

## 1. ABOUT US

**GILMOUR & AITKEN, LIMITED** (company number SC010623) (**we** and **us**) is a company registered in Scotland and our registered and trading office is at Milton Sawmill, Auchencarroch Road, Alexandria, G83 9EY. Our VAT number is 259713139. We operate the website: [www.gilmouraitken.com](http://www.gilmouraitken.com)

1.1. **Contacting us.** To contact us telephone the trade centre sales team at 01389 951821 or better on email [tradecentre@gilmouraitken.com](mailto:tradecentre@gilmouraitken.com). How to give us formal notice of any matter under the Contract is set out in Clause 12.

## 2. OUR CONTRACT WITH YOU

2.1. **Our contract.** These terms and conditions (**Terms**) apply to the order by you and supply of goods by us to you (**Contract**). No other terms are implied by trade, custom, practice or course of dealing.

2.2. **Entire agreement.** The Contract is the entire agreement between us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.

2.3. **Language.** These Terms and the Contract are made only in the English language.

2.4. **Your copy.** You should print a copy of these Terms or save them to your computer for future reference.

## 3. PLACING AN ORDER AND ITS ACCEPTANCE

3.1. **Placing your order.** Please follow the onscreen prompts to place an order. Each order is an offer by you to buy the goods specified in the order (**Goods**) subject to these Terms.

3.2. **Correcting input errors.** Our order process allows you to check and amend any errors before submitting your order to us. Please check the order carefully before confirming it. You are responsible for ensuring that your order and any specification submitted by you is complete and accurate.

3.3. **Acknowledging Receipt of your order.** After you place an order, you will receive an email from us acknowledging that we have received it. For Redwood items and Balau decking products the lengths may vary from lineal metres ordered so we may require to phone and confirm cost amend either up or down from paid for Goods. You have a right to refuse order at this point and it will be cancelled and any payment taken refunded. Our acceptance of your order will take place as described in Clause 3.4.

3.4. **Accepting your order.** Our acceptance of your order takes place when payment is taken from your account. Please note you will be sent an email from our system with the order, which is automatically generated by our system. However should there be any issue with the order we will telephone you or email to discuss any amends required. The contract between you and us will come into effect when you make payment for the Goods.

## 4. OUR GOODS

4.1. The images of the Goods on our site are for illustrative purposes only. Although we have made every effort to display the products accurately, we cannot guarantee that some items in the products such as screws, may differ slightly. Your computer's display of products may also vary from our actual product.

- 4.2. Although we have made every effort to be as accurate as possible, there may be a slight variation in the length of the Goods due to the standard stock sizes we hold. Where this occurs the length of the Goods provided may slightly vary to what has been displayed, but we would phone to discuss the variation before despatching the order.
- 4.3. We reserve the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirement.

## 5. **CANCELATION**

- 5.1. **Please note when you submit an Order via the Site you will not be able to cancel or amend your order. Should you require to do this, please contact the sales team on [tradecentre@gilmouraitken.com](mailto:tradecentre@gilmouraitken.com) to discuss the error – where the Goods have not been despatched you will be able to cancel your order via this email address.** You should not submit an Order if you are unsure if you require the Goods.
- 5.2. **We may cancel your order at our discretion.** We will inform you of this by email and we will not process your order. If you have already paid for the Goods we will refund you the full amount (including any delivery costs charged) as soon as possible.

