

TIMBERMILL[®]

Timbermill PTY LTD – Overall Terms & Conditions

This agreement is made between Timbermill Pty Limited ACN 167 686 160 of 70 Shepherd St, Marrickville, New South Wales 2204 (**Timbermill**) and the individual or company:

- referred to in a quotation supplied by Timbermill in respect of the purchase or hire of goods (**Purchase Quote** and **Hire Quote**, respectively); or
- wishing to licence space in the 'Level One' workspace,

in each case, **you** or the **Customer**.

The terms of this agreement are comprised of this cover page (including the *General Terms* below), together with the terms of any Purchase Quote, Hire Quote or Level One Membership Agreement (as applicable) and:

- where a Customer is renting furniture or other goods, Part 1; and
- where a Customer is purchasing custom furniture, joinery and projects, Part 2;
- Where a Customer is purchasing timber fronts from our 'Doors and Drawers' offering, Part 3.
- where a Customer is wishing to licence space in the Level One workspace, Part 4.

General Terms

1. Force Majeure

Timbermill will not be liable for the consequence of any circumstance reasonably beyond Timbermill's control, which affects its obligations under this document.

2. General

- 2.1. These terms and conditions are governed by the laws of New South Wales, Australia and each party submits to the non-exclusive jurisdiction of the court of New South Wales.
- 2.2. This document can only be amended, supplemented or waived in writing signed by Timbermill. The failure of Timbermill to enforce, or the delay by Timbermill in enforcing, any of its rights will not waive any other provision of this document or constitute a continuing waiver unless expressly provided.
- 2.3. If a provision or right or remedy of a party under this document is void or unenforceable for any reason, then that part will be read down or severed from this agreement without affecting the validity or enforcement of the remaining provisions.

3. Privacy Policy

- 3.1. Timbermill may collect personal information in dealings with you; this will only be used in relation to the job or current dealings with you. Information may include but is not limited to: email address, first and last name, and phone number
- 3.2. Information is stored for internal data analysis purposes but will never be sold to third party services.
- 3.3. Our websites may contain links to other website that are not operated by us. If you click on a third party link, you will be directed to that third party's site. We strongly advise you to review the Privacy Policy of every site you visit. We do not have control over and some no responsibility for the content, privacy policies or practices of any third party sites or services.

4. Intellectual Property

- 4.1. The customer acknowledge that at all times all intellectual property including, but not limited to, designs, techniques, methods of manufacture, photographs, specifications, artwork, text, patented inventions and registered designs remain the property of Timbermill.
- 4.2. The Customer must not knowingly allow any intellectual property belonging to Timbermill to be reverse engineered, or copied or breached in any other manner. Timbermill may be entitled to compensation for any loss of royalties, damages and/or costs arising from the breach of Timbermill's intellectual property rights.

5. Notices

- 5.1. A notice given under this Agreement must be in writing and sent to the recipient at the address it first gave the other party or as amended from time to time. A notice is deemed to be received:
 - 5.1.1. if sent by hand, when delivered to the addressee;
 - 5.1.2. if by post in Australia, 5 Business Days from and including the date of postage/on delivery to the addressee; or
 - 5.1.3. if by email, on receipt by the sender of an acknowledgement or return receipt;but if the delivery or receipt is on a day which is not a business day or is after 5:00pm (addressee's time) it is deemed to be received at 9:00am on the following business day.

Part 1 – 'Rentals'

1. Hire Quote

- 1.1. The Hire Quote sets out a number of important terms including the items of furniture and any other items to be hired (**Hire Items**), the hire period and delivery times and the cost of the hire. When you accept the Hire Quote via Timbermill's online link or as otherwise agreed between Timbermill and you, you accept that these terms and the information in the Hire Quote are correct. No availability of any item is confirmed until a quote has been accepted and payment has been made (**Refer to section 4.0 Payment**).

