

TERRAPIN LIMITED
GENERAL TERMS AND CONDITIONS OF SALE

1. VALIDITY

- (a) Acceptance of the price quoted includes acceptance of the following terms and conditions, and any variation, waiver of, or addition to these conditions in any document of the customer will be inapplicable unless accepted by us in writing.
- (b) This quotation is for acceptance as a whole and is valid for sixty days from date of issue.
- (c) The quotation includes only such work and materials as are specified therein.
- (d) The customer shall provide the names of two established trade references and details of his Bankers on request.
- (e) Acceptance of an order does not constitute acceptance of any condition which may be subsequently imposed by the customer.
- (f) Clerical errors and omissions are subject to correction.
- (g) No order shall be binding unless, and until, accepted by us in writing.

2. RESPONSIBILITY

- (a) No liability will attach to us in respect of any loss, damage or delay arising from exceptionally inclement weather, civil commotion, strike, lockout, fire, breakdown of plant (except as referred to in Clause 10 of these Conditions) or any other cause or contingency existing anywhere which is beyond our control, and should we be prevented from delivering part of the goods by reason of any of the said causes, we shall deliver and the customer shall take such part of the goods as we shall be able to deliver at the time fixed for delivery and the customer shall pay for the part delivered the same proportion of the price as the part delivered bears to the whole of the goods sold. We shall be the sole judges of whether we are able to deliver any and, if any, what part of the said goods.
- (b) It will be the responsibility of the customer to advise us in writing in the event of Trade Union labour being required to be employed by us for the execution of our contract. Any extra costs incurred by us in the absence of such advice will be recoverable from the customer as an extra to the quoted price.
- (c) We will not be responsible for any supporting structure or foundation work not designed and manufactured by us and accept no responsibility, direct or indirect, which may be incurred due to the insufficiency or instability of any such supporting structure or foundations. If the customer makes any alteration, modification or adjustment to the building without our written permission, all our liabilities in respect thereof are at an end.

3. GOVERNMENT RESTRICTIONS

We shall be entitled if Government restrictions or controls affect our ability to manufacture, supply, deliver or complete the works to terminate any contract at any time so far as it is unfulfilled without prejudice to our rights to recover all sums due in respect of deliveries made and work done prior to such termination.

4. NON-DELIVERY AND DAMAGE IN TRANSIT

- (a) Where goods are consigned or sent to the customer NO CLAIM will be accepted by us, nor shall we be liable for non-delivery or damage of or to all or any part of the goods unless both we and the carrier are notified in writing, of the non-delivery or damage, within the period specified in the General Conditions of the carrier relating to goods in transit. Where goods are accepted from the carrier concerned without being checked, the delivery book of the carrier concerned must be signed "not examined". In default of compliance by the customer with the terms of this clause, without prejudice to our rights otherwise arising, the customer shall pay for such goods not delivered or damaged in transit.
- (b) Where goods are sold f.o.b. our responsibility shall cease immediately the goods are placed on board and we shall be under no obligation to give the customer the notice specified in Section 32(3) of the Sale of Goods Act 1893.
- (c) In the event of an outbreak of hostilities (whether war is declared or not) in which the United Kingdom is involved or in the event of a National emergency, or if we should become either directly engaged on government orders or orders under priority directions as to prevent or delay work on other orders, we shall be entitled at any time, on notice to the customer, to make partial deliveries only or to determine the contract, without prejudice in any case to rights accrued in respect of deliveries already made.

5. SITE ACCESS

- (a) The price quoted is subject to suitable and adequate foundations, hardstanding and access route being provided by the customer (unless otherwise provided for in the quotation) and that unrestricted entry and approach is available, and the access route is maintained during the period of the contract for wheeled or tracked vehicles. We will not be responsible for damage to underground works, cables, roads, paths, ground, service ducts and pipes where suitable protection has not been provided or where suitable access and approach areas have not been made available.
- (b) The cost of delays and demurrage incurred through waterlogged or obstructed site or access route will be recoverable from the customer as an extra to the quoted price.

6. COMPLETION

- (a) The time allowed for the execution of the order shall be calculated from the date on which the order is accepted or from the date on which we receive all the information and drawings necessary to enable us to proceed, whichever date is

the later. Our best endeavours will be used to ensure completion by the date given but the date is an estimate only and no liability will attach to us for failure to do so nor for the consequences of any delay.