## 6. **DELIVERY, TRANSFER OF RISK AND TITLE**

- 6.1. We will contact you promptly (typically within one working day (being a day which is not a Saturday Sunday or public holiday in Scotland) following receipt of your order to advise of an estimated delivery date, Occasionally our delivery to you may be affected by an Event Outside Our Control. See Clause 11 for our responsibilities when this happens.
- 6.2. Delivery is complete once the Goods have been unloaded kerbside at the address for delivery set out in your order or collected by you or a carrier organised by you to collect them from us and the Goods will be at your risk from that time.
- 6.3. You own the Goods once we have received payment in full, including any applicable delivery charges.
- 6.4. If we fail to deliver the Goods, our liability is limited to the cost of obtaining replacement goods of a similar description and quality in the cheapest market available, less the price of the Goods. However, we will not be liable to the extent that any failure to deliver was caused by an Event Outside Our Control, or because you failed to provide adequate delivery instructions or any other instructions that are relevant to the supply of goods.
- 6.5. If you fail to take delivery within 5 working days after the day on which we notified you that the Goods were ready for collection/delivery we may resell part of, or all the Goods. We shall repay you the price you paid for the Goods after deducting reasonable storage, insurance and selling costs and any shortfall between the resale price and the price you paid for the Goods.
- 6.6. We only deliver Goods to local postcodes under our standard delivery process, the computer system will not accept orders out with these postcodes. We will also check your delivery address on receipt of your order and if we are unable to offer our standard delivery we will contact you to either (a) reject your order or (b) agree alternative delivery processes and costs (at our discretion). For the avoidance of doubt, we reserve the right to cancel any contracts where the intended delivery location is out with the above areas. Where we exercise this right we will notify you of this promptly and refund any money paid by you.
- 6.7. You may place an order for Goods from outside the UK, but this order must be for delivery to an address in the Scottish central belt.

## **7. PRICE OF GOODS**

- 7.1. The prices of the Goods will be as quoted on our site at the time you submit your order. We take all reasonable care to ensure that the prices of Goods are correct at the time when the relevant information was entered onto the system. However, please see Clause 7.4 for what happens if we discover an error in the price of Goods you ordered.
- 7.2. Prices for our Goods may change from time to time, but changes will not affect any order you have already placed.
- 7.3. The price of Goods includes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. 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 Goods in full before the change in VAT takes effect.
- 7.4. It is always possible that, despite our reasonable efforts, some of the Goods on our site may be incorrectly priced. If we discover an error in the price of the Goods you have ordered we will contact you to inform you of this error and we will give you the option of continuing to purchase the Goods at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing. If we mistakenly accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may cancel supply of the Goods and refund you any sums you have paid.

## **8. HOW TO PAY**

- 8.1. You can only pay for Goods:
  - 8.1.1. using a debit card or credit card. Payment is processed by Sagepay. Please note we do not accept payments via Non-UK Visa/MasterCard, JCB or Diners Club and American Express. We do not accept company credit cards. This list is subject to review by us and our payment providers; or
  - 8.1.2. If you have a trade account with us you can log-in to your account and arrange for the price of the Goods to be added to your account and paid in accordance with the terms that apply to your account.
- 8.2. Payment for the Goods is in advance of receiving goods. Your debit or credit card will be charged at the point of you submitting your Order.

## **9. OUR WARRANTY FOR THE GOODS**

- 9.1. The Goods are intended for use only in the UK. We do not warrant that the Goods comply with the laws, regulations or standards outside the UK.
- 9.2. We provide a warranty that on delivery the Goods shall:
  - 9.2.1. subject to Clause 4 and Clause 3.3, conform in all material respects with their description;
  - 9.2.2. be free from material defects in design, material and workmanship; and
  - 9.2.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);

9.3. Subject to Clause 9.4, if:

9.3.1. you give us notice in writing within 48 hours of discovery that some or all of the Goods do not comply with the warranty set out in Clause 9.2; We request you provide photographs to demonstrate any defects found.

9.3.2. we are given a reasonable opportunity of examining the Goods; and

9.3.3. you make the Goods available to us to collect or, if we ask, you return the Goods to us at your cost.

We will, at our option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

9.4. We will not be liable for breach of the warranty set out in Clause 9.2 if:

9.4.1. you make any further use of the Goods after giving notice to us under Clause 9.3;

9.4.2. the defect arises as a result of us following any drawing, design or specification supplied by you;

9.4.3. you alter or repair the Goods without our written consent;

9.4.4. the defect arises as a result of your failure to follow any manufacturer's instructions; or

9.4.5. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

9.4.6. the Goods differ from their description or specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

9.5. We will only be liable to you for the Goods' failure to comply with the warranty set out in Clause 9.2 to the extent set out in this Clause 9.

