



## M.R. Ellis (Timber) Limited Standard Terms and Conditions

### 1. About these Terms and Conditions

These Terms and Conditions set out the terms and conditions on which we will supply our goods to you. Please read these terms carefully. These terms also set out who we are, how we will provide the goods to you, how you or we may end the contract and other important information.

### 2. Who we are and how to contact us

2.1. We are **M.R. Ellis (Timber) Limited** (referred to as “**We**”, “**Us**”, “**Our**”, “**the Company**” in these Terms and Conditions), a company registered and incorporated in England & Wales under company number 01169327 and whose registered address is The Sawmill, Main Road, Hevingham, Norwich, Norfolk, NR10 5LX. Our registered VAT number is 282 050 776.

2.2. Our contact telephone number is: 01603 755321 and Our email address is: info@ellistimber.co.uk.

2.3. If We have to contact You, We will do so by telephone or by writing to You using the email or postal address provided to Us by You.

### 3. Definitions

3.1. In these Terms and Conditions the following words and expressions will have the following meanings:

“**Business Day(s)**”: a day other than a Sunday or public holiday;

“**Consumer**”: a natural person acting for purposes outside their trade, business or profession;

“**Delivery Date**”: the date specified for delivery or collection of the Goods as set out in the Order Acknowledgement or as otherwise communicated by Us to You in writing;

“**Goods**”: softwood fencing products or other products (or any part of them) as detailed in the Order;

“**Order**”: Your order for the Goods, as set out in Your e-mail to us, communicated over the telephone to Us or as communicated to Us verbally at the Premises;

“**Order Acknowledgement**”: Our written acceptance of the Order confirming the details of the Order, including a reference number for the Order;

“**Premises**”: The Sawmill, Main Road, Hevingham, Norwich, Norfolk NR10 5LX;

“**Price**”: the price for the Goods as specified in the Order Acknowledgement or as amended from time to time in writing (by way of e-mail or post); and

“**You**”, “**Your**”: the person purchasing Goods from Us.

3.2. Headings in these Terms and Conditions are for convenience only and shall not affect the interpretation.

3.3. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

3.4. A reference to a party includes its personal representatives, successors and permitted assigns.

3.5. Unless the context otherwise requires, words in the singular shall include the plural and vice versa.

3.6. A reference to a statute or statutory provision (including any subordinate legislation made under a statute) is to such statute or provision as amended or re-enacted whether before or after the date of these Terms and Conditions.

3.7. Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

3.8. A reference to **writing** or **written** includes faxes and emails.

### 4. Quotation

4.1. Quotations issued by Us are valid for a period of 30 days from the date of the quotation. A quotation from Us does not constitute an offer to sell or supply the Goods. We may withdraw or amend a quotation at any time prior to Us issuing an Order Acknowledgement to You.

4.2. Any samples, drawings or advertising produced by Us and/or contained in Our brochures, on Our website or in any other marketing materials are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the contract nor have any contractual force.

### 5. Orders

5.1. The Order constitutes an offer by You to purchase the Goods in accordance with these Terms and Conditions. You are responsible for ensuring that the terms of the Order are complete and accurate.

5.2. The Order will be deemed to have been accepted by Us upon the earlier of:

- 5.2.1. Us issuing an Order Acknowledgement to You; or
- 5.2.2. Us doing anything that is consistent with fulfilling the Order,  
at which point a legally binding contract between You and Us shall come into existence.
- 5.3. Each Order must:
  - 5.3.1. be given to Us in writing, save where You attend the Premises and communicate an order orally, in which case We will confirm it in writing to you by means of an Order Acknowledgement;
  - 5.3.2. specify the type and quantity of Goods required (including but not limited to whether the Goods are to conform to our Forest Stewardship Council (FSC) Certification (where applicable)); and
  - 5.3.3. specify the date by or on which the Order is to be ready for collection or to be delivered to You as appropriate.
- 5.4. Each Order shall be deemed to be a separate offer by You to purchase Goods in accordance with these Terms and Conditions. We shall be free to accept or decline any Order at Our discretion.
- 5.5. We will issue Order Acknowledgement to You which will specify the Price for the Goods and also assign an order number. You should use the relevant order number in all subsequent correspondence relating to that Order.
- 5.6. These Terms and Conditions alone will apply to the sale of Goods to You to the exclusion of any other terms that you may seek to impose or incorporate, or which may be implied by trade, custom, practice or course of dealing.
- 5.7. No variation of the terms of an Order Acknowledgement from Us or to these Terms and Conditions will be binding unless expressly agreed in writing and executed by You and one of Our duly authorised signatories.