2. Agreement

- 2.1. When you confirm your acceptance of the Hire Quote via Timbermill's online link or as otherwise agreed between Timbermill and you, a binding agreement is made between you and Timbermill. These terms (being the Terms and Conditions cover page (including general terms), this Part 3 and the Hire Quote together) form the entire agreement between Timbermill and you (**Agreement**) and supersede any terms that you have proposed.

3. Hire Charges

- 3.1. The price for each of the Hire Items, delivery address (**Premises**), service fees, transport costs, GST, credit card fees and any other charges agreed between the parties are set out in the Hire Quote or invoice (**Hire Charges**).
- 3.2. If any Hire Item is lost or not returned in the same condition as it was supplied by Timbermill, with an allowance for what Timbermill considers is fair wear and tear, you agree to pay the cost of replacing the Hire Item if lost or the cost of cleaning, repairing or replacing (in the case of Hire Items that cannot be cleaned or repaired) any damaged Hire Items. You agree to pay such costs within 14 days of receiving an invoice from Timbermill.

4. Payment

- 4.1. When you accept the Hire Quote, Timbermill will send you an invoice setting out the Hiring Charges. The 50% non-refundable deposit is required to confirm the order, if this is not paid within 7 days the items will be released and reverted to a quote. The final amount owing is due 14 days prior to the Hire Period.

- 4.2. In the event that you require the Hire Items to be available less than 14 days after payment of the non-refundable deposit, you must pay 100% of the Hire Charges when you accept the Hire Quote and return a signed copy of the Hire Quote to Timbermill.
- 4.3. If you pay an invoice less than 24 hours before the Hiring Period commences, you must pay via credit card and ensure that there is sufficient credit on the card you use to cover the payment.
- 4.4. In all cases, all invoices related to a Hire must be paid in full prior to any items being collected or delivered. Timbermill reserves the right to cancel a delivery or dry-hire if an invoice has not been paid.
- 4.5. In all cases, a 50% deposit amount is non-refundable for all jobs in the event of a cancellation.
- 4.6. Unless otherwise arranged with Timbermill and agreed in writing you must not set off against or deduct from the Hire Charges any sums owed or claimed to be owed to you by Timbermill.

5. Hire Items and Period of Hire

- 5.1. The description, illustration and performance of any item contained on Timbermill's website or in any marketing material, price list or advertising does not form part of this Agreement unless expressly stated otherwise.
- 5.2. The Hire Items will be hired exclusively to you for the period of hire (being event start date to the event end date) as set out in the Hire Quote (**Hire Period**).
- 5.3. Timbermill reserves the right to substitute any Hire Item with a similar item if the Hire Item is not available for delivery or collection at the start of the Hire Period. Timbermill will contact you about this prior to your Hire Period.

6. Variations

- 6.1. Once you have accepted the Hire Quote, Timbermill is under no obligation to give its agreement, and will not be liable to you if it does not agree, to any variations to the Agreement requested by you. If Timbermill does agree, a revised quotation will be sent to you. You will need to confirm in writing or via online link that the revised quotation is correct at which time it will form part of this Agreement.

7. Condition of Hire Items

- 7.1. All Hire Items are properly maintained by Timbermill. Timbermill warrants that the Hire Items are in good working order and fit for the purpose for which items of that kind are commonly supplied.
- 7.2. Timbermill takes no responsibility and does not give any warranty or guarantee (save for any warranty or guarantee required to be given pursuant to the Australian Consumer Law) with respect to the acceptability or suitability of the Hire Items for the purposes for which you hired the Hire Items.
- 7.3. If you get delivery you must inspect the Hire Items on delivery. It is your responsibility to inspect the Hire Items on receipt to ensure that all Hire Items are in good working order and fit for the purpose for which you hired them. You must notify Timbermill within 8 hours of receiving the Hire Items if they do not meet the warranty given above.
- 7.4. If you opt to collect the items from Timbermill (dry hire) yourself, it is your responsibility to inspect and check the hire items prior to loading to ensure all Hire items are in good working order and fit for the purpose for which you hired them. You must notify Timbermill immediately prior to leaving our warehouse, or within 8 hours of leaving our warehouse. If you have left the warehouse and then decide that something is not in good working order and fit for the purpose of which you hire them, it is your responsibility to return to our warehouse to swap the item.

