



## 1. INTERPRETATION

1.1. In these terms and conditions of sale (“**Conditions**”), save where the context requires otherwise:

“Business Day”	means any day other than a Saturday, Sunday or a day which is a public or bank holiday in England and Wales;
“Buyer”	means the person with whom the Company is contracting;
“Company”	means MJG Timber Ltd with company number 09472825 and registered office address at 7 Kings Court, Newcomen Way, Colchester, Essex CO4 9RA;
“Goods”	means the goods sold or to be sold by the Company to Buyer; and
“Value Added Tax”	means any tax introduced pursuant to any directive of The Council of the European Community relating to turnover taxes including value added tax as provided for in the Value Added Tax Act 1994 and legislation (whether delegated or otherwise) supplemental thereto and any similar tax replacing or introduced in addition to the same.

1.2. Headings are for ease of reference only and shall not affect construction.

1.3. Words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing corporations and vice versa, words importing the singular shall be treated as importing the plural and vice versa, and words importing whole shall be treated as including a reference to any part thereof.

## 2. CONDITIONS

2.1. These Conditions shall apply to all quotations given or contracts made or agreed to be made by the Company for the sale of the Goods. Any conditions submitted, proposed or stipulated by Buyer in whatever form and at whatever time, whether written or oral, and any conditions which are implied by trade, custom, practice, or course of dealing are expressly waived and excluded.

2.2. No change to these Conditions shall be binding unless agreed in writing by the Company.

## 3. ORDERS

3.1. No order sent by Buyer shall be binding upon the Company until it has been expressly confirmed in writing by the Company, at which point the contract between Buyer and the Company shall come into existence.

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#### **4. PRICES**

- 4.1. The price of the Goods shall unless otherwise stated by the Company in writing be the list price of the Company current at the date of delivery. In the case of an order for delivery by instalments the price payable for each instalment shall be the list price of the Company at the date of delivery of such instalment.
- 4.2. The Company reserves the right by notice given at any time before delivery to vary the price of the Goods if, after the date of the contract between Buyer and the Company, there is an increase in the cost of the Goods to the Company by reason of any circumstance outside the control of the Company including (without limitation) increases in the cost of materials, labour or transport, exchange rate fluctuations, increases in import levies or other taxes, war, hostilities or warlike operations. If the price of the Goods is increased pursuant to this Condition 4.2, Buyer may cancel the undelivered balance of the contract by written notice to the Company served within 5 Business Days of receipt of such notice given to the Company.
- 4.3. Unless otherwise agreed in writing by the Company the price of the Goods is exclusive of costs of packaging and delivery which must be paid at the same time as payment for the Goods.

#### **5. VALUE ADDED TAX**

- 5.1. Subject to Condition 5.3, an amount equal to any Value Added Tax chargeable on any supply for Value Added Tax made pursuant to these Conditions by the Company, including, without limitation, any such supply deemed to be made by the Company, shall be paid by Buyer to the Company on demand.
- 5.2. All payments to be made by Buyer to the Company under these Conditions are calculated without regard to Value Added Tax. If any such payment constitutes the whole or any part of the consideration for a taxable supply or deemed taxable supply (whether or not such supply is a taxable supply or deemed taxable supply pursuant to the exercise of any option) by the Company, the amount of that payment shall be increased by an amount equal to the Value Added Tax chargeable on the supply in question.
- 5.3. Condition 5.1 shall not apply to any supply in respect of which a full increased payment has been made under Condition 5.2 at or before the time of supply.

#### **6. PAYMENT**

- 6.1. Unless otherwise agreed in writing by the parties, payment of the invoice shall be made in full and in cleared funds within 22 Business Days of the date of the invoice. Time of payment is of the essence.
- 6.2. If any sums become overdue, the Company may (without prejudice to any other right or remedy available to it) suspend all further deliveries until payment in full thereof has been made or (at its option) cancel the contract as regards any Goods which remain to be delivered thereunder.

