

HITACHI RAIL TERMS AND CONDITIONS OF PURCHASE FOR GOODS AND/OR SERVICES

1. DEFINITIONS

1.1 In these conditions:

"Goods" means the goods/materials ordered by Hitachi Rail from Seller;

"Hitachi Rail" means Hitachi Rail Limited;

"IPR" means all patents, trademarks, service marks, trade names, copyright (including rights in computer software) and moral rights, database rights, rights in designs, rights in inventions, rights in know-how and other intellectual property rights, in each case whether registered or unregistered, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

"Seller" means the person, firm or company to whom Hitachi Rail's purchase order ("Order") is addressed and who is to supply the Goods/Services;

"Services" means the work/services ordered by Hitachi Rail from Seller;

1.2 These terms and conditions form part of the Order.

2. ACCEPTANCE AND VARIATION

2.1 The Order constitutes an offer by Hitachi Rail to purchase the Goods/Services at the prices and on the terms and conditions stated in the Order.

2.2 Acceptance of the Order (which shall be as soon as Seller takes any step towards fulfilment of the Order) is acceptance of these terms and conditions which override any terms and conditions of Seller (notwithstanding any contrary terms in Seller's terms and conditions).

2.3 No variation of these terms and conditions will be valid unless agreed in writing by Hitachi Rail or as may otherwise be notified by Hitachi Rail to Seller by written notice from time to time.

3. DELIVERY

Delivery of all Goods/Services shall be made by Seller at the address(es) specified by Hitachi Rail in the Order. Delivery charges, if any, shall be clearly identified in the invoice.

4. PACKAGING

4.1 All Goods must be packed securely so as to be delivered in perfect condition.

4.2 Packaging material is not returnable and will be free of charge unless agreed otherwise by Hitachi Rail.

4.3 Packaging shall be clearly labelled with any requirements specified from time to time by Hitachi Rail.

5. PRICES & PAYMENT

5.1 Prices in any Order shall be and remain firm.

5.2 Settlement discount periods shall be calculated from the later of the date of receipt of the invoice and the Goods/Services.

5.3 No Goods/Services shall be invoiced before the date of delivery of the Goods or completion of the provision of the Services. All invoices shall be evidenced by an acknowledgment receipt of Goods/Services signed on behalf of Hitachi Rail. Invoices must comply with Hitachi Rail's invoicing requirements which are located online and available for inspection at <http://www.hitachirail-eu.com/about/information/suppliers>.

5.4 Payment shall be made 60 days after receipt of a valid invoice, unless a different payment period is stated or expressed on the face of the Order.

6. DELIVERY AND RISK

6.1 Goods shall be delivered and Services completed on the date specified in the Order. Hitachi Rail may reject Goods/Services and terminate the contract in whole/part if any part is not delivered or provided on the specified date.

6.2 Property, title and risk in Goods shall remain with Seller until they are delivered to Hitachi Rail.

7. CONFIDENTIALITY AND DATA PROTECTION

7.1 Seller will not copy or part with any technical or other specifications supplied by Hitachi Rail or produced or specifically required by Seller for the Order

7.2 "Confidential Information" means all information concerning or relating to Hitachi Rail or any person, firm or company with whom Hitachi Rail deals, and which relates to any of their respective businesses, which is not public.

7.3 Seller will not use or communicate to any person, except as may be required by any legal or regulatory authority, any Confidential Information which may come to its knowledge.

8. WARRANTY AS TO QUALITY

8.1 Seller warrants that: (a) the Goods are manufactured with due competence, are of good, satisfactory quality and fit for the purposes for which they are required; and (b) all Services will be supplied in a proper and skilful manner by appropriately qualified and experienced personnel and with due competence. Seller shall comply in every respect with all applicable laws relevant to the subject matter of the Order together with all specifications and relevant standards. As far as reasonably possible, Seller shall comply with Hitachi Rail's Supplier Code of Conduct applicable from time to time which is located online and available for inspection at <http://www.hitachirail-eu.com/about/information/suppliers>.

8.2 Seller warrants it has disclosed all circumstances and information which would reduce the lifespan of the Goods.

8.3 During the provision of Services, Seller shall carry insurance cover in such amount and for such risks as are reasonable in the circumstances and, if applicable, as Hitachi Rail shall require, including (without limitation) employer's liability for all its employees, agents, contractors, and representatives and third party public liability.

8.4 Seller will bring to the attention of all its employees, agents, contractors and representatives Hitachi Rail's health and safety and on-site requirements and shall ensure that such requirements are observed as relevant.

9. DEFECTS RIGHT TO REJECT

9.1 Hitachi Rail may reject any Goods not up to specification or defective in workmanship or materials or otherwise not in accordance with the Order. Such rejected Goods shall be returned to Seller at Seller's sole risk and expense. Seller will indemnify Hitachi Rail against any loss so sustained by reason of such default.