8. Supply and return of Hire Items

- 8.1. You can either collect the Hire Items from Timbermill or have them delivered to the Premises. You can also choose to return the Hire Items to Timbermill or have Timbermill collect them from the Premises. The Hire Quote includes the details of the choices you have made and any additional charges for delivery or collection by Timbermill.
 - 8.2. Depending on the choices you have made, Timbermill will confirm with you the date and time window for when the Hire Items can be collected, when they will be delivered to the Premises, when the Hire Items will be collected from the Premises or when you can return them to Timbermill. Timbermill tries to work within the times you have indicated but will not be liable for any failure or delay in the supply, delivery or return of the Hire Items.
 - 8.3. When the Hire Items are supplied to you, you must have given Timbermill prior, clear and written instructions as to where on the Premises you want the Hire Items left and either you or your authorised representative named in the Hire Quote, must be at the Premises to accept delivery of the Hire Items. If neither you nor your authorised representative can be present, it is your responsibility to authorise an alternate representative to sign the delivery docket.
 - 8.4. Timbermill is not liable to you or to any third party if you have not told us where you want the Hire Items left in accordance with clause 8.3, or you or your authorised representative, is not present at the Premises when the Hire Items are delivered, and you have not notified Timbermill of your alternate representative.
 - 8.5. If you choose to collect and return the hire items (dry hire) from Timbermill yourself, you must arrive within the designated time specified by Timbermill.
 - 8.6. When you choose to pick up Hire Items from or return Hire Items to Timbermill, you are responsible for making sure that the vehicle and personnel you send are appropriate for the Hire Items being picked up or returned and including the loading or unloading of the Hire Items onto or from the vehicle you are using to transport the Hire Items and for securing the Hire Items properly in the vehicle. Timbermill is not liable for any damage or loss suffered by you or your nominated carrier in connection with the pick up or return of Hire Items. Timbermill reserves the right at any time to refuse to allow any carrier or person that you have chosen to pick up or return the Hire Items if in Timbermill's reasonable opinion, it would be unsafe or dangerous for that person to do so.
 - 8.7. If you have chosen to return the Hire Items (dry hire) to Timbermill, they must be returned on the date and by the time set out in the Hire Quote. If you do not return the Hire Items by this time, Timbermill will charge you the weekly fee per item as set out in the Hire Quote or as otherwise notified to you from the time the Hire Items should have been returned until the time the Hire Items are returned to Timbermill.
 - 8.8. Where Timbermill is responsible for delivering and/or collecting the Hire Items from the Premises, you must ensure that there is suitable access at the Premises and you have clearly communicated access restrictions to Timbermill prior to the delivery and/or collection occurring. If the access is not suitable, Timbermill has no obligation to deliver or collect the Hire Items. If the Hire Items are not ready for collection at the designated time or the Premises cannot be accessed for delivery or collection of the Hire Items within thirty minutes of the designated time, you will be charged a waiting fee or additional hire charges in accordance with Timbermill's daily hire charges until the Hire Items can be delivered or collected.
- 9. Title**
- 9.1. The Hire Items are owned by Timbermill and title does not pass to you even if you become bankrupt, you are unable to pay your debts as they fall due, a liquidator is appointed or there are any other indications that you are insolvent.
 - 9.2. Risk in the Hire Items is borne by you from the time you collect the Hire Items or the Hire Items are delivered to the Premises until you return the Hire Items to Timbermill or Timbermill collects them from the Premises.
 - 9.3. You must not sell, offer for sale, part with possession of, mortgage, assign, transfer, charge, encumber or otherwise deal with the Hire Items.