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- 6.3. Without prejudice to any right or remedy available to it, the Company may at its discretion charge interest at the rate of 8 per cent. per annum above the Bank of England's base rate from time to time on any sum not paid on the due date. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. Buyer shall pay the interest together with the overdue amount.
- 6.4. Buyer shall not be entitled to withhold payment in whole or in part on the ground that it has a claim, counterclaim or set-off against the Company.
- 6.5. We require payment to terms. Payment must be made on time, in full, and without any deduction, off set or counterclaim. In the event that an account is outstanding, we will refer the matter to our debt collection agents, Daniels Silverman Limited, which will incur additional costs. The additional costs incurred to collect the debt will be added to the debt, plus VAT at the prevailing rate. You agree that you will be legally liable to pay the outstanding account plus additional costs, and that payment of the same can be enforced against you in court. If applicable, you also agree to pay compensation and interest at the relevant reference rate, as provided for under the Late Payment of Commercial Debts (Interest) Act 1998."

## 7. DELIVERY

- 7.1. The time for delivery shall not be of the essence and any time specified for delivery of the Goods is intended as an estimate only. The Company shall not be liable for any loss or damage whether arising directly or indirectly from delay in delivery.
- 7.2. Risk in the Products shall pass to Buyer on delivery of the Goods to the place in the United Kingdom of Great Britain and Northern Ireland, the Republic of Ireland, the Channel Islands, or the Isle of Man (as applicable) specified by Buyer. After delivery the Goods shall be at Buyer's sole risk in respect of all loss or damage arising from any cause whatsoever.
- 7.3. The Company may deliver the Goods by instalments and may invoice Buyer for each such instalment. Each instalment shall be treated as a separate contract so that failure to deliver or defect in one or more instalment shall not entitle Buyer to reject the other instalments.
- 7.4. If delivery is delayed through Buyer's default or if Buyer declines or delays in accepting delivery, then and in either such case the Company may (without prejudice to any other right or remedy available to it) do all or any of the following:
- 7.4.1. charge as part of the price of the Goods a reasonable storage fee and other costs incurred by the Company;
  - 7.4.2. sell the Goods for the Company's account;
  - 7.4.3. cancel the contract as regards any Goods that remain to be delivered thereunder.
- 7.5. Each delivery shall be considered as a separate contract and the failure of any delivery shall not vitiate the contract as to others.
- 7.6. The Company shall be entitled to suspend a delivery of the Goods otherwise due to occur following service of a notice under Condition 11.1.3 until the earlier occurrence of:
- 7.6.1. such breach being remedied by Buyer; or

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7.6.2. the termination of the relevant contract.

## 8. CLAIMS

- 8.1. To the extent permitted by law, all conditions, warranties or obligations whether express or implied by statute, common law or otherwise are excluded and the provisions of these Conditions shall apply in lieu thereof.
- 8.2. Where the Company is arranging carriage, the Company shall not be liable for loss of or damage to the Goods in transit unless:
- 8.2.1. within 5 Business Days of the date notified by the Company to Buyer as being the date on which the Goods were despatched from the Company's premises Buyer gives written notice to the Company that it has not received the Goods or that the Goods are damaged; and
- 8.2.2. Buyer retains the packaging for inspection by the carriers or their insurers.
- 8.3. The Company shall not be liable for defective Goods unless:
- 8.3.1. Buyer gives written notice to the Company as soon as possible and in any case within 5 Business Days of the date of delivery specifying with reasonable detail any matter whereof it is alleged that the Goods are defective; and
- 8.3.2. the defective Goods are returned carriage paid at Buyer's risk to the Company's premises (and section 36 of the Sale of Goods Act 1979 shall not apply).
- 8.4. The Company's liability under Conditions 8.2 and 8.3 whether based on negligence or any other cause of action shall be limited to repairing or replacing the lost, damaged or defective Goods or, at the Company's option, repaying a corresponding proportion of the price paid by Buyer and the Company shall not be under any other liability thereunder whatsoever.
- 8.5. No claim will be met by the Company under Condition 8.3 if, in the opinion of the Company:
- 8.5.1. the defect is not due solely to defective materials or manufacture;
- 8.5.2. the Goods have been misused or subjected to neglect, carelessness or abnormal conditions or involved in any accident or attempt at repair, replacement or modification or dealt with contrary to any directions issued by the Company; or
- 8.5.3. the terms of payment set out in Condition 6 have not been complied with.
- 8.6. The warranty contained in this Condition 8 is specifically limited to Buyer in respect of the Goods actually manufactured by the Company. No warranty is made to any other person, whether subsequent buyer or user, or to any bailee, licensee, assignee, employee, agent or otherwise.
- 8.7. The Company gives no warranty and makes no representation that any sale or use by Buyer of the Goods will be free from infringement of any patent or other intellectual property right owned or controlled by any third party.

