their place of storage. In the event of any deficiency in the inventory the shortage will be made up from other stocks or the Contractor will deduct the cost of replacement from any monies outstanding.

Inspection and Testing

5.1 All Goods shall be new, unless the Buyer has otherwise agreed in writing. The Buyer or his nominee shall have access to any premises at any reasonable time before delivery to inspect and test the Goods and shall also have the right to inspect and test them before acceptance at the place of delivery. Such tests shall include any inspections as the Buyer may think fit and shall not be limited to quality assurance testing controls and inspections. Notwithstanding any inspection or test made by the Buyer, the Seller shall inspect and test the Goods at his expense before delivery. The Seller shall give at least 7 days notice to the Buyer of his intention to carry out such inspection or test and the Buyer or his nominee shall be entitled to attend.

6. Seller's Default

6.1 Where all or any part of an order or batch of Goods fails to satisfy any of the conditions of the Contract relating to specification, quality, quantity, materials, workmanship and/or design the Buyer may at the Buyer's option reject either all of the order or batch of Goods or part of such order or delivery of Goods.
6.2 At the Buyer's option, any Goods which are rejected shall be either replaced by the Seller within 3 days or the Buyer, may cancel without liability to the Seller the contract relating to such rejected Goods and shall be entitled to a full refund of the price relating to such rejected Goods if the Buyer has paid for such Goods.
6.3 Rejected Goods may, at the Buyer's option be made available for collection by the Seller and shall be collected within 7 days of the Seller being notified of their rejection or shall be sold by the Buyer for the price attainable by the Buyer and credit shall be given by the Buyer for the amount the Buyer received for the rejected Goods.
6.4 In the event of the Seller's default the Seller shall be liable for and shall indemnify the Buyer for all loss damage expense and costs incurred by the Buyer which arise as a result of such defaults. The Seller acknowledges that breaches of the Contract may lead to the imposition of liquidated and ascertained damages against the Buyer by its customer under the main contract and the Buyer may suffer losses arising out of the prolongation or disruption of the contract which shall include but not be limited to its own losses and those of subcontractors engaged by the buyer

7. Price and Payment

7.1 The price for the Goods shall be as set out on the Buyer's Purchase Order and unless otherwise so stated shall be inclusive of all charges for packaging, packing, shipping or other import charges, carriage, insurance and/or delivery of the Goods and any duties imposts or levies other than the value added tax.
7.2 No increase in the price may be made (whether on account of increased material, labour or transport cost, fluctuation in rates of exchange or otherwise) without the Buyer's prior written consent.
7.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase and/or volume or purchase customarily granted by the Seller.
7.4 The Seller shall be entitled to issue an invoice to the Buyer on or at any time after delivery and acceptance of the Goods or any part thereof by the Buyer by proof of a signed delivery note.
The Buyer will be under no legal obligation to pay an invoice from the Seller that:
(a) Does not quote a valid full order number. A member of the Buyers staff being quoted is not acceptable.
(b) Where an invoice quotes more than one order number, a separate invoice for each order number is to be submitted. Unless otherwise stated in the Order and subject to Condition 7.3 the Buyer shall pay the price of the Goods or the appropriate proportion thereof together with any applicable Value Added Tax in respect of which an invoice has been issued in accordance with Condition 7.1 & 7.2 within 60 days after the invoice is received by the Buyer. The Seller is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.
7.5 Weigh tickets, the cost of obtaining which shall be borne by the Seller, shall be provided upon delivery of the Goods or any part thereof for which the Price is calculated by reference to weight. Where the price is calculated by reference to volume, delivery shall be made in vehicles properly calibrated in accordance with the Weights and Measures Act 1985.
7.6 It shall be a condition precedent to payment that the Sellers invoice shall include details of the site to which the Goods are delivered, the Buyers project name and number and the order number.
7.7 The pricing structure on the seller's invoice must replicate the pricing structure on the order. (E.g. Order shows timber type, length and quantity: Seller's invoice must show timber type, length and quantity). In the event the Seller fails to provide details in accordance with this clause the Buyer may make payment at its absolute discretion.