- 9.4. You hold the Hire Items as bailee only for Timbermill during the Hire Period.
- 9.5. You acknowledge that Timbermill has a security interest in the Hire Items for the purposes of the Personal Properties Securities Act 2009 (Cth) (PPS Act) and to the extent applicable the PPS Act applies. To give effect to the above, you consent to Timbermill affecting a registration on the Personal Properties Security Register (PPSR) (in any manner Timbermill considers appropriate) in relation to any security interest arising under or in connection with this Agreement or any hire agreement and you agree to provide all assistance reasonably required to facilitate this. You also undertake to do all things, including executing any new document or providing any information that is required by Timbermill to allow Timbermill to acquire and maintain a perfected security interest under the PPS Act in respect of the Hire Items and its proceeds, so that Timbermill may register a financing statement or financing change statement and to ensure that our security position, and rights and obligations are not adversely affected by the PPS Act.

10. Hirer's Responsibilities

- 10.1. You must:
- 10.1.1. keep the Hire Items in proper working order and in the condition in which they were supplied to you;
 - 10.1.2. store the Hire Items safely and securely and protect from theft, seizure, loss or damage;
 - 10.1.3. Ensure that the items are not stored outside where they can be damaged by the weather; all items are for indoor use unless otherwise specified - this is including during transport
 - 10.1.4. allow Timbermill (or a nominated person) to enter the Premises to inspect the Hire Items, at any times during the Hire Period;
 - 10.1.5. notify Timbermill immediately if there is any loss or damage to any of the Hire Items;
 - 10.1.6. compensate Timbermill for the cost of repair of any Hire Items that are damaged (other than through fair wear and tear) and are capable of repair;
 - 10.1.7. pay Timbermill for the replacement cost of any of the Hire Items that are lost or damaged beyond repair;
 - 10.1.8. pay any additional costs incurred by Timbermill due to the loss or damage of any of the Hire Items; and
 - 10.1.9. only use the Hire Items for their intended use and in accordance with any instructions for use provided to you by Timbermill.
- 10.2. You must not:
- 10.2.1. alter, tamper, damage or repair the Hire Items without Timbermill's written consent;
 - 10.2.2. remove the Hire Items from the Premises without Timbermill's prior written consent;
 - 10.2.3. give any of the Hire Items to a third party for their use;
 - 10.2.4. tamper with, obliterate, cover up or remove any words or signs affixed to the Hire Items by Timbermill.
- 10.3. You must maintain at your own expense during the Hire Period all appropriate policies of insurance (including by way of example, but not limited to public liability insurance, workers compensation insurance, business insurance or contents insurance). You must, before the Hire Items are supplied to you, produce on request by Timbermill, certificates of currency of insurance or other documents that Timbermill considers appropriate to establish you have taken out the required insurance cover.
- 10.4. If any of the Hire Items are lost or damaged in circumstances where a claim can be made upon insurance effected by Timbermill then you must:
- 10.4.1. provide all necessary co-operation to Timbermill, the Police and the insurer in respect of any claim; and
 - 10.4.2. immediately upon demand, pay to Timbermill any excess payable by Timbermill on the insurance effected by Timbermill.
- 10.5. The above provision does not in any way affect your liability for any loss or damage to the Hire Items or any monies payable under this Agreement.

11. Termination and access for repossession of Quote Items

- 11.1. Either party may terminate this agreement immediately by notice in writing to the other party:
- 11.1.1. if that other party breaches a material term of this Agreement and fails to remedy the breach within 7 business days after being given notice of the breach;
 - 11.1.2. if that other party breaches a material term of this Agreement which is not capable of remedy; or