9.2 If, in the opinion of Hitachi Rail, Seller is unable to perform the whole or any part or parts of the Order, Hitachi Rail may cancel the whole or any part or parts of the Order by giving written notice to Seller and Seller shall forthwith repay to Hitachi Rail any money paid in relation to such Order.

10. WARRANTY AS TO HEALTH AND SAFETY

Seller warrants that all action required to minimise and eliminate any risk to health and safety resulting from use of Goods and receipt of Services has been both carried out and brought to the attention of Hitachi Rail.

11. RIGHTS OF USE

Seller hereby grants to Hitachi Rail a perpetual, irrevocable, royalty-free, transferable, assignable, worldwide and non-exclusive licence of the IPR to use, reproduce, modify, adapt, create and otherwise exploit the IPR to the extent necessary or desirable for the purposes of the supply of the Goods/Services (as the case may be), together with a right to sub-licence for such purposes.

12. INDEMNITY

12.1 Seller will indemnify Hitachi Rail against any and all damages, costs, claims, liabilities, expenses, losses and demands arising from or incurred, directly or indirectly in connection with or as a result of: (a) Seller's breach of any of the warranties, undertakings or conditions in respect of the Goods/Services, whether express or implied, by statute or otherwise; (b) any breach of term 7; (c) infringement of third party IPR or commercial rights by the use or sale of any Goods/Services; and (d) negligent acts/omissions of Seller's employees, agents, contractors or representatives.

12.2 Seller's aggregate liability under term 12.1 shall be limited (other than in respect of claims under terms 12.1(b) and 12.1(c) in respect of each of which there shall be no limit) in respect of Goods to 100% and in the case of Services to 500% of the value of the Order pursuant to which the order for the relevant Goods/Services was placed.

13. PRESERVATION OF RIGHTS & RIGHT OF SET-OFF

All rights which are given to Hitachi Rail under the Order are in addition to any other remedies that Hitachi Rail has under law. Hitachi Rail reserves the right to set off against any payment due by Hitachi Rail to Seller any sums that Seller owes to Hitachi Rail.

14. FORCE MAJEURE

Hitachi Rail shall not be liable to Seller for failure to accept delivery of Goods/Services for reasons beyond Hitachi Rail's reasonable control.

15. ASSIGNMENT AND SUB-CONTRACTING

Seller shall not assign, transfer, charge, declare a trust of, or otherwise part with the benefit or burden of, the Order or any part of it. If Seller sub-contracts any of the Services or production of Goods, any acts or omissions of any such sub-contractor shall be deemed to be those of Seller.

16. BANKRUPTCY OR LIQUIDATION

If Seller becomes bankrupt or has a receiving or administration order made against it or makes any composition or arrangement with its creditors or has any application made against it under any Insolvency Act or other act dealing with bankruptcy, or if any resolution shall be passed, or an order of the Court be made that Seller be wound up or a receiver or manager appointed, Hitachi Rail may terminate the Order.

17. WAIVER

No admission, act or omission made by Hitachi Rail shall constitute a waiver or release of Seller from any liability under the Order.

18. ETHICS AND ANTI-HARASSMENT

18.1 Hitachi Rail reserves the right to exclude from its premises any of Seller's personnel whose conduct breaches reasonable standards of behaviour.

18.2 Seller shall not engage in discrimination or harassment of Hitachi Rail employees.

18.3 Seller shall at all times ensure that the Goods and/or Services are provided in an ethically compliant manner and shall not use child, forced or involuntary labour or be associated with slavery or human trafficking.

19. ANTI-BRIBERY

Seller warrants that it has not made, and will not make, any promise or offer of (or accept or request) any gift, payment or advantage of any kind, directly or indirectly, to or from any (a) public official or administrative officer; (b) private entity, party or individual; or (c) political or charitable organisation, which would contravene any applicable laws or regulations, including the anti-bribery and competition laws and regulations of the UK.

20. NO EXCLUSIVITY

Nothing in these terms and conditions or the Order of which they form part shall expressly or impliedly oblige Hitachi Rail to acquire any other goods or services from the Seller.

21. LIABILITY OF HITACHI RAIL

Nothing in these terms and conditions or the Order of which they form part shall impose any obligation or liability (express or implied) on Hitachi Rail (other than payment and those that cannot be excluded or limited at law).

22. GOVERNING LAW AND JURISDICTION

The Order (and any dispute, proceedings or claim relating to the Order or its formation) shall be governed by and construed in accordance with English law. Each party to the Order irrevocably agrees that the courts of England shall have exclusive jurisdiction to hear and decide any proceedings which may arise in connection with the Order and each party irrevocably submits to such jurisdiction.