8. Set off

8.1 The Buyer shall without prejudice to any other right or remedy have the right to set off against any amount due to the Seller any sum or sums which at the date of payment falling due are due and owing to the Buyer under any contract whatsoever between either the Buyer and the Seller [or between the Buyer and any company which is either a subsidiary of the Seller within the meaning of Section 736 of the Company's Act 1985 or which is an associated company of the Seller in which the Seller owns or holds more than 50% of the share capital]. The Seller is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

9. Assignment

9.1 The Seller shall not assign the Contract. The Seller may sub-let any part of the Contract if the Buyer so agrees in writing (such consent not to be unreasonably withheld) and will supply such copies of its Contract as the Buyer may require. The Buyer's agreement shall not relieve the Seller of any of his obligations under the contract.
9.2 Within 10 working days of a request to do so, the Seller shall obtain such warranties and guarantees from their Suppliers in such form as the Buyer may stipulate in favour of the Buyer or any third party who will have an interest in the Goods or the building in which the Goods are incorporated.

10. Intellectual Property Rights

10.1 The Seller shall be liable for and shall indemnify the Buyer and its successors in title and assigns against all loss, damage and expense resulting from any and every infringement of patents, copyright, registered design or trade mark resulting from the use of/supply of Goods against this Purchase Order.
10.2 The Seller grants to the Buyer a royalty free irrevocable non-exclusive licence to copy and use any design in relation to the Goods for any purpose for which the Goods are to be utilised.
10.3 The copyright in all drawings, plans specifications and any other documentation provided by or on behalf of the Buyer to the Seller shall remain vested in the Buyer or whoever prepared the documents on its behalf and must not be shown or copied to any third party without the Buyer's express consent being obtained in advance and in any event upon the condition of a similar condition being imposed upon any third party. Such documents shall be returned to the Buyer immediately upon receipt.

11. Variations

11.1 The Contract is limited to the provision of the Goods mentioned herein and the Buyer accepts no liability for any Goods supplied over and above the stated quantity.
11.2 Unless stated to the contrary, all prices incorporated in the Contract are fixed and exclusive of VAT. Alterations to the scope, quality and quantity of the Goods or to the price can only be made with the written consent of the Buyer. In the event that the Buyer requests a variation, the Seller shall provide its proposals for the variation including the price within 14 days of the Buyer's request and the Buyer and Seller shall agree the cost implications of the variation within 10 days of receipt of the variation information from the Seller. If agreement cannot be reached, the Buyer may still instruct the Seller to undertake the variation and shall pay the Seller a fair and reasonable price for the same.

12. Design and Professional Indemnity

12.1 The Seller confirms that if its services include a design element, its price is fully inclusive of all design costs including provision of such drawings, specifications and other design documents as the Buyer may from time to time request.
12.2 The Seller confirms that it shall take out and maintain professional indemnity insurance or product liability insurance in relation to the design of the Goods to a minimum amount of £2,000,000 or other such greater amount detailed in any contract documentation provided with the order. The cover shall apply to each and every claim for a period of 12 years from the date of delivery of the Goods to the Buyer.
12.3 No approval comment review or inspection of the seller's design by the Buyer shall limit or discharge the liability of the Seller to the Buyer under this contract.

13. Indemnity and Insurance

13.1 The Seller shall indemnify and hold the Buyer harmless against any loss, damage, liability, cost, claims whether direct or indirect suffered by or brought against the Buyer arising from the Goods supplied or in any work carried out by the Seller under the Contract whether in respect of injuries to or death of any person including employees of the Seller or of damage to any property or in the performance of the Contract by the Seller or resulting from any defect in the Goods provided that such loss, damage, liability, cost or claims does not arise from any negligence on the part of the Buyer, its employees, servants or agents.
13.2 The Seller will at all times during the Contract maintain adequate policies of insurance in respect of damages to or loss of (whether in whole or in part) the Goods whilst the property thereof rests with the Seller, any injury or death of any person (including employees of the Seller and the Buyer) and loss of or damaging arising from the performance of the Contract. The Seller shall produce to the Buyer when required to do so the relevant policies of insurance and the receipt for current premiums.
13.3 The seller shall at all times observe, perform and comply with all statutory and other obligations and shall indemnify and keep indemnified the Buyer from and against all or any breach or non-compliance with or non-performance of any such obligations.

14. Termination

14.1 The Buyer shall be entitled to cancel the contract in respect of all or part of the Goods by giving notice to the Seller at any time up to 14 days before the due date for performance and/or delivery without any liability to the Seller.
14.2 The Buyer may immediately terminate the Contract by written notice to the Seller where the Seller is.
14.2.1 in breach of the terms of the Contract and where the breach is capable of remedy, has not remedied the breach within 14 days of receiving notice for requiring the breach to be remedied,
14.2.2 ceases or threatens to cease to carry on business;
14.2.3 proposes to compound with its creditors, applies for an interim order under Section 252 of the Insolvency Act 1986, has a bankruptcy petition presented against it, enters into voluntary or compulsory liquidation, has a receiver, an administrator or administrative receiver appointed over all or any of its assets or takes or suffers any similar or analogous action in any jurisdiction.
14.3 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of the Buyer accrued prior to termination. The conditions which expressly or implied have effect after termination shall continue to be enforceable notwithstanding termination.

