

# CONDITIONS OF SALE

## Taylor Maxwell Timber Limited Terms of Trading

### 1. Price

- 1.1 The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.
- 1.2 Our quotations lapse after 7 working days (unless otherwise agreed).
- 1.3 The price quoted excludes delivery (unless otherwise stated).
- 1.4 Unless otherwise stated, the price quoted is an illustrative estimate only and the price charged will be our price current at the time of delivery.
- 1.5 Rates of tax and duties on the goods will be those applying at the time of delivery.
- 1.6 At any time before delivery we may adjust the price to reflect any increase in our costs of supplying the goods.

### 2. Delivery

- 2.1 All delivery times quoted are estimates only.
- 2.2 If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:
  - 2.2.1 you may not cancel if we receive your notice after the goods have been despatched; and
  - 2.2.2 if you cancel the contract, you can have no further claim against us under that contract.
- 2.3 If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss, or increase in the price of the goods).
- 2.4 We may deliver the goods in instalments. In the event of failure to accept any delivery the balance remaining undelivered may at the option of the Seller then be invoiced (payment for such balance immediately thereupon becoming due) and storage costs charged to Buyer's account.
- 2.5 Where contracts provide for a single delivery, goods shall be delivered and accepted as soon as ready unless specifically agreed otherwise by the Seller in writing.

### 3. Delivery and safety

- 3.1 We may decline to deliver if:
  - 3.1.1 we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
  - 3.1.2 the premises (or the access to them) are unsuitable for our vehicle.
- 3.2 Our liability to deliver on site is to the nearest good hard surface on or at the site.
- 3.3 You are responsible for unloading the goods and at your expense. If you have not made proper arrangements for the goods to be unloaded, additional charges may be made.
- 3.4 When we deliver goods on pallets an additional charge will be made for the pallets. If you return (at your expense and risk) the pallets to our manufacturing works in a reusable condition we will credit your account accordingly.
- 3.5 If the buyer shall fail to provide a signature on a receipt note, delivery having been duly made, notification in writing to the Buyer by the Seller following delivery shall be deemed to be acceptable by the Buyer of that delivery.

### 4. Payment terms

- 4.1 You are to pay us in cash on or before delivery or otherwise in cleared funds, unless you have an approved credit account.
- 4.2 If you have an approved business credit account, payment is due no later than the end of the month after the date of our delivery unless otherwise agreed in writing.
- 4.3 If you fail to pay us in full on the due date:
  - 4.3.1 we may suspend or cancel future deliveries;
  - 4.3.2 we may cancel any discount offered to you;
  - 4.3.3 you must pay us interest at the rate equivalent to that set for the purposes under s6 of the Late Payment of Commercial Debts (Interest) Act 1998:
    - a. calculated (on a daily basis) from the date of our invoice until payment;
    - b. compounded on the first day of each calendar month; and
    - c. before and after any judgment (unless the court orders otherwise).
- 4.4 If you have an approved credit account, we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may do any of those at any time without notice.
- 4.5 You do not have the right to set off any money you may claim from us against anything you may owe us.
- 4.6 While you owe money to us, we have a lien on any of your property in our possession.
- 4.7 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly including financing costs and including legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms.
- 4.8 Any order once placed may not be cancelled except by mutual agreement in writing and then only on such terms which would fully indemnify the Seller.

### 5. Title

- 5.1 Until you pay all debts you may owe us:
  - 5.1.1. all goods supplied by us remain our property;
  - 5.1.2. you must store them so that they are clearly identifiable as our property;
  - 5.1.3. you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;
- 5.1.4. you may use those goods and sell them in the ordinary course of your business, but not if:
  - a. we revoke that right (by informing you in writing); or
  - b. you become insolvent.
- 5.2. You must inform us (in writing) immediately if you become insolvent.
- 5.3. If your right to use and sell the goods ends you must allow us to remove the goods.
- 5.4. We have your permission to enter any premises where the goods may be stored;
  - 5.4.1. at any time, to inspect them; and
  - 5.4.2. after your right to use and sell them has ended, to remove them, using reasonable force if necessary.
- 5.5. Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.
- 5.6. You are not our agent. You have no authority to make any contract on our behalf or in our name.

### 6. Risk

- 6.1. The goods are at your risk from the time of delivery.
- 6.2. Delivery takes place either:
  - 6.2.1. at our premises (if you are collecting them or arranging carriage); or
  - 6.2.2. at your premises or designated site (if we are arranging carriage).
- 6.3. You must inspect the goods on delivery. If any goods are damaged (or not delivered) you must write to tell us within seven working days of delivery (or the expected delivery time). You must give us (and any carrier) a fair chance to inspect the damaged goods.
- 6.4. We may deliver up to 10% more or less than the quantity ordered and the price will be adjusted accordingly.

### 7. Warranties

- 7.1. We warrant that the goods are free from material defect at the time of delivery (as long as you comply with clause 6.3).
- 7.2. We give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose, even if such purpose has been made known to us.
- 7.3. If you believe that we have delivered goods which are defective in materials or workmanship, you must:
  - 7.3.1. inform us (in writing) with full details as soon as possible: and in any case within 7. days and
  - 7.3.2. allow us to investigate (we may need access to your premises and product samples) as the return of the goods will not be accepted until the Seller or his representative shall have had the opportunity of examining them.
  - 7.3.3. Where a complaint is made the consignment as a whole must be retained or

returned unused and no claim whatsoever will be accepted for any portion or part of any consignment or after work has been done on any of the timber forming part of that consignment.