## 6. Specification & Packing

- 6.1. Whilst We will attempt to assist with your requirements where possible, any estimates in respect of quantities of Goods required or advice given by Us, Our employees, officers, subcontractors or agents as to the suitability of Goods shall be treated as without obligation or responsibility on Our part. For the avoidance of any doubt You are responsible for determining:
  - 6.1.1. the quantity of Goods required; and
  - 6.1.2. the suitability and fitness of the Goods for Your purpose.
- 6.2. The measurements of Goods as detailed in Our brochure, website, price list and or in any other written material are approximate and are intended

to give a rough idea of dimensions and size. We reserve the right to change the specification of the Goods without prior notice to You.

- 6.3. Any images of the Goods will be for illustrative purposes only. If You are viewing the Goods on Our website, We cannot guarantee that a device's display of colours accurately reflects the colours of the Goods.
- 6.4. If we are making the Goods to measurements you have given Us, You are responsible for ensuring that these measurements are correct.
- 6.5. For the avoidance of any doubt We make no representations or warranties, or give any guarantees, as to the durability, resistance or lifespan of any Goods to which a preservative treatment has been applied by Us or a third party and therefore We shall not be liable to You in any way for any damage or degradation to such Goods.
- 6.6. You acknowledge and agree that We shall not be liable for any damage or defect to the Goods caused as a result of or in connection with weather conditions or any other outdoor factors. You acknowledge that wood is a natural product, which is likely to twist or crack in certain conditions, contains knots and may fade in the sun. We will not be liable for any natural degradation to the Goods.

## 7. Delivery

- 7.1. If You place an Order in person at the Premises We will use reasonable endeavors to ensure that the Goods can be collected immediately upon receipt of payment. If the Goods are not ready for collection upon payment, or if You have asked to collect the Goods from the Premises at a later date, please note that You can collect the Goods from Us during Our normal working hours (which are available on Our website) on a Business Day.
- 7.2. Where You are collecting the Goods from the Premises, We may help You with the loading of such Goods into Your vehicle but We do so without obligation and or liability on Our part. For the avoidance of any doubt We give no warranties whatsoever as to the quality or effectiveness of such loading or packing of Goods and, to the extent possible at law, We shall not be liable to You in any way for any damage, loss, claims, expenses or actions of any kind caused by or arising out of the packing, loading or transportation of Goods from the Premises to Your required destination.
- 7.3. Where We are responsible for delivering the Goods to You, We will ensure that the Goods are properly packed and secured in such manner as to enable them to reach the agreed destination in good condition.
- 7.4. You undertake that You will provide suitable access to the requested delivery address on the date specified for delivery to enable the Goods to be delivered.

