CONDITIONS GENERALES D’ACHAT

1. GENERALITES

Notwithstanding any stipulation to the contrary contained in offers, tenders, sales slips, invoices, consignment notes or others documents and unless expressly agreed otherwise with the Supplier, all contracts concluded with our Suppliers are exclusively in accordance with the conditions set out above, and to the particular conditions appearing in the order. In the event of contradiction between the terms of the general conditions and the special conditions, the latter prevail.

No supply will be accepted if it is not the subject of a prior and regular order, on the basis of a previous price offer by any means leaving a written record. In the event that this condition is not respected, we do not take any commitment and our responsibility cannot be questioned.

2. QUALITE DES FOURNITURES ET DES TRAVAUX

The price includes all the supplies and all the work necessary for the perfect and complete execution of the contract. Any replacement required for non-compliance with the technical specifications will be executed by the Supplier and at its expense.

3. CONFORMITE A LA LOI

The supplies and services must comply with the administrative, legal and regulatory laws in force at the time of the contract as well as our health, safety and environmental rules.

4. SUPPLIER CODE OF CONDUCT

The Buyer, being part of the Heidelberg Materials, has described and set forth an understanding of internationally recognized principles of sustainable development and fundamental environmental, labour and social standards in its Supplier Code of Conduct, available at https://www.heidelbergmaterials.com/en/procurement. The Supplier shall abide to the Supplier Code of Conduct. Buyer may terminate the Purchase Order, if necessary after giving prior written notice, in the event the Supplier is in breach of the principles and standards set forth in the Supplier Code of Conduct. Furthermore, the Supplier is expected to ensure that its employees and subcontractors adhere to the Supplier Code of Conduct.

5. CESSION ET SOUS-TRAITANCE

Assignment and subcontracting to another Supplier registered in our portfolio requires our prior written consent. The other party remains nevertheless jointly and severally liable for the obligations.

6. EXPEDITION

Shipping and transport of the goods are at the risk of the Supplier, whether sold "departure" or "free destination", when transport is supported by the Supplier.

Any expedition will be the subject of a slip that will accompany the expedition. The bill will indicate the VAT number of the Supplier, the country of origin of the goods (if it is different from the country of origin), the nature of the transaction, the customs nomenclature, the detail of the consignment, the number and the date of the order to which it relates, the gross and net weight per parcel, the value of the goods delivered to border, the marks and dimensions of the parcels and all useful information. All these elements will be recalled in the invoice.

When the two preceding points are not observed, we reserve the right to refuse delivery of the goods which will then be considered as not provided. The Supplier is solely responsible for any delays, errors and fees resulting from the non-observance of the above conditions.

7. IMPORTATION

In the event of importation, the Supplier will send us, at the time of the acceptance of the order, a pro-forma invoice, for the material which is the object of the order.

8. DELAY IN DELIVERY

If agreed delivery dates are not met, the delivery will be considered as being delayed.

The Supplier shall immediately notify the Buyer, in writing and verbally, if there is reason to believe that the agreed delivery time cannot be met. Such notification shall state the cause of the delay, likely overrun of the delivery time and measures taken to reduce current and avoid further delay. The Buyer may grant an appropriate extension of time. For deliveries which are urgently needed; the Supplier may not be granted an extension of time.

If the delivery or part thereof is not effected within the agreed time, and such delay is not caused by Force Majeure, the Supplier shall pay to the Buyer liquidated damages equivalent to 0,5% of the total order value per day. Supplier’s cumulative liability for liquidated damages shall not exceed 10% of the total order value. This restriction does not apply to costs for locating the defect, costs for gaining access to or fitting repaired or replaced goods or costs arising as a result of the repair or replacement.

The Buyer is entitled, without any liability, to terminate the order after two weeks of delay. In case of termination; any payment executed by the Buyer to the Supplier shall immediately be returned.

9. PAYMENT, TITLE AND RISK

Unless otherwise agreed, payment shall be made, through bank transfer, after confirmed full delivery and receipt of final and correct invoice, issued as per provided invoice instructions, with following payment terms, dependent on the agreed delivery terms based on Incoterms 2020:

- For EXW/FOB/FCA delivery terms: 122 days from end of month (with 3% cash discount if the invoice is paid within 92 days)
- For CFR/CPT/CIF/CIP delivery terms: 62 days from end of month (with 3% cash discount if the invoice is paid within 32 days)
- For DAP/DDP delivery terms: 32 days from end of month (with 1.5% cash discount if the invoice is paid within 15 days)

The tax invoice shall only cover one Purchase Order and shall state the Purchase Order Number.

