

# Terms and Conditions

As with all natural timber products goods will be subject to movement and deterioration as they season. This may become evident with shakes, splits and warping. Timber is a natural product and these are not considered to be a fault or defect.

Some Manufacturers offer a Product Warranty - the warranty timescale will be shown on the product description tab. Details of the warranty will be available on request

**PLEASE TAKE NOTE - IF YOU AGREE TO THE GOODS BEING LEFT WHEN YOU ARE NOT AT HOME, YOU MUST INFORM US IMMEDIATELY IF THERE IS ANY PROBLEM OR SHORTAGE. YOU MUST INFORM US IN WRITING WITHIN 3 DAYS OF ANY SHORTAGES - as per clause 6.2.1**

To maintain the company's policy of continuous product improvement, we reserve the right to change and improve specifications.

ALL PHOTOGRAPHS ON THIS WEBSITE ARE FOR ILLUSTRATIVE GUIDANCE ONLY

## **WOODGATE FENCING LIMITED - TERMS & CONDITIONS OF SALE DEFINITIONS**

In these Terms of Sale the following meanings shall apply:

- “We” and “Us” means as Woodgate Fencing Limited.
- “You” means the person seeking to purchase Goods from Us.
- “the Goods” means the goods or where the context permits the services to be supplied by Us.
- “Company Signatory” means a person authorised by Us. “the Terms” means the terms set out in this document and any special terms agreed in writing between a Company Signatory and You.
- “the Contract” means the contract for the supply of Goods incorporating these Terms. “Consumer” means any natural person acting for purposes outside their trade, business or profession.
- “the Defect” means the condition and/or any attribute of the Goods and/or any other circumstances which but for the effect of these Terms would have entitled You to damages.

## **THE CONTRACT**

- All orders are accepted by Us only under these Terms and they may not be altered other than with the written agreement of a Company Signatory. Any contrary or additional terms unless so agreed are excluded.
- Orders may be cancelled only with the written agreement of a Company Signatory and You will indemnify Us against all costs claims losses or expenses incurred as a result of that cancellation.

- You shall be responsible to Us for ensuring the accuracy of the terms of any order including any applicable design drawing or specification provided to Us by You and for giving Us any necessary information relating to the Goods within a sufficient time to enable Us to perform the Contract in accordance with its Terms.
- It is your responsibility to be fully conversant with the nature and performance of the Goods including any harmful or hazardous effects their use may have.
- Without prejudice to Clause 2.5.4 of these Terms while We take every precaution in the preparation of our website, technical information, price lists and other literature these are for your general guidance only and statements included in these documents (in the absence of fraud on our part) shall not constitute representations by Us and We shall not be bound by them.
- We shall not be liable in respect of any misrepresentation made by Us our employees or agents to You your employees or agents as to the condition of the Goods their fitness for any purpose or as to quantity or measurements unless the representation is:
  - made or confirmed in writing by a Company Signatory; and/or 2.5.4.2 fraudulent.
- For the avoidance of doubt our liability for damages for misrepresentation (other than fraudulent) is excluded or limited by Clause 8 of these Terms.

## **PRICE**

- The price of the Goods shall be as published on our website price list(s) are current at the date of delivery of the Goods. The price is inclusive of VAT which shall be due at the rate ruling on the date of a VAT invoice.
- Prices listed or quoted are based on costs prevailing at the time when they are given or agreed. We shall be entitled to adjust the price of the Goods as at the time of delivery by such amount as may be necessary to cover any increase sustained by Us after the date of acceptance of your order and any direct or indirect costs of making obtaining handling or supplying the Goods.
- Prices are applicable to the quantity specified and on the information provided by You at the time of order. In the event of orders being placed for lesser quantities or if there is any change in specifications, delivery dates, or delay is caused by your instructions or lack of instructions we shall be entitled to adjust the price of the Goods as ordered to take account of the variations.
- We shall have the option of supplying any Goods ordered by You in imperial measurements in the nearest equivalent metric measurements and the Goods may be charged in metric measure allowing for conversions.

## **PAYMENT**

- You may not withhold payment of any invoice or other amount due to Us by reason of any right of set off or counterclaim which You may have or allege to have for any reason whatever.
- We shall be entitled at all times to set off any debt or claim of whatever nature which We may have against You against any sums due from Us to You.