- (b) In the event of work being delayed, hindered, suspended or extended by customers instructions, or lack of instructions, these additional costs will be recoverable from the customer as an extra to the quoted price. All customers instructions are to be confirmed to us in writing within three days.

7. CONTINUITY OF WORK

- (a) The price quoted is based on the assumption that all work on site will be carried out with uninterrupted access unless otherwise specifically agreed in writing.
- (b) If, due to exceptionally inclement weather conditions or any other circumstances outside our control, the work is delayed or time is lost, we reserve the right to add to the quoted price any additional costs incurred by us and these additional costs will be recoverable from the customer.
- (c) Any follow-on trades employed by the customer, not being part of our contract, will not be permitted to occupy or carry out work inside or outside the building(s) or impede the completion of our contract. Such work will be permitted to be carried out only when the building(s) has been handed over to the customer by our representative. No responsibility can be accepted by us for damage to the building(s) arising out of work performed by such follow-on trades.
- (d) Where the work of attendant trades is required in connection with the erection or completion of our work, such attendance not being part of our contract, it is to be understood that such trades are available at such times as may reasonably be required and that additional costs resulting from any impediment or delay occasioned by the non-availability of attendant trades will be recoverable from the customer as an extra to the quoted price.
- (e) Where additional costs are incurred due to impediment, interference or delays by building or other works being carried out simultaneously with our works, whether such works are in connection with our contract or not, but providing that such works are not part of a contract with this Company, we shall be entitled to recover such costs from the customer as an extra to the quoted price.

8. TESTING INSTALLATIONS

The price quoted is based on the assumption that electricity, water, gas, fuel and/or any other necessary facilities are available and connected to our installation at the time our work is completed to enable tests to be carried out if such services or facilities are not available and additional site visits are necessary to complete the testing of installations the cost of such visits will be recoverable from the customer as an extra to the quoted price.

9. SUSPENDED WORKS AND DELIVERY

In the event of the agreed delivery of building units, component parts, accessories, services and other works under the contract being delayed, postponed or suspended by the customer or their agents or if unsuitable or inadequate site access or foundations provided by the customer cause the building work to be delayed or suspended the quoted price shall be increased to cover the additional costs of storage, demurrage on cranes and transport, double handling and any other expenses incurred by us and will be recoverable from the customer.

10. INSURANCE

- (a) Acceptance of this quotation implies that the Employer/Principal accepts the insurances on the terms, conditions and limitations of the policies arranged by us which can be inspected at our Bletchley Office during normal office hours. Any further insurance cover provided by our policies includes the following:-
- (b) Damage to Units and/or Materials.
All risks of loss or damage during transit to site and whilst on site up to the time of substantial completion subject to the provisions of Clause 4.
- (c) Public Liability (General Third Party).
Indemnity £5m any one accident and in aggregate in the year, including Fire and Explosion Liability, Indemnity to Principals.
- (d) Employers Liability.
All liability arising at Common Law and under Statute in respect of employees engaged on site, Indemnity to Principals.
- (e) The parties to a contract based on this quotation shall co-operate for their mutual benefit by joining in any proceedings which may be taken by or against a third party.
- (f) Any loss or damage or incident likely to give rise to a claim must be notified to this Company within twenty-four hours of the occurrence.

11. PROPERTY

- (a) The customer acknowledges that before entering into an agreement for the purchase of any goods from the Company he has expressly represented and warranted that he is not insolvent and has not committed any act of bankruptcy or, being a Company with limited or unlimited liability, knows of no circumstances which would entitle any debenture holder or secured creditor to appoint a receiver, to petition for winding up of the Company or exercise any other rights over or against the Company's assets.
- (b) Goods the subject of any agreement by the Company to sell shall be at the risk of the customer as soon as they are delivered by the Company to his vehicles or his premises or otherwise to his order and such goods shall remain the sole and absolute property of the Company as legal and equitable owner until such a time as the customer shall have paid to the Company the agreed price upon which event the property in and the ownership of the goods shall pass to the customer.
- (c) The customer acknowledges that he is in possession of goods solely as bailee for the company until such time as the customer becomes the owner of the goods, he will store them on his premises separately from his own goods or those of any other person and in a manner which makes them readily identifiable as the goods of the Company.
- (d) The customer's right to possession of the goods shall cease if he, not being a Company, commits an available act of bankruptcy or if he, being a Company, does anything or fails to do anything which would entitle a receiver to take possession of any assets or which would entitle any person to present a petition for winding-up. The Company may for the purpose of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.
- (e) Until payment of the price the customer shall insure the goods in the joint names of itself and the Company and for full value and shall notify the Company of any claim on such insurance in respect of the goods and shall if so directed by the Company pay any monies received as the result of such claim in reduction or payment of the price.