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## 9. RETENTION OF TITLE

- 9.1. Notwithstanding delivery the title in the Goods will remain in the Company and subject to the following provisions of this Condition 9 Buyer will hold the Goods as bailee for the Company until payment in full and in cleared funds of:
- 9.1.1. the full purchase price of the Goods or any other goods at any time supplied by the Company; and
  - 9.1.2. all other sums due from Buyer to the Company on any account whatsoever.
- 9.2. Until title to the Goods has passed to Buyer, Buyer shall:
- 9.2.1. store the Goods in such a way that they are readily identifiable as the property of the Company;
  - 9.2.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 9.2.3. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery and provide the Company with a copy of such policy of insurance on request; and
  - 9.2.4. give the Company such information relating to the Goods as the Company may require from time to time.
- 9.3. The Company may at any time without notice inspect or recover possession of the Goods which are the property of the Company and Buyer grants to the Company an irrevocable licence to enter for that purpose any premises then occupied by Buyer.
- 9.4. The Company shall be entitled to maintain an action for the price of the Goods, notwithstanding that the property in them has not passed to Buyer.

## 10. LIABILITY

- 10.1. Nothing in these Conditions shall limit or exclude the Company's liability for:
- 10.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 10.1.2. fraud or fraudulent misrepresentation;
  - 10.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - 10.1.4. any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.
- 10.2. Subject to Condition 10.1,
- 10.2.1. the Company shall under no circumstances be liable to Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of

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profit, or any indirect or consequential loss arising under or in connection with any contract made between Buyer and the Company; and

- 10.2.2. the Company's total liability to Buyer in respect of all other losses arising under or in connection with any such contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods under such contract.

## 11. TERMINATION

- 11.1. The Company shall have the right to cancel all or any contracts with Buyer or withhold delivery of any Goods if Buyer:
- 11.1.1. fails to pay any monies owing to the Company by the due date;
  - 11.1.2. commits a material breach which is incapable of remedy of any of the provisions of these Conditions;
  - 11.1.3. commits a material breach which is capable of remedy of any of the provisions of these Conditions and Buyer has failed to remedy such breach within 7 Business Days of the date of receipt from the Company of a notice specifying the breach and requiring it to be remedied;
  - 11.1.4. becomes subject to any voluntary arrangement, is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, has a receiver, manager, administrator or administrative receiver appointed over its assets, undertakings or income, has passed a resolution for its winding-up, or has a petition presented to any Court for its winding-up or for an administration order or suffers any similar or analogous proceedings in any jurisdiction;
  - 11.1.5. has any distraint, execution or other process levied or enforced on any of its property;
  - 11.1.6. is dissolved or ceases or threatens to cease to trade; or
  - 11.1.7. brings the reputation of the Company into serious disrepute or otherwise causes the Company to suffer material adverse publicity and following receipt from the Company of a notice informing Buyer that this is the case, Buyer has failed to remedy the matter, event or circumstance which caused or resulted in such serious disrepute or material adverse publicity within 22 Business Days of the date of such notice.
- 11.2. Termination of any contract between the Company and Buyer howsoever arising shall not affect any of the rights, remedies obligations and liabilities of either the Company or Buyer that have accrued as at termination and Conditions 9, 10, and 19 will continue to be enforceable notwithstanding termination.