## **DELIVERY**

- Delivery will be effected when the Goods leave our premises whether carried by Us or an independent carrier or the premises of our suppliers when the Goods are delivered direct from suppliers.
- Delivery dates are given in good faith but are estimates only.
- Time for delivery shall not be of the essence of the Contract.
- For the avoidance of doubt and without detracting from any other provisions of these Terms We shall not be liable for any damages whatsoever whether direct or indirect (including for the avoidance of doubt any liability to any third party) resulting from any delay in delivery of the Goods or failure to deliver the Goods in a reasonable time whether such delay or failure is caused by our negligence or otherwise howsoever.
- We reserve the right to make delivery by instalments and tender a separate invoice in respect of each instalment. Our failure to deliver any one or more instalments or any claim by You in respect of any one or more instalments shall not entitle You to treat the Contract as a whole as repudiated.
- The price agreed includes our normal delivery charges but We may make an additional charge if We incur further costs or expense such as (but not limited to) those caused by delivery of less than a full load; complying with your request for delivery outside our normal delivery pattern or trading hours or by instalments; orders of small value which are not economical for Us to deliver free.
- You must provide the necessary labour for unloading the Goods and unloading is to be completed with reasonable speed. If our delivery vehicle is kept waiting for an unreasonable time or is obliged to return without completing delivery or if we provide additional staff to unload Goods an additional charge may be made.
- If You fail to take delivery of the goods within the agreed time in our discretion We may make an additional charge, invoice You for the Goods or treat the contract as repudiated and in any case recover our losses from You.
- If the Goods are to be deposited other than on your private premises You shall be responsible for compliance with all regulations and for all steps which need to be taken for the protection at all times of persons or property.
- You will indemnify Us in respect of all costs claims losses or expenses We may incur as a result of delivery in accordance with your instructions. This indemnity will be reduced in proportion to the extent that such costs claims losses or expenses are due to our negligence.

## **INSPECTION**

- You shall inspect the Goods at the place and time of unloading or collection but nothing in these Terms shall require You to break packaging and/or unpack Goods which are intended to be stored before use.
- You must advise Us by email immediately and give Us written notice within 24 hours of unloading of any claim for short delivery.
- If You do not give Us that notice within that time the Goods will be deemed to have been delivered in the quantities shown in the delivery documents.
- You shall not be entitled and irrevocably and unconditionally waive any right to reject the Goods or claim any damages whatsoever for short delivery howsoever caused.
- Our liability for short delivery is limited to making good the shortage.
- Where it is or would have been apparent on a reasonable inspection that the Goods are not in conformity with the Contract or (where the Contract is a contract for sale by sample) that the bulk does not compare with the sample You must advise Us by telephone immediately and give us written notice within three working days of inspection.
- If You fail to give Us that notice within that time the Goods will be deemed to have been accepted and You shall not be entitled and irrevocably and unconditionally waive any right to reject the Goods.
- If You fail to give Us that notice within that time Clause 8 shall have effect.

## **TITLE AND RISK**

- Risk in the Goods shall pass to You when the Goods are delivered.
- The property in the Goods shall remain with Us until You pay all sums due to Us whether in respect of this Contract or otherwise.
- Until title passes:-
- You shall hold the Goods as our fiduciary agent and bailee.
- The Goods shall be stored separately from any other goods and You shall not interfere with any identification marks labels batch numbers or serial numbers on the Goods.
- We shall be entitled at any time to recover any or all of the Goods in your possession to which We have title and for that purpose We our employees or agents may with such transport as is necessary enter upon any premises occupied by You or to which You have access and where the Goods may be or are believed to be situated.

## **LIABILITIES**

- Nothing in these Terms shall exclude or restrict our liability for death or personal injury resulting from our negligence or our liability for fraudulent misrepresentation.
- Subject to Clause 8.1 of these Terms We shall not be liable by reason of any misrepresentation (unless fraudulent) or any breach of warranty condition or other term express or implied or any breach of duty (common law or statutory) or negligence for any damages whatsoever. Instead of liability in damages We undertake liability under Clause 8.3 below.