12. WARRANTY

- (a) Subject to the customer's compliance with the terms of payment and all other obligations under these terms and conditions, we will repair or replace free of charge any part or parts manufactured by us and will repair any work done by us which may prove defective due solely to faulty workmanship or materials not in accordance with the contract, provided that written notice of such defect is received by us within six calendar months of our notification that the building is complete, and it is expressly agreed that no warranty, condition description or representation on our part is given or implied, or to be taken to have been given or implied, by these conditions or from anything said or written in the negotiations between us and the customer or their representatives.
- (b) All items of remedial work arising under the preceding Clause 12(a) will be attended to collectively at the end of the six months warranty period unless such default or defect shall materially affect the occupation of the building.
- (c) Our liability under this warranty whether under the preceding sub-clause (a) or any other term of condition whatsoever, whether expressed or implied, shall be limited to repair or replacement as set out above and hereby expressly excludes any liability upon us for any consequential or other loss or damage whatsoever and howsoever caused.
- (d) We will be responsible for the operation and maintenance of any plant, materials, finishes, fittings, components parts or whole supplied and installed by us, save only as concerns our liability to repair or replace within the time and under the conditions set out above.

13. FACTORED GOODS

Where goods are factored by us in connection with any installation or building, we will assign our rights in such guarantee of the manufacture but shall not be further liable to the customer in respect of such goods.

14. MAINTENANCE

We do not normally undertake to carry out maintenance work. If we are instructed to replace, repair or attend any item of defect which is due to wilful or accidental damage, neglect, fair wear, misuse, improper or inadequate maintenance or any other cause whatsoever other than a defect due solely to our faulty workmanship or materials, as provided for in Clause 12, the full cost of carrying out such work, including travelling and subsistence, shall be recoverable from the customer as an extra to the quoted price.

15. SPECIAL ITEMS

Where a customer's order has been given, and accepted by us, for goods to be specially manufactured or obtained, no cancellation of such an order can be accepted unless and until we have received a written undertaking from the customer to pay for special work performed and all expenses incurred in respect of such an order as an extra to the quoted price.

16. DRAWINGS, ETC

(a) All illustrations, drawings, specifications, descriptions and data accompanying our quotation or contained in our catalogues or brochures are approximate representations and are not binding in detail. All weights, measurements, capacities, loadings and performances are given in good faith as being approximately correct. They are based on our experience and tests and are such as we expect to obtain, but deviations therefrom shall not vitiate the contract or be made the basis of any claim against us. Errors and omissions are subject to correction. Specifications are subject to modification without notice.

(b) All drawings, descriptive matter, etc furnished in connection with this tender, are confidential and remain our property and must not be copied and/or shown to a third party, without our consent in writing.

17. SUBSOIL

The customer shall be responsible for obtaining such professional advice as may be necessary to establish and ensure that the bearing capacity of the subsoil on which the building is to be erected is adequate to withstand the loads to be imposed upon it. We will give every assistance possible to ascertain the extent of the likely imposed loads but we will accept no responsibility for any failure or faults in the building due to any inadequacy of the subsoil.

18. PERMISSION AND LICENCES

Contracts are entered into on the understanding that the customer will obtain all the necessary permissions, permits, licences and approvals required by statute. Government decree, Local and Building Byelaws affecting the works and the erection of the building(s) being the subject of a Contract with us before the work is commenced. No responsibility whatsoever will be accepted, or claim entertained, by us arising out of buildings erected on behalf of the customer for which full authority and approval has not been obtained.

19. FEES

The price quoted excludes any fees which may be payable to District Surveyors or other professional persons, Local or other Authorities, Public Utility and like persons and institutions who may have claim to payment of fees or dues arising out of a contract. Should any such payments be levied against us, the value of such payments will be recoverable from the customer as an extra to the quoted price.

