

ASSURANCE OF VOLUNTARY COMPLIANCE

**Pursuant to s. 112.7 of the
*Ontario Energy Board Act, 1998***

**Heidelberg Materials Canada Limited
Licence No. EW-2021-0264**

OEB File No. EB-2023-0238

November, 21 2023

I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of Heidelberg Materials Canada Limited (“Heidelberg”). The inspection was initiated pursuant to the OEB’s finding, in proceeding EB-2021-0264, that Heidelberg (formerly Lehigh Hanson Materials Limited) had been operating as an electricity wholesaler in Ontario without a licence. Following the inspection, and in resolution of the contravention, Heidelberg provided this Assurance of Voluntary Compliance to the OEB under section 112.7 of the *Ontario Energy Board Act, 1998* (OEB Act).

II. STATEMENT OF FACTS

On February 7, 2022, Heidelberg’s predecessor, Lehigh Hanson Materials Limited, filed an application with the OEB for an electricity wholesaler licence pursuant to section 60 of the OEB Act (the Application). In its Application, Lehigh Hanson Materials Limited stated that after reviewing its records, it learned that it had been conducting business as an electricity wholesaler without a licence. Lehigh Hanson Materials Limited stated that it had acquired a cement production facility on October 4, 2016, and that without its knowledge the electricity wholesaler licence relating to the cement facility (EW-2006-0060), had expired on June 8, 2011 (i.e., while the facility was under previous ownership). Upon acquiring the cement facility, Lehigh Hanson Materials Limited continued to purchase power to support its operations in Ontario under the belief the subject licence was still active, however it was ultimately learned by Lehigh Hanson Materials Limited that during such time it did not hold an OEB-issued wholesaler licence as it had expired.

On May 5, 2022, the OEB issued a Decision and Order in proceeding EB-2021-0264 granting Lehigh Hanson Materials Limited a new electricity wholesaler licence (EW-2021-0264). In the Decision and Order, the OEB noted that Lehigh Hanson Materials Limited had been operating without a licence since October 4, 2016. The OEB further noted that the granting of the new licence was without prejudice to any future

compliance actions regarding Lehigh Hanson Materials Limited's operating without a licence. On April 20, 2023, the OEB issued a Decision and Order amending the licence to change the name of the licensee from Lehigh Hanson Materials Limited to Heidelberg.

Operating in the IESO-administered markets without a licence is a contravention of section 57(e) of the OEB Act, which provides as follows:

Requirement to hold licence

57 Neither the IESO nor the Smart Metering Entity shall exercise their powers or perform their duties under the *Electricity Act, 1998* unless licensed to do so under this Part and no other person shall, unless licensed to do so under this Part,
(e) purchase electricity or ancillary services in the IESO-administered markets or directly from a generator;

Heidelberg explained that the failure to secure a licence was an unintentional oversight due to several ownership and name changes which were accompanied with changes in personnel responsible for licensing. Heidelberg confirmed that it has taken steps to update its internal procedures to ensure that redundancies are in place to maintain continuity of its licence even if there are future personnel changes.

III. ASSURANCE

Heidelberg hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57(e) of the OEB Act to hold a licence for the purpose of purchasing electricity or ancillary services in the IESO-administered markets or directly from a generator.

Heidelberg also hereby assures the OEB that it will comply with the terms of its electricity wholesaler licence EW-2021-0264, including the obligation under section 8.1 therein to designate a person to act as a primary contact with the OEB on matters related to the licence, and to promptly notify the OEB should the contact details change.

IV. ADMINISTRATIVE MONETARY PENALTY

Heidelberg agrees to pay an administrative monetary penalty to the OEB in the amount of \$20,000. Payment will be made electronically, together with notice sent to the Registrar, within four (4) weeks of Heidelberg having received notice of the acceptance of this assurance by the OEB.

V. FAILURE TO COMPLY

This Assurance of Voluntary Compliance has the same force and effect as an order of the OEB pursuant to section 112.7 (2) of the OEB Act and any failure to comply with its terms shall be deemed to be a breach of an order of the OEB.

VI. EXECUTION

I have the authority to bind Heidelberg Materials Canada Limited to the terms set out in this Assurance of Voluntary Compliance.

Name: Carsten Schraeder _____

Title: Plant Manager _____

Company: Heidelberg Materials _____

Signature:  _____

Dated this 21 day of November 2023.