- Where but for the effect of Clause 8.2 of these Terms You would have been entitled to damages against Us We shall not be liable to pay damages but subject to the conditions set out in Clause 8.4 below shall in our sole discretion either repair the Goods at our own expense or supply replacement Goods free of charge or refund all (or where appropriate part) of the price paid for the relevant Goods.
- We will not be liable under Clause 8.3:
- if the Defect arises from fair wear and tear
- if the Defect arises from wilful damage negligence abnormal working conditions mis-use alteration or repair of the Goods failure to follow British Standard or industry instructions relevant to the Goods or storage of the Goods in unsuitable conditions (but this sub-clause shall not apply to any act or omission on our part)
- unless after discovery of the Defect We are given a reasonable opportunity to inspect the Goods before they are used or in any way interfered with. For the avoidance of doubt We acknowledge that the costs of suspending works are relevant to the determination of what is a reasonable opportunity and this sub-clause shall not apply to any works affecting the Goods which it may be reasonably necessary to carry out in the interests of safety and/or as emergency measures
- if the Defect would have been apparent on a reasonable inspection under Clause 6.1 of these Terms at the time of unloading unless You advise Us by telephone immediately and written notice of any claim is given to Us within three working days of the time of unloading; or in any other case
- the Defect is discovered within four months from the date of delivery and We are given written notice of the Defect within three working days of it being discovered.
- If the Goods are not manufactured by Us or have been processed or milled by a third party whether or not at our or your request our liability in respect of any defect in workmanship or materials of the Goods will be limited to such rights against the manufacturer or the third party as We may have in respect of those Goods.
- If the Goods are manufactured processed or milled by Us to the design quantity measurement or specification of You or your agents then:
- Subject to Clause 8.1 of these Terms We shall not be under any liability for damages whatsoever or under Clause 8.3 of these Terms as the case may be except in the event of: 8.6.1.1 fraudulent misrepresentation 8.6.1.2 misrepresentation where the representation was made or confirmed in writing by a Company Signatory 8.6.1.3 non-compliance with such design quantity measurement or specification 8.6.1.4 breach of a written warranty signed by a Company Signatory that the Goods are fit for that purpose; or a claim maintainable against Us pursuant to Clause 8.1 of these Terms.
- You will unconditionally fully and effectively indemnify Us against all loss damages costs on an indemnity basis and expenses awarded against or incurred by Us in connection with or paid or agreed to be paid by Us in settlement of any claim for infringement of any patents copyright design trademark or any other industrial or intellectual property rights of any other person.
- You will further unconditionally fully and effectively indemnify Us against all loss damages costs on an indemnity basis and expenses awarded against

or incurred by Us in connection with or paid or agreed to be paid by Us in settlement of any other claim arising from any such manufacturing processing or milling including but not limited to any Defect in the Goods. This indemnity will be reduced in proportion to the extent that such loss damage costs and expenses are due to our negligence.

- You will unconditionally fully and effectively indemnify Us against all loss damages costs on an indemnity basis and expenses awarded against or incurred by Us in connection with or paid or agreed to be paid by Us in settlement of any claim by any third party arising from the supply or use of the Goods. This indemnity will be reduced in proportion to the extent that such loss damage costs and expenses are due to our negligence.
- Without prejudice to any other provisions in these Terms in any event our total liability for any one claim or for the total of all claims arising from any one act of default on our part (whether arising from our negligence or otherwise) shall not exceed the purchase price of the goods the subject matter of any claim.

## **GENERAL**

- This Contract shall be governed and interpreted according to the Law of England and Wales and You agree to submit to the non-exclusive jurisdiction of the English Courts.
- We shall not be liable for any delay or failure to perform any of our obligations in relation to the Goods due to any cause beyond our reasonable control including industrial action.
- The waiver by Us of any breach or default of these Terms shall not be construed as a continued waiver of that breach nor as a waiver of any subsequent breach of the same or any other provision.
- If any clause or sub-clause of these Terms is held by a competent authority to be invalid or unenforceable the validity of the other clauses and sub-clauses of these Terms shall not be affected and they shall remain in full force and effect.
- We may assign novate or sub contract all or part of this Contract and You shall be deemed to consent to any novation. This Contract is personal to You and it may not be assigned.
- Nothing in this Contract is intended to or will grant any right to any third party to enforce any terms of this Contract whether express or implied.

We want you to be happy with the products you have bought and the service you have paid for.

The delivery service you are paying for is for either our staff, or one of our delivery contractors, to deliver your goods to your kerbside. We will try to deliver to your front garden or driveway – We will leave the product in a safe location adjacent to the main roadway, but off of any public highways.

The product cannot be taken around the back of the property and we deliver to front gardens or driveways. Our Health and Safety Policy and insurance liabilities prevent us from entering your property for access; and should you live in a flat, or a terraced

house for example, we will only be able to deliver to that point of the property adjacent to the roadway.

If we are unable to make a delivery or there is a delay due to access issues, there will be an additional charge.

We recognise that where the delivery is left can sometimes cause issues. We want you to be happy, but we also want our drivers to be safe and well.

Try to ensure that the road is clear so the driver can get his lorry as close to your property as possible.

We will leave the product in a safe location adjacent to the main roadway, but off of any public highways. Please ensure that sufficient space is cleared before delivery. We will make delivery with a large van.

If we leave the goods anywhere other than adjacent to the main roadway any liability for damage to any property will be yours. We will not be held responsible for any damage to your property or any claims resulting from where the delivery is left.

We will only deliver to registered residential or commercial addresses. We will not deliver to an unsecured allotment, car park, waste ground etc. What this really means is that if a postman delivers to the address, it is likely that we will.

We can't take responsibility or liability for any costs incurred, as a result of any changes to your delivery date.

An additional charge will be levied if orders have to be redelivered. Where goods are returned a fee of 20% of the sales value will be payable - with a minimum value of £10 to cover administration and lorry costs. This does not affect your statutory rights.