- 11.1.3. the other party becomes bankrupt, insolvent, or is placed in liquidation, administration or receivership.
- 11.2. Without adversely affecting Timbermill's other right and remedies, on termination of this Agreement, for any reason:
 - 11.2.1. you must provide Timbermill with all reasonable assistance in locating and collecting the Hire Items;
 - 11.2.2. you agree that Timbermill or its employees or agents are entitled to enter the Premises, or any other premises at which the Hire Items are located, and re-take possession of the Hire Items; and
 - 11.2.3. you will indemnify Timbermill, its directors, employees and agents, against any liability, damage, loss, cost, charge or expense incurred by Timbermill arising directly or indirectly out of Timbermill exercising this right of entry.
- 11.3. Any provisions of this Agreement which by their nature should survive termination or expiration of this Agreement, will be deemed to survive termination or expiration of this Agreement and continue to bind the parties.
- 11.4. Subject to the prior written consent and agreement between Timbermill and you as to the sale price of any Hire Item, Timbermill may at your request, agree to sell the Hire Items to you at the expiry of the Hire Period. The Hire Items are not in any other circumstances offered for sale. If Timbermill sells the Hire Items to you, ownership of the Hire Items will remain with Timbermill until all amounts owing by you are paid in full.

12. Indemnity and limitation of liability

- 12.1. Except as expressly set out in this Agreement, and subject to any terms, guarantees, warranties or conditions that by law may not be excluded, all representations, conditions, guarantees, warranties, terms and obligations implied by law or otherwise relating to the hire of the Hire Items are excluded.
- 12.2. If Timbermill is liable for the breach of an imposed or implied term, guarantee, warranty, representation or condition, Timbermill's liability is, at its option, limited to the replacement of the Hire Items or the supply of equivalent items.
- 12.3. To the maximum extent permitted by law, the aggregate liability of Timbermill under or in relation to this Agreement (including indemnities) arising out of all or any act, omission or event or series of related acts, omissions or events will not exceed the dollar value of the Hire Charges that you have paid under this Agreement.
- 12.4. To the maximum extent permitted by law, Timbermill will not be liable for any special, indirect or consequential loss or damage (including personal injury or death), loss of profit or opportunity whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise arising out of or in connection with the supply or use of the Hire Items, including as a result of not being able to use the Hire Items or the late or non-supply of Hire Items.
- 12.5. You agree to defend, indemnify and hold harmless Timbermill, its directors, employees, agents and independent contractors against any claims, damages, costs, liabilities and expenses (including, but not limited to, reasonable legal fees) arising out of or related to any claims, including negligence, made by third parties against Timbermill arising out of your use of the Hire Items.

13. Cancellations or Postponements

- 13.1. If your event has to be cancelled or postponed you can either:
 - 13.1.1. Have the total amount paid converted into a credit note to use in future with a one (1) year expiry from date of issue; or
 - 13.1.2. Get a cash refund to the value of 50% of the total job value
- 13.2. Please note in all cases the 50% deposit is non refundable
- 13.3. We are not able to confirm availability of guarantee any pricing for any jobs that is postponed.

Part 2 – Purchase & Manufacture of Custom Furniture & Build Elements.

1. Purchase Quote

- 1.1. Following an initial consultation (whether verbally or via email) about the requirements of the customer, Timbermill will prepare a formal quote, including a price, details of the furniture, lead times together with other key terms (being the **Purchase Quote** referred to in the General Terms).
- 1.2. A Purchase Quote is valid for a period of 30 days of the date of issue.
- 1.3. When a purchase quote is sent, Timbermill will provide an approximate lead time although no lead time is confirmed until a customer has made relevant deposit payments on dates requested. Lead times change throughout the year.
- 1.4. If a client requires an order by a certain date they must clearly communicate that with Timbermill so we are able to confirm the requested date is possible prior to accepting a Purchase Quote and an agreement (**Clause 3.0**) being made.
- 1.5. Unless otherwise specified, all products are for indoor use only.
- 1.6. All custom items are listed as supply only unless otherwise noted; all delivery & install is a separate charge.
- 1.7. For the avoidance of doubt, Purchase Quote includes any variation Purchase Quote agreed and accepted by Timbermill in accordance with these terms and conditions.
- 1.8. The Customer acknowledges and agrees that timber, and in particular recycled timber, can vary in colour, grain lines and imperfections. The customer must accept this prior to their item being manufactured.