15. Defects Liability

15.1 Without prejudice to any other right or remedy which the Buyer may have, if any Goods are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract the Buyer shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Buyer.
(a)To rescind the Contract;
(b)To reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid forthwith by the Seller;
(c)To give the Seller the opportunity at the Seller's expense either to remedy a defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract is fulfilled;
(d)To refuse to accept any further deliveries of the Goods but without any liability to Buyer
(e)To carry out at the Seller's expense any work necessary to make the Goods comply with the Contract; and
(f)To claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.
15.2 If the Buyer specifies a required performance or must satisfy a performance specification for the Goods, the Seller shall be deemed to have warranted that the goods will attain the required performance and/or satisfy the performance specification notwithstanding any other provisions of the Specification. The Buyer is at all times relying on the skill and knowledge of the Seller. Should the Goods fail to maintain the required performance/performance specification such failure shall be considered a defect within the meaning of this clause.

16. Confidentiality

16.1 The Seller shall not, without the prior written approval of the Buyer take or knowingly permit to be taken by, employees, agents or third parties any photographs or video footage of the Site for use in any publicity or advertising or publish, whether alone or in conjunction with any other person, any articles, photographs, video footage or other illustrations nor shall it impart to any publication, journal or newspaper or any radio or television programme or internet site or any other media of whatever nature any information regarding the Project.

17. Provision of Information and Compliance with Statute

17.1 Unless otherwise instructed, on arrival delivery drivers must report to the main site office to receive clear instruction on the location for the safe off-loading/loading of the goods under the appropriate supervision. Where traffic management details will be given, drivers entering site areas must remain accompanied at all times. The minimum Personal Protective Equipment (PPE) to be worn will include safety helmets, high visibility vest, hand and eye protection and safety footwear.
17.2 To ensure compliance with the current Control of Substances Hazardous to Health Regulations (COSHH) any material of a hazardous nature supplied to The Buyer must be accompanied with a material hazard data sheet. Hazard data sheets to include details of safe handling, storage, application and transportation and also include emergency procedures for accidental release. All materials supplied to be clearly labelled and where applicable in accordance with the current Chemicals (Hazard Information Packaging for Supply) Regulations.
17.3 The Seller shall deliver with each consignment of Goods such written information as may be reasonably necessary for the proper handling, use, installation, storage and maintenance of the Goods without risk or damage or injury to persons or property. Where applicable, a suitable and sufficient risk assessment must be prepared and a written method statement submitted for approval prior to offloading.
17.4 All deliveries to site, and loads loaded at site must comply with the requirements of the Department of Transport (Dft) UK. The Seller shall ensure that all drivers/operators delivering or picking up goods to/from site carry all statutory documentation certifying their authority to undertake the duties necessary to fulfil the requirements of the Contract and that all site notices and regulations are observed when making such deliveries.
17.5 Where loads are loaded or off-loaded, risk assessments and loading/unloading plans must have been undertaken prior to delivery and copies provided to the Buyer. Hiab driver/operators will be required to carry the "testing & thorough examination certificate" for the Hiab and any associated lifting accessories. Before the Seller is allowed onto the site and allowed to operate plant and associated equipment for loading and unloading goods the Sellers delivery drivers must be in possession of proof of competence in the form of CPCS, (Construction Plant Competence Scheme), ALLMI (Association of Lorry Loader Manufacturers and Importers) or other equivalent certification acceptable to the Buyer. If in doubt the Seller should check with the buyer prior to delivering the goods.
17.6 The Seller's delivery drivers must be made aware that they have full responsibility for the safety of the load until fully off-loaded or loaded (if the vehicle is collecting goods) and the vehicle has left the confines of the Project. The Seller and Seller's delivery drivers should be aware that the Buyer operates a delivery loading and unloading check procedure, any deliveries not complying with the questions and data on the Delivery & Off-Loading Check Form attached together with Guidance Form Loading and Unloading of Vehicles (available on request.) may be turned away from site.
17.7 The Seller must be REACH (Registration, Evaluation, Authorization and restriction of Chemicals) registered to be able to supply any recycled Goods to the Buyer. Failure by the Seller to provide evidence of REACH registration to the Buyer may result in Goods being rejected with no consequence or liability on the Buyer.
17.8 The Seller shall indemnify the Buyer against all losses, cost and damages incurred in connection with the breach of clause's 17.1 to 17.7 by the Seller.

