

WIRTGEN IRELAND LIMITED

QUOTATION

We have pleasure in offering you the following equipment, subject to our attached Condition of Sale of Machinery and Spare Parts (Edition 2/06-1) ("The Conditions"). Except insofar as amended by the terms of the quotation letter, all machinery supplied by Wirtgen Ireland Limited shall be deemed to be supplied under the terms of this quotation and the attached conditions. Data subject to technical modifications.

1. INTERPRETATION

In these Conditions the following expressions shall have the following meanings: "Wirtgen" means Wirtgen Ireland Limited, a company incorporated and registered in Ireland with company number 354269 and whose registered office is Merchant's House, 27/30 Merchant's Quay, Dublin 8, Republic of Ireland.

"Conditions" means these terms and conditions.

"Contract" means the contract between Wirtgen and the Customer comprising these Conditions and the Quotation.

"Customer" means the person who accepts the Quotation of Wirtgen for the sale of Machinery or whose order for Machinery is accepted by Wirtgen.

"Machinery" means the machinery, equipment or spare parts to be sold and Supplied by Wirtgen to the Company.

"Quotation" means the quotation for the supply of the Machinery issued by Wirtgen and accepted by the Customer.

2. SPECIFICATIONS

2.1 Any specifications, descriptive matter, weight, dimension or performance capability appearing in any document and provided by Wirtgen to the Customer shall be approximate only.

2.2 If any process is to be applied to the Machinery by Wirtgen in accordance with the specification submitted by the Customer the Customer shall fully indemnify Wirtgen against all loss, damages, costs and expenses, including legal expenses awarded against or incurred by Wirtgen in connection with or paid or agreed to be paid by Wirtgen in settlement of any claim for infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from Wirtgen's use of the Customer's specification.

3. WARRANTIES AND LIABILITIES

3.1 Wirtgen warrants that the Machinery will correspond with its specification at the time of delivery and will be free from defects in material and workmanship for a period of 1000 hours of operation by the Customer, or six months from the date of delivery, whichever is the earlier (hereinafter referred to as "the Guarantee Period").

In the event that the Machinery or any part of the Machinery fails within the Guarantee Period then Wirtgen will, at its expense and, at Wirtgen's option repair or replace the failed Machinery, EXCEPT THAT:

- i. Wirtgen shall not be obliged to repair any part which fails due to faulty operation, misuse, negligence, abnormal working conditions, failure to follow Wirtgen's instructions, or alteration or repair without Wirtgen's prior approval;
- ii. The undertaking to replace or repair does not apply to defects arising from fair wear and tear or consumable or wearing parts, including but not limited to scrapers, tyres, padfoot segments, roller drums, sprinkler nozzles, edge press and cutting assemblers, chip spreaders, conveyor bearings, augers, drive sprockets for conveyor or auger chains, track pads, rollers, tampers, screed plates, conveyor belts, pressure bars, heating rods, milling down bearings, cutting tools, tool holders, milling drums, distribution augers and concrete equipment, engine components are as per the engine manufacturers warranty, these terms are available from Wirtgen upon request;
- iii. Where the Machinery is operated outside the Republic of Ireland, these provisions do not apply.
- iv. Wirtgen shall not be liable for additional costs incurred in effecting a repair, including, but not limited to, the costs of hire of cranes, transport or special equipment.

v. Wirtgen shall not be liable for any defect in the Machinery arising from any drawings, design or specification supplied by the Customer.

- 3.2 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law or excluded to the fullest extent permitted by law.
- 3.3 Except in respect of death or personal injury caused by Wirtgen's negligence Wirtgen shall not be liable to the Customer at common law or in contract for any direct or indirect consequential loss or damage (whether for loss of profit, or of use, or of business contracts or otherwise), costs, expenses, including legal expenses, or other claims for consequential compensation whatsoever (and whether caused by the negligence of Wirtgen, its employees or agents or otherwise) which arise out of or in connection with the supply of the Machinery or its use or resale or resupply by the Customer, except as expressly provided in these conditions.
- 3.4 Where Wirtgen has agreed to replace a part of the Machinery under this Condition, that failed part must be returned to Wirtgen within fourteen days of the claim for replacement by the Customer (Failure to do so may result in rejection or delays to settlement of the claim).
- 3.5 Subject to liability in respect of death or personal injury caused by Wirtgen's negligence Wirtgen's entire liability to damages, costs and expenses shall be limited to an amount [equal to the price of the Machine provided to the Customer on foot of the Contract.
- 3.6 Any warranty repairs may be carried out by specialist subcontractors at the discretion and direction of Wirtgen.

