

Website Terms and Conditions of Supply

1. Information about us

- 1.1 In these terms references to "we", "us", or "our", are references to Home & Garden Builders Merchants with our registered office at 122 Delce Road, Rochester, Kent ME1 2DT and our main trading address at 122 Delce Road, Rochester, Kent ME1 2DT and with VAT number 373663138.
- 1.2 Please read our terms and conditions ("Terms") carefully. We recommend that you print the Terms out for reference in the future.

2. Use of this Site

- 2.1 By accessing and using any part of this website ("Site"), or ordering any of our products ("Products"), the visitor/consumer/customer ("you") agrees with us to be bound by these terms. If you do not accept these terms, you may not use this Site or access or display any of the information made available to you at this Site. These Terms govern any contract for the supply of products that we enter into with you.
- 2.2 Your statutory rights are not affected.
- 2.3 [Please click on the button marked "I Accept" at the end of these Terms if you accept them. Please understand that if you refuse to accept these Terms, you will not be able to order any Products from our Site.]

3. Links to other websites

We may provide links on our Site to the websites of other companies, whether affiliated with us or not. We cannot give any undertaking that the products you purchase from third party sellers through our Site, or from companies to whose website we have provided a link on our Site, will be of satisfactory quality, and such warranties are DISCLAIMED by us absolutely. This DISCLAIMER does not affect your statutory rights against the third party seller. If you would like information about your legal rights you should contact your local trading standards or citizens advice bureaux. We will notify you when a third party is involved in a transaction, and we may disclose your information related to that transaction to the third party seller.

4. Supply of Products

We reserve the right to refuse the supply of Products at our discretion.

5. Your Status and Service Availability

5.1 Our Site is only intended for use by people resident in the United Kingdom (UK). We do not accept orders from individuals outside the UK and do not deliver to addresses outside the UK.

5.2 By placing an order through our website, you warrant that:

(a) you are legally capable of entering into binding contracts; and

(b) you are at least 18 years old; and

(c) you are resident in the UK.

6. How the contract is formed between you and us

6.1 After placing an order, you will receive an e-mail from us acknowledging that we have received your order. Please note that this does not mean that your order has been accepted. Your order constitutes an offer to us to buy a Product. All orders are subject to acceptance by us and we will confirm such acceptance to you by sending you an email that confirms the Product has been dispatched (Dispatch Confirmation). A binding contract (the Contract) will only be formed between you and us when we send you the Dispatch Confirmation.

6.2 The Contract will relate only to those Products whose dispatch we have confirmed in the Dispatch Confirmation. We will not be obliged to supply any other Products which may have been part of your order until the dispatch of such Products has been confirmed in a separate Dispatch Confirmation.

7. Cancellation of orders

7.1 If you are contracting as a consumer, you have a right to cancel a Contract for any Products purchased on this website within 7 working days of receiving the Products

and to receive a full refund excluding the cost of return postage as soon as possible, and in any case, within 30 days of the day on which you gave us notice of cancellation. We will collect the Products at your expense if you cannot arrange alternative appropriate transport.

7.2 To cancel a Contract, you must inform us in writing by emailing us at homeandgardendiy@googlemail.com, or writing to us (see clause 1 for details) within 7 working days of delivery of your items, quoting your order number. See clause 11 below, detailing returning instructions. You have a legal obligation to take reasonable care of the Products while they are in your possession. If you fail to comply with this obligation, we may have a right of action against you for compensation.

7.3 Some Products on our Site are deemed "SPECIAL ORDER ITEMS". Special order items can take longer because they may have to come directly from the manufacturer and in some cases are manufactured to your order or specification. In principle special order items will be supplied within 14-21 working days, or sooner if possible. Special order items and Clearance product purchases are FINAL orders and cannot be cancelled once the order is placed and will not be refunded. Please select the special order or clearance line items carefully before placing your order.

7.4 Details of your statutory right of cancellation, and an explanation of how to exercise it, are provided in the Dispatch Confirmation. This provision does not affect your other statutory rights as a consumer.

8. Prices

8.1 Our prices are in Pounds Sterling.

8.2 The price of Products and our delivery charges will be as quoted on our Site from time to time, except in cases of obvious error.

8.3 We reserve the right to change any advertised prices at any time but changes will not affect orders in respect of which we have already sent you a Dispatch Confirmation.

8.4 Whilst we try to ensure that all prices on our Site are accurate, errors may occur. If we discover an error in the price of Products you have ordered we will inform you as soon as possible and give you the option of reconfirming your order at the correct

price or cancelling it. If we are unable to contact you we will treat the order as cancelled. If you cancel and you have already paid for the Products, you will receive a full refund by the same means.

