

Keller Limited

Terms and Conditions

Revision 1 February 2016



- 1 Conditions of Offer**

Our Offer is open for acceptance for 60 days and is subject to receipt of an acceptable format of Order/Contract/Subcontract, satisfactory credit references and availability of resource at the time the work is due to take place.
- 2 Design and Soil Information**

Our Offer and Programme for the Work shall be based solely upon and be limited to the written information supplied to us prior to the date of the Offer. We shall not undertake any other investigation into the ground or other physical conditions existing on the site.
- 3 Duty of care / Copyright**

This Offer is provided by ourselves on an unremunerated basis to assist you or your team or your client's team or any other parties involved in your project to assess whether our scheme suits your purposes. In these circumstances we do not extend any duty of care to you in respect of any advice given. However, should we be awarded the contract to carry out the works we will be prepared to provide appropriate warranties and accept appropriate responsibilities in the context of the proposed Order/Contract/Subcontract. No licence or transfer of any patent rights, copyright or any other intellectual property is deemed to be given in respect of our work.
- 4 Attendances**

Please refer to the attached Schedule of Attendances and Facilities to be provided by others.
- 5 Services**

We accept no responsibility for any loss damage or interruption to any existing services or sub-surface structures and shall be indemnified and held harmless for such loss, damage or delays unless the correct positions and depth of such services or structures have been given to us in writing and marked on the ground.
- 6 Obstructions**

We shall be reimbursed at the quoted rate plus lost or damaged equipment at replacement cost plus 20% for all time spent overcoming or attempting to overcome natural or unnatural obstructions. Please note that unless otherwise specified in our Offer the equipment employed is not suitable for penetrating through steel or heavily reinforced concrete.
- 7 Noise and Vibration**

Noise & vibration will be compatible with our standard plant and equipment selected for this project. Indicative noise and vibration levels may be provided on request.
- 8 Mine workings etc.**

No liability shall attach to us for defects of any kind whatsoever arising from a cause which is outside our immediate and direct control or knowledge including but not limited to reaction to underground mining, the effects of old quarrying or mining, ground movement, springs, cavities, aggressive materials in the ground, artesian water, underground streams or loss of supports due to subsequent operations or any fault in the junction between our work and subsequent work carried out by others.
- 9 Pollution**

No responsibility can be attached to ourselves for dealing with the release of pollutants from or on the site as a result of our operations, whether this is a consequence of drilling or excavating into contaminated materials or by direct or indirect displacement of contaminants by our operations. We would require to be indemnified against all costs and delays resulting from any damage and remedial actions arising from this aspect of the works.
- 10 Opening-Up**

Works instructed to be opened up, inspected or tested and subsequently found to be in accordance with the contract and reinstated shall be the liability of others in respect of cost and time.
- 11 Programme**

On the information provided our Offer is based upon being provided with continuity and working without restriction, interruption or impediment by others. Our Programme excludes Statutory and other holiday periods generally accepted within the industry (e.g. National Working Rule Agreement), time required for provisional items, preliminary trials or testing and associated operations, non destructive testing, standing, provision of any test results or as built information, dealing with obstructions and/or other circumstances beyond our reasonable control.
- 12 Delay Damages**

No delay damages, sectional or otherwise, shall apply unless specifically agreed in writing but in any case our total liability shall not exceed 10% of the agreed order value. For the avoidance of doubt, we shall not have liability to you for any such consequential / economic losses, overheads or loss of profit however so incurred.
- 13 Limitation of Liability**

Notwithstanding anything to the contrary in this or any document having any contractual effect or creating a duty of care or however any duty or other obligation (whether by contract, tort, in law or in equity) shall arise our total liability for losses, costs or damages (including but not limited to damages for delay) of any kind whether direct, indirect or howsoever arising shall be limited to five times an amount equal to the cost of our works or one million pounds (£1,000,000) whichever is the lower.
- 14 Payment**

Payment shall be made within 28 days of our Application for Payment or Invoice date. No monies shall be withheld by way of Retention and unless otherwise stipulated our Offer is net and not subject to discount.
- 15 Value Added Tax**

All rates indicated in our Offer shall be exclusive of VAT which will be charged at the appropriate rate applicable at the time.
- 16 Right of Set-off**

Notwithstanding any conditions which may appear in any Order/Contract/Subcontract and the like arising from this Offer or any other right whatsoever in respect of any breach of obligations, no deduction or set-off, cross-contract or otherwise, shall be made from sums due to us.
- 17 Insurance**

We carry adequate Employers Liability, Public Liability and Professional Indemnity cover and written details are available on request. For the avoidance of doubt, we do not carry cover for Non-negligent damage or any cover for the Main Contract Works.
- 18 Cancelled Orders**

In the event that an order arising from our Offer is subsequently cancelled then a minimum cancellation charge of 5% of the order value plus the costs of any project specific materials procured will apply.
- 19 Bonds and Guarantees**

Our Offer does not allow for the provision of either a Performance Bond or a Parent Company Guarantee.
- 20 Construction (Design and Management) Regulations 2015**

Unless stated otherwise in our Offer, we have only allowed within our prices to Plan, Manage and Monitor the construction work under our control as a Contractor under the Construction (Design and Management) Regulations 2015. We have not allowed within our prices to adopt or discharge the duties or responsibilities of the Client, Principal Designer or Principal Contractor. Should any of these services be required we may require the agreement of an additional price or fee.
- 21 Applicable Law**

Any contract concluded pursuant to the Quotation shall be governed by English law. The Contracts (Rights of Third Parties) Act 1999 shall not apply to any Order/Contract/Subcontract.