18. Third Party Rights

18.1 The following third parties shall have the right to enforce the Buyer's right under the Contract
18.1.1 Any person employing the Buyer as their contractor;
18.1.2 The first purchaser or first tenant of the property in which the Goods are installed;
18.1.3 Any person providing finance in relation to a construction project in which the Goods are installed.
18.2 Save as aforesaid no party shall have the right to enforce the terms of this contract.

19. Sustainable Procurement

19.1 Where the order is for the supply and production of aggregates from inert waste and or the Seller is delivering Goods produced from inert waste the Seller shall comply with the requirements of the Buyers WRAP (Waste & Resources Action Programme) Quality Protocol. Failure by the Seller to comply with this Protocol may result in Goods being rejected with no consequence or liability on the Buyer. It is the Sellers responsibility to ensure receipt of this Protocol and its implementation. A copy of this protocol is available on request
19.2 The Buyer recognises that its operations directly impact on the natural and human environment and actively seek the co-operation of Sellers in minimising adverse effects.
19.3 Polystyrene packaging shall not be used for Goods under this Order. In circumstances where this is not practicable, and with the prior agreement of the Buyer, such shall be allowed however at their own expense The Seller shall take back the polystyrene immediately after delivery or arrange for its prompt removal from site after delivery.
19.4 The Seller shall deliver the Goods to site through the most economical and environmentally-friendly means practical (using low emission vehicles / bulk deliveries where agreed / reduced distances).
19.5 As a signatory to the Montreal Protocol on Substances that deplete the Ozone Layer, Her Majesty's Government is committed to the reduction of the production and consumption of those substances controlled under the Protocol. The supplier must therefore state whether his response will involve the use of any or all of the substances named below (in which case he must also provide full details of such use, including where this relates to packaging) or submit a "NIL RETURN". This does not apply to ITTs for Food, Services or Studies (where a report is the only output).
Named substances: CFCl3 (CFC-11),CF2Cl2 (CFC-12),C2F3Cl3 (CFC-113),C2F4Cl2(CFC-114) ,C2F5Cl (CFC-115)
19.6 The Seller shall not unlawfully discriminate, and shall procure that its employees and agents do not unlawfully discriminate, within the meaning and scope of the Sex Discrimination Act 1975, Race Relations Act 1976, Disability Discrimination Act 1995 and any amendments to or re-enactments of those statutes.
19.7 The Seller acknowledges that The Buyer is under a duty to have due regard to the need to:
- promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
- eliminate unlawful discrimination; and
- promote good relations between persons of different racial groups, religious beliefs and sexual orientation and the Seller shall assist and co-operate with the Buyer where possible to enable the Buyer to satisfy their duty.
19.8 The Seller must supply social, environmental and waste data relating to their operations on behalf of the Buyer when a request is made (e.g. safety statistics, environmental incidents, management systems).

20 **Bribery Act 2010**

The Seller warrants that:
20.1 it is fully aware of the provisions of the Bribery Act 2010 and that it has not and will not commit any act or omission which would place the Seller or the Buyer in breach of the Bribery Act 2010, whether in connection with the Contract or otherwise; and
20.2 there is no outstanding investigation of it under any bribery legislation and in the last six years it has not been convicted of any offence under any bribery legislation or reached any settlement in relation to any alleged breach of any bribery legislation and has not self-reported any breach or suspected breach of any bribery legislation;
20.3 it will comply with the most recent guidance issued by the Secretary of State pursuant to the Bribery Act 2010; and
20.4 it will procure that each of its suppliers, agents or others performing services on its behalf complies with this clause; and
20.5 it will report to Morgan Sindall Construction and Infrastructure Limited any suspicion of any breach or alleged breach of any bribery legislation, including any of its sub-contractors or others performing services on its behalf, and co-operate with Morgan Sindall Construction and Infrastructure Limited and/or any regulator and/or prosecutor in any investigation relating to the same
The Seller shall be liable for, and indemnifies the Buyer against, any expense, liability, loss, claim or proceedings whatsoever in respect of any breach by the Seller of the provisions of this clause.
In the event of any breach by the Seller of the provisions of this clause, the Buyer shall be entitled by notice to the Seller to terminate the employment of the Seller under the Contract. Such termination shall be treated as termination under clause 14.2 of the Contract