9.6. Except as expressly stated in these Terms, we do not give any representations, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Goods are suitable for your purposes.

9.7. These Terms also apply to any repaired or replacement Goods supplied by us to you.

## **10. OUR LIABILITY: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

10.1. References to liability in this Clause 10 include every kind of liability arising under or in connection with the Contract including but not limited to liability in contract, delict (including negligence), misrepresentation, restitution or otherwise.

10.2. Nothing in these Terms limits or excludes our liability for:

10.2.1. death or personal injury caused by our negligence;

10.2.2. fraud or fraudulent misrepresentation;

10.2.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

10.2.4. any other liability that cannot be limited or excluded by law.

10.3. Subject to Clause 10.2, we will under no circumstances be liable to you for:

10.3.1. any loss of profits, sales, business, or revenue;

10.3.2. loss or corruption of data, information or software;

10.3.3. loss of business opportunity;

10.3.4. loss of anticipated savings;

10.3.5. loss of goodwill;

10.3.6. any indirect or consequential loss;

10.3.7. loss where our instructions concerning the Goods have not been followed; or

10.3.8. loss resulting from the Goods being manufactured or supplied in accordance with any specification or instructions provided by you.

10.4. Subject to Clause 10.2, our total liability to you for all losses arising under or in connection with the Contract will in no circumstances exceed 100% the price of the Goods.

## **11. EVENTS OUTSIDE OUR CONTROL**

11.1. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by any act or event beyond our reasonable control (**Event Outside Our Control**).

11.2. If an Event Outside Our Control takes place that affects the performance of our obligations under the Contract:

11.2.1. we will contact you as soon as reasonably possible to notify you; and

11.2.2. our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of Goods to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

11.2.3. You may cancel the Contract affected by an Event Outside Our Control which has continued for more than 30 days. To cancel please contact us. If you opt to cancel, you will return (at our cost) any relevant Goods you have already received and we will refund the price you have paid, including any delivery charges.

## **12. COMMUNICATIONS BETWEEN US**

12.1. When we refer to "in writing" in these Terms, this includes email.

12.2. Any notice given by one of us to the other under or in connection with the Contract must be in writing and be delivered by hand, sent by pre-paid first class post or other next working day delivery service, or email. Where delivered by email the notice must be delivered to the following addresses:

12.2.1. Where the notice is being served on us: Gilmour & Aitken Ltd, Auchincarroch Road, Alexandria, G83 9EY.

12.2.2. Where the notice is being served on you: to the email address set out in your order.

12.3. A notice is deemed to have been received:

12.3.1. if delivered by hand, at the time the notice is left at the proper address;

12.3.2. if sent by pre-paid first class post or other next working day delivery service, at noon on the second working day after posting; or

12.3.3. if sent by email, at 10:00am the next working day after transmission.

12.4. 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 email, that such email was sent to the specified email address of the addressee.

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

### **13. GENERAL**

13.1. We may assign or transfer our rights and obligations under the Contract to another entity but will always notify you in writing if this happens. We may also subcontract our obligations to a third party.

13.2. You may only assign or transfer your rights or your obligations under the Contract to another person if we agree in writing.

13.3. Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).

13.4. If we do not insist that you perform any of your obligations under the Contract, or if we do not exercise our rights or remedies against you, or if we delay in doing so, that will not mean that we have waived our rights or remedies against you or that you do not have to comply with those obligations. If we do waive any rights or remedies, we will only do so in writing, and that will not mean that we will automatically waive any right or remedy related to any later default by you.

13.5. Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

13.6. The Contract is between you and us. No other person has any rights to enforce any of its terms.

13.7. The Contract is governed by Scots law and each party irrevocably agrees to submit all disputes arising out of or in connection with the Contract to the exclusive jurisdiction of the Scottish courts.

13.8. We will handle your personal data in accordance with our Privacy Policy.