- 7.5. If in Our sole discretion We consider it safe and appropriate to do so, We will unload the Goods at the delivery address by way of a crane. You acknowledge that by placing the Order for the Goods, You consent to delivery of the Goods at the delivery address by crane. We shall determine in Our sole discretion the most suitable position at the delivery address to unload the Goods, but We shall use Our reasonable endeavours to consult with You about the most appropriate position before unloading the Goods. In the event that You are not the owner or occupier of the delivery address, You shall procure that You have the necessary permission from the relevant person to enable Us to deliver the Goods in accordance with this clause. Save for Our negligence or the negligence of Our employees, agents, consultants or subcontractors and subject always to clause 12, We shall not be liable for any loss or damage caused by delivering the Goods in accordance with this clause.
- 7.6. If delivery in accordance with clause 7.5 is not possible or appropriate, or unless specified otherwise by Us, We will park our delivery vehicle(s) on the side of the road as close as possible to the delivery address to enable You to unload the Goods. You acknowledge that, if suitable access has not been provided or if we cannot park our delivery vehicle(s) next to the delivery address, We shall deliver the Goods to the closest available location to Your requested delivery address which in Our reasonable opinion would enable the Goods to be safely unloaded.
- 7.7. Where We are required to deliver the Goods to You and You have the appropriate facilities at the delivery location to unload the Goods, all labour and equipment required to unload such Goods shall be supplied and operated by You. In these circumstances, We shall not be responsible for the unloading of Goods. We shall only be responsible for unloading the Goods where You do not have the facilities to do so.
- 7.8. Delivery is completed on the completion of unloading of the Goods at the delivery location specified in the Order Acknowledgement or the address that We otherwise deem suitable for delivery under clause 7.4 (or any other address as agreed between Us and You in writing in advance of the delivery date).
- 7.9. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by an event outside of Our control (as referred to in clause 15) or as a result of Your failure to provide Us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 7.10. If You fail to take delivery of an order on the agreed delivery date then, except where such failure or delay is caused by Our failure to comply with Our obligations under these Terms and Conditions:
- 7.10.1. You must contact Us to arrange re-delivery or collect the Goods from the Premises; and
- 7.10.2. We shall store the Goods until delivery takes place, and charge You for all related costs and expenses of storage (including insurance).
- 7.11. If, 20 Business Days after the day on which We notified You that the Goods were ready for delivery or collection, You have not accepted delivery of them, collected them or agreed with Us a new date for delivery or collection of the Goods, We may resell or otherwise dispose of part or all of the Goods. In these circumstances, We reserve the right to charge You for any costs and expenses incurred by Us in reselling or disposing of part or all of the Goods.
- ## 8. Price and Payment
- 8.1. The Price is exclusive of amounts in respect of VAT. On any quotation and the Order, the amount of VAT payable in respect of the Price will be shown separately. You shall be liable to pay to Us such additional amounts in respect of VAT as are chargeable on a supply of Goods.
- 8.2. Unless otherwise agreed in writing by Us You must pay the Price in full before You can collect or take delivery of the Goods. Time for payment is of the essence. We may in exceptional circumstances and at our sole discretion set up a customer account for You and in these circumstances You must pay invoices in full and cleared funds within 30 days of receipt.
- 8.3. We accept payment by way of credit and debit cards, cheque or bank transfer at the Premises. Please note that We do not accept credit or debit card payment on our website ([www.ellistimber.co.uk](http://www.ellistimber.co.uk)) or in relation to orders made via telephone. If You wish to make payment by cheque, the cheque must clear in full and in good time before delivery or collection of the Goods. We shall be under no obligation to begin preparing the Goods for delivery or collection until such time as the cheque as cleared in full.
- 8.4. If You fail to make any payment due to Us under the contract by the due date for payment ("**Due Date**") then without limiting Our remedies elsewhere in these Terms and Conditions, You shall pay interest on the overdue amount at the rate of 4 per cent per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the Due Date up to the date that payment is made by You, whether before or after judgment. You shall pay the interest together with any overdue sum.
- 8.5. You shall pay all amounts due under the contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies We may have, set off any amount owing to Us by You against any amount payable by Us to You.

- 8.6. If You think that the Price or amount paid is wrong, please contact Us promptly to let Us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved, We will charge You interest on the correct amount from the original Due Date.

**This is a summary of your key legal rights.**

These are subject to certain exceptions. For detailed information please visit the Citizens Advice website [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or call 03454 04 05 06.

The Consumer Rights Act 2015 says goods must be as described, fit for purpose and of satisfactory quality. During the expected lifespan of your product your legal rights entitle you to the following:

up to 30 days: if your goods are faulty, then you can get an immediate refund.

**9. Problems with the Goods**

- 9.1. If you have any questions or complaints about the Goods, please contact Us. You can telephone Us or write to Us using the details set out at clause 2.
- 9.2. We are under a legal duty to supply Goods that in conformance with this contract. Please see the box above for a summary of Your key legal rights in relation to the Goods. Nothing in these terms will affect Your legal rights.
- 9.3. If You wish to exercise your legal right to reject the Goods, You must either return them to Us in person or allow Us to collect them from You. You will be required to pay the costs of collection from You. We will notify You of Our costs for collecting the Goods in advance, and You agree that You shall pay these costs before We collect the Goods. The costs of collection will depend on the Goods to be returned, the availability of a delivery vehicle, your location and any other relevant factors. We will not be under any obligation to collect the Goods until You have paid the collection costs.

**10. Title & Risk**

- 10.1. Risk in the Goods shall pass to You on completion of delivery.
- 10.2. Ownership (otherwise known as title) to the Goods shall not pass to You until We have received payment in full (in cash or cleared funds) for:
- 10.2.1. such Goods; and
- 10.2.2. all other sums which are or which become due to Us from You for the purchase of goods from Us.

**11. Cancellation**

- 11.1. Please note that this clause 11 will only apply to those persons dealing as Consumers.
- 11.2. Where the Goods are bespoke and made wholly to Your specification, the usual 14 day 'cooling-off period' for Consumers (which would otherwise give a consumer the right to cancel a contract concluded away from a supplier's premises within 14 days) will not apply to this contract.
- 11.3. Where You have ordered the Goods away from the Premises (for example, online or by telephone) and the Goods are not bespoke or made wholly to Your specification, You may cancel the contract within 14 calendar days of the date of order without charge. If You wish to cancel the contract, You must contact Us using the details set out in clause 2.2 within the 14 day period.