20. FLUCTUATIONS

Quotations are based on current costs of materials, labour, manufacturing, transport and plant hire costs ruling at the date of the quotations. We reserve the right to amend prices to meet any nationally accepted variation in these costs and rates due to legislation, Government orders and regulations, increased material or labour costs or any other cause beyond our control occurring between the date of the quotation and the completion of the contract.

21. TERMS OF PAYMENT

(a) WHERE NO APPROVED CREDIT ACCOUNT HAS BEEN ESTABLISHED

Where no approved credit account has been established payment of 95% of the Contract sum shall be due against proforma invoice prior to delivery of the units. The balance of the quoted price together with any sums payable under these conditions shall be due for payment within seven days from the date of the Handover certificate on substantial completion. Payment is not to be delayed by the customer because of minor omissions or defects which do not materially affect the occupation of the building.

(b) WHERE AN APPROVED CREDIT ACCOUNT HAS BEEN ESTABLISHED

Where an approved credit account has been established we reserve the right to withdraw the approved status for any reason.

(i) 95% of the value of the Terrapin Units manufactured under the contract including transport and erection costs) shall be due for payment within seven days of despatch from our factory.

(ii) Further interim claims indicating the total value of the work executed and of the materials and goods delivered to or adjacent to the site for use thereon, less 5% retention and less any claims previously submitted and paid, shall be submitted at periods of one month commencing from the date of possession of site and payment shall be made within seven days of date of such claims.

(iii) The amounts outstanding being the balance of 5% of the quoted price together with any other sums payable under these Conditions shall be payable within seven days from the date of the Handover Certificate on substantial completion.

(iv) Payment is not to be delayed by the customer because of minor omissions or defects which do not materially affect the occupation of the building.

(v) Where the approved status of the customer credit account is withdrawn for any reason all further payments due on the contract shall be made on a pro-forma prior to delivery of the units or completion of other work.

(c) GENERAL PROVISIONS

Where all works under the contract are suspended, phased or extended as a result of delay on the part of the customer in accordance with Clause 9 of these Conditions an invoice will be submitted as though such works had been effected under the contract.

(d) Where any sums due under these Terms and Conditions are withheld by the customer beyond the dates detailed the company shall have the right to add to the contract price an amount calculated on the unpaid amount at the rate of the Base Lending Rate of Lloyd's Bank Limited plus 4% per annum for any period of the time that the amount remains unpaid.

22. J.C.T. CONDITIONS OF CONTRACT

Subject to clause 1(a) hereof:-

(a) The terms and conditions in the current J.C.T. Standard Form of Contract or the N.F.B.T.E. Standard Form of Sub-Contract constitute the basis of our quotation in so far as those forms of Contract are applicable and do not contravene any special terms and conditions laid down herein.

(b) Where the J.C.T. Standard Form of Contract, or the N.F.B.T.E. Standard Form of Sub-Contract, is the document used as the basis of Contract, these General Terms and Conditions shall be embodied in, and form part of, that Contract document.

23. ARBITRATION

If at any time any question, dispute or differences shall arise in relation to or in connection with the contract, either party may give to the other notice in writing of such dispute or difference and the same shall be referred to the arbitration of a person to be mutually agreed upon, or failing agreement an arbitrator to be appointed by the Chairman of the London Court of Arbitration, and his or their decision shall be binding on both parties. This submission shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1950, or the Arbitration (Scotland) Act, 1894, or any statutory modification thereof.

Work under the contract shall, so far as may be reasonably practicable, continue during the arbitration proceedings, and no payments which may be or shall become due, shall be withheld on account of such proceedings.

24. VALUE ADDED TAX OR OTHER SALES TAXES

Value Added Tax or other sales taxes at the rate ruling at the tax point shall be added to the contract price and shall be payable by the customer on the due date of payment of the invoice or claim to which the VAT or other sales tax relates.

25. LAW OF CONTRACT

These conditions and any contract for the sale of goods shall be subject to and construed in accordance with English law.

TERRAPIN LIMITED,
Bond Avenue
Bletchley
Milton Keynes
MK1 1jj

November 2003

Doc A105A