21. CE Marking (Construction Products Regulation 2011)

As from 1 July 2013, it is the manufacturers' responsibility to ensure that construction products placed on the market in the UK and conforming to Annex ZA of a harmonised standard (hEN) or an ETA are accompanied by a DoP and have CE marking. Additional markings and marks may be permitted provided that :
a) they fulfil a different function from that of the CE marking
b) are not liable to cause confusion with it
c) do not reduce its legibility and visibility.

22 General

22.1 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall (to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness) be deemed to be severable and the remaining provisions of the Contract shall continue in full force and effect.
22.2 The Seller undertakes that whilst working upon any premises or site occupied by the Buyer it shall observe all the Buyer's site rules, health and safety regulations, and if requested to do so by the Buyer, the Seller shall attend any site or health and safety induction course. If any of the Seller's servants or agents commits any breach of the Buyer's site rules or health and safety regulations, the Buyer shall be entitled to request the Seller to remove such servant or agent.
22.3 Where the Goods are supplied to a Delivery Address in England or Wales, the Contract shall be governed by the laws of England and Wales and the Seller agrees to submit to the non-exclusive jurisdiction of the English courts. Where the Goods are supplied to a Delivery Address in Scotland, the Contract shall be governed by the laws of Scotland and the Seller agrees to submit to the non-exclusive jurisdiction of the Scottish courts.
22.4 Failure or delay by the Buyer in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
22.5 Any waiver by the Buyer of any breach of, or any default under, any provision of the Contract by the Seller shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
22.6 Any disputes arising out of or under this Contract may be referred by either party for the decision of an adjudicator who shall be agreed by the Parties or failing agreement shall be appointed by the President of the Royal Institute of Chartered Surveyors and the adjudication shall be carried out in accordance with the Scheme for Construction Contracts (England & Wales) Regulations 1998 or any amendments thereto. The adjudicator's decision shall be binding until finally agreed in writing between the parties or by litigation
22.7 Force Majeure – Neither the Seller nor the Buyer shall be liable for any failure or delay in performing under the Contract which arises from circumstances or occurrences beyond the respective party's reasonable control, including but not limited to acts of God, strikes, lock outs or other industrial disputes (other than involving either party's own workforce), war, riot, fire, flood, or any disaster affecting either the Buyer or the Seller.
22.8 The Seller shall in the performance of the Contract (at no additional cost to the Buyer) ensure compliance in all respects with relevant and binding UK and Community Laws or any other regulation or by-law from time to time in force which is or may become applicable during the period the Contract is in force.
22.9 O&M Information/Certificates of conformity – it is a condition of this order that full technical and maintenance information is provided by the Seller for insertion into the O&M manuals. This information shall be submitted within 5 working days of the delivery date.
22.10 Competition law develops and evolves over time but most important sources of law at present are the Competition Act 1988, which prohibits anti-competitive agreements and the abuse of a dominant position, and the Enterprise Act 2002, which introduced criminal sanctions for cartels. The Seller shall at all times observe, perform and comply with all statutory and other obligations of all current Acts and shall indemnify and keep indemnified the Buyer from and against all of the breach or non compliance of any such obligations.
22.11 Substance misuse (alcohol and drugs etc)
Any personnel delivering to or visiting site shall comply with the Buyers and any client imposed Substance Misuse/abuse Policy. The Buyers Substance Misuse Policy sets minimum standards in respect of substance misuse rules and procedures. Appropriate information on the substance misuse policy and work rules can be provided by the Buyer on request.
The Seller shall ensure that personnel under their control submit themselves for random, post accident/incident or "for cause" testing for alcohol and or drugs if requested by the Buyer's site management. The Buyer reserves the right to refuse entry or remove from site any of its visitors or suppliers who appear unfit through substance misuse. Illegal drugs or alcohol shall not be brought within the site boundary
22.12 The Seller hereby warrants that neither the performance, functionality or operation of any Goods, equipment or systems supplied, nor connected or associated goods, equipment or works shall be adversely affected by the failure of Goods equipment or systems supplied to recognise, treat or establish dates or periods of time correctly and accurately including in particular but without limitation the effect of such a failure on the capture, saving, retention, correct and accurate manipulation, calculation and processing of data and information.