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## **12. INTELLECTUAL PROPERTY**

- 12.1. Except as otherwise agreed in writing by the Company, Buyer shall have no rights in respect of any intellectual property rights used by the Company in relation to the Goods or the associated goodwill.
- 12.2. Buyer shall not:
- 12.2.1. use in relation to the Goods any trade marks or names other than the Company's trade marks without obtaining the prior written approval of the Company;
  - 12.2.2. use any trade marks or names so resembling the Company's trade marks as to be likely to deceive or cause confusion;
  - 12.2.3. make any modifications to the Goods or their packaging;
  - 12.2.4. alter, remove or tamper with any trade marks, numbers or other means of identification used on or in relation to the Goods; or
  - 12.2.5. apply to register any of the intellectual property rights of the Company nor any trade marks or trade names so nearly resembling the Company's trade marks as to be likely to deceive or cause confusion.
- 12.3. Buyer shall immediately inform the Company on becoming aware of:
- 12.3.1. any relevant fact which may affect the Company's intellectual property rights or reputation or cause the Company to suffer material adverse publicity;
  - 12.3.2. any counterfeit of the Goods; and
  - 12.3.3. any infringement of the intellectual property rights of the Company.
- 12.4. Buyer shall not acquire or be entitled to claim any right, title or interest to the Company's trade marks or trade name by virtue of the rights granted in these Conditions.

## **13. CONFIDENTIALITY**

- 13.1. Each of Buyer and the Company undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, including in relation to these Conditions and any contract between Buyer and the Company, except as permitted by Condition 13.2.
- 13.2. Each of Buyer and the Company may disclose the other party's confidential information:
- 13.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Conditions. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Condition 13.2; and

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- 13.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3. Neither Buyer nor the Company shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Conditions.
- 14. WAIVER**
- 14.1. None of the provisions of these Conditions shall be deemed to have been waived by any act or acquiescence, but only by an instrument in writing. No waiver of any provision of these Conditions shall constitute a waiver of any other provision or of the same provision on another occasion.
- 15. ASSIGNMENT**
- 15.1. Buyer shall not assign or transfer or purport to assign or transfer any contract to which these Conditions apply or the benefit thereof to any other person.
- 16. SEVERANCE**
- 16.1. If any Condition or part of any Condition shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other Condition or part of any Condition all of which shall remain in full force and effect.
- 17. NOTICES**
- 17.1. Any notice required or authorised to be given under these Conditions shall be in writing and may be served:
- 17.1.1. by first class recorded delivery post; or
- 17.1.2. by email.
- 17.2. In proving service of any notice under these Conditions it shall be sufficient to prove:
- 17.2.1. in the case of a notice sent by recorded delivery post, that the envelope containing the notice was properly addressed to the address last known to the party giving the notice; and
- 17.2.2. in the case of a notice sent by email, that the notice was successfully transmitted to the email address as the recipient may designate from time to time by notice given in accordance with the provisions of this Condition 17.
- 17.3. Notices shall be deemed served:
- 17.3.1. in the case of a notice sent by recorded delivery post, on the fourth Business Day following the day of posting;

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- 17.3.2. in the case of a notice sent by email, one hour after transmission, or if not sent on a Business Day, on the next Business Day.

## 18. FORCE MAJEURE

- 18.1. The Company reserves the right to:

- 18.1.1. defer the date of delivery;
- 18.1.2. cancel the contract; or
- 18.1.3. reduce the volume of the Goods ordered by Buyer (without liability to Buyer),

if it is prevented from or delayed in the carrying on of its business due to a Force Majeure Event (as defined in Condition 18.3) provided that, if the Force Majeure Event in question continues for a continuous period of 10 Business Days, Buyer shall be entitled to give not less than 5 Business Days' notice in writing to the Company to terminate the contract and in such circumstances Buyer shall pay for all Goods supplied to the date of such termination, such payment to be made on or before the last day of the month following the month during which termination was effected.