If the Buyer has a justified claim on the Supplier as a result of the purchase, the Buyer may withhold as much of the payment as is equivalent to the claim.

Title to the goods ordered shall pass to the Buyer upon payment of the goods. If payment is made before delivery, the Supplier shall clearly identify the goods as property of the Buyer by visible marking and shall keep the goods separated from other goods the Supplier may have in his possession. Unless otherwise agreed in writing, the risk of loss of or damage to the goods shall pass to the Buyer when the goods are delivered to the agreed place.

The Buyer may demand a bank guarantee or another security acceptable to the Buyer, to be issued to the Buyer at the Supplier’s cost, for any advance.

10. ACCEPTATION ET RECEPTION

Unless otherwise stipulated in the order, acceptance is made upon delivery of the equipment or acceptance of the work. If the acceptance is carried out in the factories or the offices of the Supplier, before the shipment, it is up to him to inform us in good time of the provision.

Acceptance covers only apparent defects and nonconformities. It excludes all hidden-inherent or functional defects regardless of their importance.

11. DEFECTS LIABILITY, WARRANTY, GUARANTEE

The Supplier guarantees that the delivery fulfils the Purchase Order’s specification and requirements and that there are no defects of any kind. The Supplier also guarantees that all materials used in the delivery are new and genuine If any materials are proved to be counterfeit, the Supplier must immediately replace these materials with genuine equivalents as soon as possible at its own cost.

The Supplier warrants that the goods do not infringe any trademark, patent, copyright or registered design and undertakes to indemnify the Buyer against all costs, claims or liabilities whatsoever which may be against or incurred by the Buyer in respect of any infringements of the right of a third party relating to trademarks, patents, copyright or registered design relating to goods which are the subject of the LPO.

Unless otherwise agreed, the guarantee shall apply for 24 months from delivery. In the event that the item is not delivered with the bulk of the order, the 24 month period will start the date that a new or replaced part has been installed.

The Supplier shall immediately after Buyer's written complaint remedy the defect or if necessary re-deliver so that the delivery is in the condition specified in the Purchase Order. If the Supplier is unable to rectify a defect within reasonable time after Buyer's notification or if it is impracticable for Buyer to have rectification work performed by the Supplier, then Buyer shall be entitled to rectify the defect itself or engage others to do so. Such work shall be on the Supplier's account and risk.

If the delivery contains material defects of such nature that they cannot be repaired within a reasonable time, the Buyer has the right to cancel the Purchase Order. The Supplier will be responsible for any costs incurred by Buyer as a result of the Suppliers failure to abide by these terms.

12. RESPONSABILITE

The counterparty assumes full responsibility for all bodily, material and immaterial damage that it causes to us or to third parties as a result of the contract. It will put us out of any third party recourse in this regard.

13. CLAUSE RESOLUTOIRE

In the event of the Supplier's failure to fulfill any of its obligations, even if caused by force majeure, and in particular in the event of Supplier's delay in relation to the deadline, compliance is considered as an essential element of the agreement of the parties. We shall have the right, after formal notice addressed by any means leaving a written record remained unsuccessful for eight calendar days, without having to resort to the intervention of a court, to invoke the termination of the contract and to claim all damages to the Supplier or to take the necessary official measures (replacement of the contracting partner at the expense of the latter).

14. ENREGISTREMENT

The other party must be a contractor or a regularly installed Supplier. The loss of this quality gives right to the suspension of any payment and to terminate the contract as of full rights (with damages and interest).

15. DROIT APPLICABLE – LITIGES

Togolese law is applicable only.

The Togolese courts have sole jurisdiction in case of litigation.

16. DOCUMENTATION

All documentation to be provided in digital, fully readable format, in English.

Conditions of access to the SCANTOGO site: Health and safety at work

1. Access to the site may be denied and suppliers obligations may be considered breached if any of the following requirements are not met.
2. It is mandatory to wear adequate Personal Protective Equipment (PPE) to access the SCANTOGO site (masks, goggles, helmet, yellow reflective clothing, safety shoes, gloves, ear plugs etc.).
3. All vehicles transporting goods to and from the SCANTOGO site must be in good condition: reflective strips in front and behind, side mirrors in place, driver's seatbelt, working headlights, up-to-date technical inspection (on going year) and insurance, reduced CO_2 emissions (<4,5g/km), tires in good condition. Drivers must also present a valid driving license.
4. All large machines such as loaders, forklifts and others that need to access the SCANTOGO site must be in good condition: tires in good condition, rotating beacon functional, reversing alarm functional, reflective strips in place, fire extinguisher and first-aid kit available in the vehicle, appropriate driver's license.