4. PRICE AND PAYMENT

The price of the Machinery and all other costs and charges in respect thereof shall be Wirtgen's quoted price and shall be payable by the Customer to Wirtgen at the time of delivery by bankers draft or such other means as may be agreed. Notwithstanding the foregoing where spare parts only are delivered, payment shall be made within 30 days of delivery. If the Customer fails to pay any amounts payable to Wirtgen under the Contract by the due date, Wirtgen reserves the right to claim interest under the EC (Late Payments in Commercial Transactions) Regulations 2002 (or any amendment thereto). The price is exclusive of any applicable Value Added Tax, which the Customer shall be additionally liable to pay to Wirtgen.

5. RISK AND PROPERTY

- 5.1 The risk of damage to or loss of Machinery shall pass to the Customer:-
- i where Machinery is delivered at Wirtgen's premises, at the time Wirtgen notifies the Customer that the Machinery is available for collection;
 - ii or where machinery is delivered otherwise than at Wirtgen's premises, at the time of delivery or if the Customer wrongfully fails to take delivery of the machinery at the time when Wirtgen has tendered delivery of the Machinery.
- 5.2 Notwithstanding delivery; and the passing of risk in the Machinery, or any other provision of those conditions, the title in the Machinery shall not pass to the Customer until Wirtgen has received in cash or cleared funds payment in full of the price and other agreed costs and charges of the machinery and of all other Machinery, agreed to be sold by Wirtgen to the Customer for which payment is then due.
- 5.3 Until such time as the title in the Machinery passes to the Customer, the Customer shall hold

the Machinery as Wirtgen's fiduciary agent and bailee and shall keep the Machinery separate from those of the Customer and third parties and properly stored, protected and insured and identified as Wirtgen's property. Until that time the Customer shall be entitled to resell or use the Machinery in the ordinary course of its business, but shall account to Wirtgen for the proceeds of sale or otherwise of the Machinery, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Customer and third parties and, in the case of tangible proceeds, properly stored and protected and insured.

6. PATENTS

Wirtgen shall indemnify: and hold harmless the Customer against any and all liability loss or expenses of any patent, copyright, trademark, foreign or domestic resulting from the use or resale of the Machinery or any part thereof, provided always that:

- i. Wirtgen is given full control of any proceedings or negotiations in any such claim;
- ii. the Customer shall not do anything which might prejudice any such Ciallil or proceedings;
- iii. the Customer gives Wirtgen all reasonable assistance in any such claim or proceedings.

7. CUSTOMERS

7.1 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to it Wirtgen shall be entitled to:-

- i. cancel the Contract or suspend any further deliveries to the Customer; and
- ii. appropriate any payment made by the Customer to such of the Machinery (or the machinery and/or equipment supplied under any other contract between the Customer and Wirtgen), as Wirtgen may think fit (notwithstanding any appropriation by the Customer).

7.2 If the Customer fails to take delivery of the Machinery or fails to give Wirtgen adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of Wirtgen's fault) then, without prejudice to any other right or remedy available to Wirtgen, Wirtgen may:-

- i. store the Machinery until actual delivery and charge the Customer for the reasonable costs (including insurance) or storage; or
- ii. sell the Machinery at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the contract or charge the Customer for any shortfall below the price under the contract.

8. FORCE MAJEURE

Neither Wirtgen nor the Customer shall be liable for any failure to fulfil any term or condition of the Contract if fulfilment has been delayed, hindered or prevented by any circumstances whatsoever beyond the reasonable control of the party concerned. Without prejudice to the generality of the foregoing the following shall be regarded as beyond the reasonable control of Wirtgen of the Customer:-

- i. Any strike, lockout or labour dispute to which the party concerned may be a party (whether or not the settlement thereof shall be at the discretion of the party concerned);
- ii. import or export regulations or embargoes;
- iii. difficulties in obtaining raw materials, labour, fuels, parts or machinery.

9. APPLICABLE LAW

The Contract shall be governed by and construed in accordance with the Laws of Ireland and the parties submit to the exclusive jurisdiction of the Courts of Ireland.

10. GENERAL

- 10.1 WAIVER: No waiver by Wirtgen of any breach of contract by the Customer shall be considered as waiver of any subsequent breach of the same or any other provision.
- 10.2 CONDITIONS OF CONTRACT: These Conditions shall govern the Contract to the exclusion of any other terms and conditions. All work carried out by Wirtgen or Machinery supplied by Wirtgen shall be deemed to be carried out or supplied under the Contract following an order by the Customer. Any conditions or stipulations of the Customer which conflict with any of these Conditions or in any way qualify or negate them shall be deemed to be inapplicable unless expressly agreed to in writing by Wirtgen.
- 10.3 All the above conditions are without prejudice to Wirtgen's rights and remedies at law or otherwise.