8.5 If the pricing error is obvious and unmistakable and could reasonably have been recognised by you as an error, we do not have to provide the Products to you at the incorrect (lower) price.

8.6 **Product prices are quoted inclusive or exclusive of VAT, as indicated in each case on the site.** However if the rate of VAT changes between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Products in full before the change in VAT takes effect.

9. Delivery

9.1 We deliver to mainland UK addresses within a 50 mile radius of our site in principle. Deliveries greater than 50 miles from our site will be assessed on a case by case basis and extra delivery fees may be incurred. Products will be delivered on our own fleet or other approved shipping companies.

9.2 We endeavour to deliver Products within 7 working days from receipt of your order or if this is not possible within 30 days of the date of the Dispatch Confirmation, unless there are exceptional circumstances. All deliveries are subject to payment authorisation. If an item is temporarily out of stock and despatch is anticipated to be greater than 7 days, we will contact you by e-mail or telephone to arrange a new delivery date. If this is not satisfactory to you, we will cancel that part of your order and offer you a refund.

9.3 If you have any questions concerning delivery please e-mail us at homeandgardendiy@googlemail.com or you may telephone us on 01634 845740 quoting your order number.

9.4 All products are subject to availability.

9.5 Delivery costs of the Products are quoted for delivery to kerbside only, due to the nature of the Products provided. You must ensure that access is available to Heavy

Goods Vehicles and accept complete responsibility for transporting the Products from the point of delivery to your required location. Therefore you need to ensure that all Products will fit through access points and onto the premises. We will not accept responsibility for items delivered that will not fit through access points and any carriage charges incurred by aborted deliveries are your responsibility.

9.6 Installation of the Products purchased by you is not included within the price quoted and accepted. All installation work will be quoted separately, if available.

9.7 You must make available a representative to accept and sign for the delivery. As such any signature taken in accepting the delivery is binding.

9.8 We reserve the right to supply the Products ordered in partial deliveries when required.

9.9 Prices for Products quoted do not include any amounts for electrical wiring, plumbing, building works or any other potentially incurred cost not specifically mentioned in the quotation or product description.

10. Returning goods

10.1 For the avoidance of doubt the Products are not supplied on a sale or return basis.

10.2 In the instance that we agree Products can be returned you must first obtain a Goods Return Authorisation Number (GRAN) from Home & Garden Builders Merchants BEFORE returning the Products. To obtain a GRAN from Home & Garden Builders Merchants please call [INSERT TELEPHONE NUMBER]. The GRAN must be clearly visible on the outside of the return packaging. We will examine the returned Product and notify you of your refund via e-mail within a reasonable period of time. We will usually process the refund due to you as soon as possible and, in any case, within 30 days of the day we confirmed to you via e-mail that you were entitled to a refund.

10.3 Please note we do not cover the costs of returning Products. All returned Products should be returned unused, and with all fittings and guarantees enclosed. We reserve the right to impose an administration charge on all Products returned. We also reserve the right to impose a restocking fee for large Products returned.

10.4 All returned Products should be unused in original packaging, and include all fittings & parts intact and unused. We reserve the right to make a charge back to you if returned Products come back to us damaged in transit, due to non-compliance.

11. Products delivered damaged or faulty

11.1 Please examine the Products on delivery in case they are damaged or faulty. Any Products delivered to you shall be deemed to be in good order unless you inform us of any defects, faults or malfunction of the Products (collectively 'Faults') within 3 working days from the day of receipt of the Products unless the Faults are not ascertainable from reasonable inspection; in which case, you shall inform us of the Faults as soon as it is practicable. If you inform us immediately that the Products are delivered damaged or faulty we will generally replace them on site. If no notification is received you shall be deemed to have accepted the Products as having been delivered in all respects in accordance with Contract and shall have no further right to reject the Products or recover any compensation thereafter. All notifications need to specify the alleged Faults and provide us with reasonable opportunity of inspecting the Products in question. Damaged Products must be retained for inspection. Please retain all packaging materials and receipts. We shall at our discretion subject to clause 10.4 make good any Faults in respect of the Products by repair or replacement or reimburse you for the whole or relevant part of the price of the Products. You should note that wood is a natural product and as such there will be an accepted degree of variation in the Product, both in appearance and size.

11.2 If you do not inform us any Faults within 3 working days we shall have no liability for Products said to be damaged on delivery, unless the Faults are not ascertainable from reasonable inspection.

11.3 The quantity of Product consigned and as recorded by us at the point of dispatch shall be conclusive evidence of the quantity received by you on delivery and will not be disputed by you unless you can provide conclusive evidence to support the claim of non-delivery.