- 7.3.4. The absence of any complaint or claim within the above period shall be conclusive evidence in any proceedings that the Seller has fully discharged all its obligations under the contract and in particular that the goods were in conformity with the Contract in all respects.
- 7.4. If the goods are found to be defective in material or workmanship (following our investigations, and you have complied with those conditions (in clause 7.3) in full), we will (at our option) replace the goods or refund the price.
- 7.5. We are not liable for any other loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of goods or their use, even if we are negligent.
- 7.6. Our total liability to you (from one single cause) for damage to property caused by our negligence is limited to five million pounds.
- 7.7. For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the goods.
- 7.8. Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.
- 7.9. We may pass on any manufacturer's guarantees to you at our discretion.
- 7.10. Any samples provided are indicative only. If we give an estimate of the quantity of goods required, this is a guideline only. You are responsible for ensuring you order the correct quantity.

### 8. Specification

- 8.1. If we prepare the goods in accordance with your specifications or instructions you must then ensure that the specifications or instructions are accurate. You must ensure that goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them.
- 8.2. We reserve the right to make minor changes in the specification of the goods.

### 9. Return of goods

- 9.1. We will accept the return of goods from you only:
  - 9.1.1. by prior arrangement (confirmed in writing);
  - 9.1.2. on payment of an agreed handling charge (unless the goods were defective when delivered); and
  - 9.1.3. where the goods are as fit for sale on their return as they were on delivery.

### 10. Cancellation

- 10.1. If the order is cancelled (for any reason) you are then to pay us for all stock (finished or unfinished) that we may then hold (or to which we are committed) for the order.
- 10.2. We may suspend or cancel the order, by written notice if:
  - 10.2.1. you fail to pay us any money when due (under the order or otherwise);
  - 10.2.2. you become insolvent;
  - 10.2.3. you fail to honour your obligations under these terms.
- 10.3. You may not cancel the order unless we agree in writing (and clauses 2.2.2 and 10.1 then apply).

### 11. Waiver and variations

- 11.1. Any waiver or variation of these terms is binding in honour only unless:
  - 11.1.1. made (or recorded) in writing;
  - 11.1.2. signed on behalf of each party; and
  - 11.1.3. expressly stating an intention to vary these terms.
- 11.2. All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with our terms.

### 12. Force majeure

- 12.1. If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.
- 12.2. The performance of all contracts is subject to variation or cancellation by the Seller owing to any act of God, war, strikes, lockouts or any other industrial action, fire, flood, drought, tempest, insect or fungicidal attack or any other cause beyond the control of the Seller or owing to any inability by the Seller to procure materials or articles required for the performance of the Contract and the Seller shall not be held responsible for any inability to deliver caused by any such contingency.

### 13. General

- 13.1. English law is applicable to any contract made under these terms. The English and Welsh courts have non-exclusive jurisdiction. Scottish law will apply where a contract is placed with a Scottish office of our Company.
- 13.2. If you are more than one person, each of you has joint and several obligations under these terms.
- 13.3. If any of these terms are unenforceable as drafted:
  - 13.3.1. it will not affect the enforceability of any other of these terms; and
  - 13.3.2. if it would be enforceable if amended, it will be treated as so amended.
- 13.4. We may treat you as insolvent if:
  - 13.4.1. you are unable to pay your debts as they fall due; or
  - 13.4.2. you (or any item of your property) become the subject of:
    - a. any formal insolvency procedure (examples of which include insolvency, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
    - b. any application or proposal for any formal insolvency procedure; or
    - c. any application, procedure or proposal overseas with similar effect or purpose.
- 13.5. All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.
- 13.6. Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed.
- 13.7. No contract will create any right enforceable (by virtue of the Contracts (rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.
- 13.8. The only statements upon which you may rely in making the contract with us are those made in writing by someone who is our authorised representative and either:
  - 13.8.1. contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or
  - 13.8.2. which expressly state that you may rely on them when entering into the contract.
- 13.9. Nothing in these terms affects or limits our liability for fraudulent misrepresentation.
- 13.10. The buyer shall not assign the Contract as a whole or in part without the written consent of the Seller.
- 13.11. All quotations, offers for sale, or acceptances or orders are subject to these express terms and conditions and these conditions shall apply notwithstanding any conditions to the contrary in the Buyer's conditions (which insofar as they are inconsistent with these conditions are deemed to be waived).
- 13.12. All timber is sold under the Timber Trade Warranty Clause, viz:  
Goods are not tested or sold as fit for any particular purpose. Any term, warranty or condition expressed, implied or statutory to the contrary is excluded. In no circumstances whatsoever shall Seller's liability (in contract, tort or otherwise) to the Buyer arising under, out of, or in connection with the contract or the goods supplied exceed the invoice price of the particular piece(s) in regard to which complaint is made.