- 18.2. If the Company is prevented from delivering part of the Goods by reason of a Force Majeure Event, the Company shall deliver and Buyer shall take and pay for such part of the Goods as the Company shall be able to deliver in accordance with the contract. The Company shall be entitled to deliver the Goods in one or more consignments unless otherwise expressly agreed.
- 18.3. A **"Force Majeure Event"** means any event beyond the Company's reasonable control including, without limitation, strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- 18.4. If the Company has contracted to provide identical or similar goods to more than one Buyer and is prevented from fully meeting its obligations by reason of any of the causes referred to in Condition 18.3, the Company may determine which contracts it will honour and to what extent at its own discretion.

## 19. GOVERNING LAW AND JURISDICTION

- 19.1. These Conditions and any contract between Buyer and the Company shall be governed by and construed in accordance with the law of England and Wales.
- 19.2. The courts of England and Wales shall have exclusive jurisdiction in respect of any claim or matter arising out of or in connection with these Conditions and any contract between Buyer and the Company and that accordingly any proceedings in respect of any such claim or matter shall be brought in such courts.

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## MJG Timber Ltd GDPR Privacy Policy

### **Our contact details**

Name: Martin Gillingham

Address: The Gatehouse, 1 Riverside Place, Colchester, Essex, CO1 2ZG

Phone Number: 01206 367444

E-mail: [martin@mjgillingham.co.uk](mailto:martin@mjgillingham.co.uk)

### **The type of personal information we collect**

We currently collect and process the following information:

- Personal identifiers, contacts and characteristics (name and contact details – telephone numbers, email addresses, postal addresses)
- Customers Financial Data (Bank Account Details, etc)

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## How we get the personal information and why we have it

Most of the personal information we process is provided to us directly by you for one of the following reasons:

- Your details were provided when you requested us to quote for goods that we provide.

We use the information that you have given us in order to provide you with the information you requested for the purposes of quotes, and also selling you goods.

We may share this information with suppliers and credit references agencies.

Under the General Data Protection Regulation (GDPR), the lawful bases we rely on for processing this information are:

- (a) Your consent. You are able to remove your consent at any time. You can do this by contacting [martin@mjgillingham.co.uk](mailto:martin@mjgillingham.co.uk)**
- (b) We have a contractual obligation.**
- (c) We have a legal obligation.**
- (f) We have a legitimate interest.**

## How we store your personal information

Your information is securely stored on Microsoft OneDrive.

We keep all customers data for 7 years after the end of a contractual relationship has ended, we will then dispose your information by secure deletion/wiping using latest industry secure methods through our IT partners.

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## Your data protection rights

Under data protection law, you have rights including:

**Your right of access** - You have the right to ask us for copies of your personal information.

**Your right to rectification** - You have the right to ask us to rectify personal information you think is inaccurate. You also have the right to ask us to complete information you think is incomplete.

**Your right to erasure** - You have the right to ask us to erase your personal information in certain circumstances.

**Your right to restriction of processing** - You have the right to ask us to restrict the processing of your personal information in certain circumstances.

**Your right to object to processing** - You have the the right to object to the processing of your personal information in certain circumstances.

**Your right to data portability** - You have the right to ask that we transfer the personal information you gave us to another organisation, or to you, in certain circumstances.

You are not required to pay any charge for exercising your rights. If you make a request, we have one month to respond to you.

Please contact us at [martin@mjgillingham.co.uk](mailto:martin@mjgillingham.co.uk) or by 01206 367444 if you wish to make a request.

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## How to complain

If you have any concerns about our use of your personal information, you can make a complaint to us at [martin@mjgillingham.co.uk](mailto:martin@mjgillingham.co.uk)

You can also complain to the ICO if you are unhappy with how we have used your data.

The ICO's address:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Helpline number: 0303 123 1113

ICO website: <https://www.ico.org.uk>

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