11.4 If you do not receive any invoiced Products within 7 days of invoice you shall immediately notify us in writing of such non-receipt. Should you fail to notify us we shall not be liable for non-delivery of the Products and you shall be liable to the us for

any loss or damage that we may suffer in consequence of our resultant omission to notify our carriers or insurers of the non-arrival of the Products.

12. Contract and Payment

- 12.1 Time for payment shall be of the essence.
- 12.2 Each delivery shall operate as a separate contract. Should you fail to pay on the due date the price of any delivery we shall be entitled to suspend further deliveries until payment, or to vary by notice in writing of immediate effect the terms if any as to credit specified in the Contract or in any other contract subsisting between us and you or any company associated with or subsidiary thereto in such manner as they may in their absolute discretion determine or to treat the Contract as wrongfully repudiated by you without prejudice to their right to payment for any Products delivered and to damages for breach of contract by you. No payment shall be deemed to have been received until we have received cleared funds.
- 12.3 All payments payable to us under the Contract shall become due immediately on its termination despite any other provision.
- 12.4 You shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless you have a valid court order requiring an amount equal to such deduction to be paid by the us to you.
- 12.5 We accept payment with all the major credit and debit cards, including Visa and MasterCard. We also accept all credit and debit cards carrying the MasterCard or Visa logos. For online security purposes we do not collect your CVV number when you order online. We may require you to provide your CVV number when we confirm your order with you before dispatch in order to process your payment. Please call Home & Garden Builders Merchants sales office on 01634 845740 where we will be pleased to discuss other payment methods to those listed.
- 12.6 If you fail to pay any sum due pursuant to the Contract, you shall be liable to pay interest to the us on such sum from the due date for payment at the monthly rate of

2.5%, accruing on a daily basis until payment is made, whether before or after any judgment.

13. Risk and Title

13.1 On delivery of the Products risk shall pass to you so that you will be responsible for all loss, damage and/or deterioration to the Products. You agree to insure the Products against loss and damage accordingly and in the event of such loss or damage hold the proceeds of such insurance in trust for us.

13.2 Title to the Products shall only pass to you upon the happening of any one of the following events: you have paid all sums payable to us under a Contract and all other Contracts between us and you concluded prior hereto, or, when the we serve you with notice in writing specifying that title in the Products or such part thereof has passed.

13.2 We may recover Products in respect of which title has not passed to you at any time and you hereby license us or our officers, employees and agents to enter any of your premises for the purpose of either satisfying ourselves that you have stored the Products separately from other Products and shall ensure that they are clearly identifiable as belonging to us or of recovering any Products in respect of which title has not passed to you.

13.3 Until title to the Products has passed to you hereunder you shall possess the Products as bailee for us on these terms. In the event that you fail to pay for the Products supplied under the Contract in full, we reserve the right to apply a rental agreement to all outstanding Products to which title has not been passed. The amount of rental will be determined by the nature of the Products supplied, the amount and period of rental being determined by this value.

14. Product Specifications

14.1 Images on our Site do not show the actual size of Products. All sizes and measurements are approximate but we do try to make sure that they are as accurate as possible. On the rare occasion that there is an error, we will advise you about it as soon as possible. All samples, drawings, descriptive matter, specifications and advertising issued by us and any descriptions or illustrations contained in our

catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract and the Contract shall not be a sale by sample. You should note that wood is a natural product and as such there will be an accepted degree of natural variation in the product.

- 14.2 For the avoidance of doubt the samples, measurements, dimensions and weights contained in our catalogues, price lists, websites, quotations and tenders constitute only an approximate guide. We reserve the right to make any changes, which we in our absolute discretion consider necessary. Unless expressly agreed in writing by us, we do not supply Products in accordance with an exact specification.
- 14.3 Sometimes our product specifications may change, in which case we will do our best to offer you a substitute of the same or better quality at the same price. If you are not happy with the replacement you can return it in accordance with our returns policy (see clause 10 above).
- 14.4 If any Products sold shall have been subjected to any process of manufacture, after delivery, by you then you shall be deemed to have accepted such Products as being in all respects in accordance with contract.

15. Warranty

- 15.1 [We warrant to you that any Product purchased from us through our Site will, on delivery [and for the following [12] months], conform [in all material respects] with its description, be of satisfactory quality, and be reasonably fit for all the purposes for which products of that kind are commonly supplied. This clause operates to exclude all implied warranties where permitted by law.]
- 15.2 We are not the manufacturer of any of the Products.
- 15.3 We have the necessary legal title to transfer ownership of the Products to you.

16. Written Communications

Applicable laws require that some of the information or communications we send to you should be in writing. When using our Site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on our Site. For contractual purposes, you agree to

this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing. This condition does not affect your statutory rights.