**12. Limitation of Liability**

- 12.1. If you are a Consumer, We are responsible to You for foreseeable loss and damage caused by Us. If we fail to comply with these Terms and Conditions, We are responsible for loss or damage You suffer that is a foreseeable result of Our breach or Our failing to use reasonable care and skill, but We are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, on the date that the contract come into existence, both We and You knew it might happen, for example, if You discussed it with Us during the sales process.
- 12.2. We are not liable for business losses. We will only supply the Goods to end users. If You use the Goods for any commercial, business or re-sale purpose We will have no liability to You for any loss of profit, loss of business, business interruption, or loss of business opportunity.

**13. Termination**

- 13.1. Without limiting Our other rights or remedies, We may terminate this contract with immediate effect by giving written notice to You if:
- 13.1.1. You commit a material breach of any term of the contract and (if such a breach is remediable) fail to remedy that breach within 7 days of that party being notified in writing to do so;
- 13.1.2. You do not make any payment that is due to Us by the relevant due date;
- 13.1.3. You do not, with a reasonable period of time of Us asking for it, provide Us with information that is necessary for Us to provide the Goods;
- 13.1.4. You do not, with a reasonable period of time, allow Us to deliver the Goods to you or collect them from Us;
- 13.1.5. You are subject to a bankruptcy petition or order; or

- 13.1.6. Your financial position deteriorates to such an extent that in Our opinion Your capability to adequately fulfil Your obligations under this contract has been placed in jeopardy.
- 13.2. Without limiting Our other rights or remedies, We may suspend provision of the Goods under this contract or any other contract between You and Us if You become subject to any of the events listed in clause 13.1, or We reasonably believe that You are about to become subject to any of them, or if You fail to pay any amount due under this contract on the due date for payment.
- 13.3. Without limiting Our other rights or remedies, We may terminate the contract with immediate effect by giving written notice to You if You fail to pay any amount due under the contract on the due date for payment.
- 13.4. On termination of the contract for any reason You shall immediately pay to Us all unpaid amounts due to Us and interest.
- 13.5. Termination of the contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this contract that existed at or before the date of termination.
- 13.6. Any provision of this contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
- 14. Data Protection**
- 14.1. We will process the personal information You provide to Us (including but not limited to, Your name, contact details, bank details) only in accordance with Your instructions and shall not process the personal information for any purposes other than those expressly authorised by You.
- 14.2. The personal information provided by You will be used to deliver the Goods to You and to process your payment for the Goods.
- 14.3. We may disclose Your personal information to Our employees, officers, representatives, subcontractors, suppliers, manufacturers, advisors or any other persons who need to know such information for the purposes of carrying out Our obligations under the contract.
- 14.4. We will only give Your personal information to third parties where the law requires or allows Us to do so.
- 15. Unexpected events**
- 15.1. If either party is in breach of any terms of the Contract by reason of any event outside that party's control ("**Unexpected Event**") then the party should contact the other party as soon as possible to let them know and steps should be taken to minimise the effect of the breach, where possible. Provided this is done, the party in breach will not be liable for losses or delays caused by the Unexpected Event.
- 15.2. Unexpected Events include (without limitation) any natural disaster, flooding, terrorist attack, civil commotion or riots, war, any law or any action taken by a government or public authority, collapse of buildings, fire, explosion or accident, any labour or trade disputes, strikes, industrial action, non-performance by suppliers or subcontractors and interruption or failure of utility services.
- 16. General**
- 16.1. Severance.**
- 16.1.1. If any provision in these Terms and Conditions (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in full force and effect.
- 16.1.2. If any invalid, unenforceable or illegal provision in these Terms and Conditions would be valid, enforceable, or legal if some part of it were deleted, the provisions shall apply with the minimal modification necessary to make it legal, valid and enforceable. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the contract.
- 16.2. Assignment.**
- 16.2.1. We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of Our rights or obligations under this contract.
- 16.2.2. You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of Your rights or obligations under this contract without Our prior written consent.
- 16.3. Entire Agreement.**
- 16.3.1. This contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between You and Us, whether written or oral, relating to its subject matter.
- 16.3.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the contract.
- 16.4. Waiver.** No failure or delay by a party to exercise any right or remedy provided under this contract or

by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**16.5. Notices.**

16.5.1. Any notice or other communication given to a party under or in connection with this contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax or email.

16.5.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.5.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

16.5.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

16.6. **Third Party Rights.** No one other than a party to this contract and their permitted assignees shall have any right to enforce any of its terms.

16.7. **Governing Law.** These Terms and Conditions and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non contractual disputes or claims) shall be governed by and construed in accordance with English law.

16.8. **Jurisdiction.** You and We irrevocably agree that the Courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions or their subject matter or formation (including non contractual disputes or claims).