17. Notices

All notices given by you to us must be given to Home & Garden Builders Merchants at 122 Delce Road, Rochester, Kent ME1 2DT or homeandgardendiy@googlemail.com. We may give notice to you at either the e-mail or postal address you provide to us when placing an order, or in any of the ways specified in clause 16 above. Notice will be deemed received and properly served immediately when posted on our Site, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

18. Transfer of Rights and Obligations

- 18.1 The Contract between you and us is binding on you and us and on our respective successors and assignees.
- 18.2 You may not transfer, assign, charge or otherwise dispose of a Contract, or any of your rights or obligations arising under it, without our prior written consent.
- 18.3 We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

19. Events outside our control

- 19.1 We will not be liable or responsible for any failure to perform, or delay in performance, of any of our obligations under a Contract that is caused by events outside our reasonable control (Force Majeure Event).
- 19.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

- (a) strikes, lock-outs or other industrial action;
- (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
- (c) fire, explosion, storm, flood, earthquake subsidence, epidemic or other natural disaster;
- (d) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- (e) impossibility of the use of public or private telecommunications networks;
- (f) the acts, decrees, legislation, regulations or restrictions of any government; and
- (g) pandemic or epidemic.

19.3 Our performance under any Contract is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for the performance during that period. We will use reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

20. Our Liability

20.1 Subject to Clause 20.4, if we fail to comply with these Terms we shall only be liable to you for the purchase price of the Product and subject to clause 20.3, any losses that you suffer as a result of our failure to comply (whether arising in contract, tort (including negligence), breach of statutory duty or otherwise) which are a foreseeable consequence of such failure. The limit of our liability hereunder whether as damages or otherwise shall be the total price in our premises of undelivered, defective or rejected Products.

20.2 We are not liable for any damage to the Products arising from wear and tear, wilful damage by you your negligence, failure to follow instructions, or misuse

20.3 Subject to clause 20.4, we will not be liable for losses that result from our failure to comply with these Terms that fall into the following categories even if such losses result from our deliberate breach:

- (a) loss of income or revenue;
- (b) loss of business;
- (c) loss of profits;
- (d) loss of anticipated savings;
- (e) loss of data; or
- (f) waste of management or office time.

However, this clause 20.3 will not prevent claims for loss of or damage to your physical property that are foreseeable or any other claims for direct loss that are not excluded by categories (a) to (f) inclusive of this clause 20.3.

20.3 Nothing in this agreement excludes or limits our liability for:

- (a) death or personal injury caused by our negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of section 12 of the Sale of Goods Act 1979;
- (d) any breach of section 2 of the Consumer Protection Act 1987
- (e) any breach of section 2 of the Sale of Goods and Services Act 1982; and
- (f) any other matter for which it would be illegal for us to exclude or attempt to exclude our liability.

21. General

21.1 If we fail, at any time during the term of a Contract, to insist upon strict performance of any of your obligations under the Contract or any of these Terms, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this will not constitute a waiver of such rights or remedies and will not relieve you from compliance with such obligations. A waiver by us of any default will not constitute a waiver of any subsequent default. No waiver by us of any of these Terms

will be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with clauses 16 and 17 above.

- 21.2 If any court or competent authority decides that any of the provisions of these Terms or any provisions of a Contract (or part of any provisions) are invalid, unlawful or unenforceable to any extent, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these Terms or any provisions of a Contract shall not be affected.
- 21.3 These Terms and any document expressly referred to in them constitute the whole agreement between you and us and supersede any prior agreement, understanding or arrangement between you and us including any subsequent Terms put forward by you on any purchase orders for Products, relating to the subject matter of any Contract. You and we acknowledge that, in entering into a Contract, neither you nor we rely on any statement, representation, undertaking or promise of any person ("Representation"), except as expressly stated in these Terms. Both you and we agree that the only rights and remedies available to you and us arising out of or in connection with any Representation, will be for breach of contract as provided in these Terms, although this does not limit or exclude any liability for fraud.
- 21.4 We have the right to revise and amend these Terms at any time and for any reason. You will be subject to the policies and Terms in force at the time that you order Products from us, unless any change to those policies or these Terms is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you), or if we notify you of the change to those policies or these Terms before we send you the Dispatch Confirmation (in which case we have the right to assume that you have accepted the change to the Terms, unless you notify us to the contrary within 7 working days of receipt by you of the Products).
- 21.5 Contracts for the purchase of Products through our Site 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) will be governed by English law. Any dispute or claim arising out of or in connection with such Contracts or their formation (including non-contractual disputes or claims) will be subject to the non-exclusive jurisdiction of the courts of England and Wales.
- 21.6 A person who is not party to these Terms or a Contract shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.