2. Agreement

- 2.1. The acceptance of the Purchase Quote (whether via online link, oral or written) will be deemed as acceptance of these terms and conditions (being the Terms and Conditions cover page (including general terms), this Part 1 and the Purchase Quote together) and form a contract between Timbermill and the Customer (**Agreement**).
- 2.2. Refer to clause **5.0 Deposit and Final payment** as payment dates will determine the lead time for any order.
- 2.3. On acceptance of a Purchase Quote Timbermill will confirm the lead time on a furniture item, unless otherwise agreed by Timbermill all orders will incur the standard lead time noted by Timbermill. Refer to **Clause 2.4** for any variations related to certain dates.
- 2.4. If the item is required for a certain date the customer must communicate this date to Timbermill prior to the quote being confirmed and Timbermill will accept whether they can meet this deadline. All payments must be made, drawings signed off and materials selected by dates requested by Timbermill otherwise Timbermill does not incur any responsibility if an order is not completed by date requested.
- 2.5. No custom furniture or build item will have shop drawings provided until a Purchase quote is confirmed and deposit payment is made. If drawings are required for approval prior to a Purchase Quote being accepted then charges will occur and must be paid in full prior. These drawings will be for concept sake only and not include dimension detail.
- 2.6. Timbermill rejects any other terms proposed by the Customer not agreed by Timbermill and expressly incorporated in these terms and conditions.

3. Variations

- 3.1. Any changes to design or material selection which is not outlined in the Purchase Quote will be deemed a variation of the Agreement and is subject to the written consent of Timbermill, which may be withheld in its absolute discretion.
- 3.2. For the avoidance of doubt, Timbermill is not required to accommodate any requests for changes to the design of the furniture the subject of the Purchase Quote once drawing has been approved and manufacture of the furniture has commenced. Timbermill will work with the customer to try and find a solution in all cases although should the Customer decide not to proceed with the purchase of furniture for this reason, cancellation fees will apply as set out herein.
- 3.3. The Customer acknowledges and agrees that any changes to the design of the furniture the subject of the Purchase Quote requested by the Customer may result in an increase to the price and/or lead time in respect of the furniture.
- 3.4. Where Timbermill agrees to any variations, a revised Purchase Quote will be sent to the Customer for the additional furniture and all variation prices must be agreed to by the Customer prior to the furniture being delivered.

4. Deposit and Final Payment

- 4.1. A 50% non-refundable deposit is payable by the Customer upon acceptance of the Purchase Quote
- 4.2. All relevant lead times will commence from date of deposit payment, or otherwise arrange in writing with Timbermill
- 4.3. Full payment is required prior to delivery of any furniture item unless otherwise arranged in writing with Timbermill

5. Cancellation of Order

- 5.1. Timbermill does not refund or exchange if you change your mind due to the custom nature of our service. In the event that the Customer does not wish to proceed with the purchase of the furniture prior to the commencement of manufacture, the Customer will forfeit the non-refundable deposit.

6. Warranties

- 6.1. Timbermill offers a five (5) year structural warranty on all new furniture items. This covers the structural integrity of the piece. Standard wear and tear is not covered under this structural warranty, it is the responsibility of the client to care and maintain their own item/s.
- 6.2. Timbermill warrants that the furniture will be free from defects, in good working order and fit for the purpose for which that type of furniture is commonly supplied.
- 6.3. Timbermill takes no responsibility and does not give any warranty (save for any warranty required to be given pursuant to the Australian Consumer Law) with respect to the suitability of the furniture for a Customer's individual purposes.
- 6.4. It is the Customer's responsibility to inspect the furniture on delivery to ensure that the furniture is free from defects and in good working order.
- 6.5. For the avoidance of doubt, and given the nature of using recycled timber in furniture applications variations to colour and grades of timber used will only be considered defects if they fundamentally affect the structural integrity of the furniture.

7. Supply of Furniture & Build Items

- 7.1. A Customer may elect to collect the furniture or have the items delivered by Timbermill (or its authorised agents). Details of the supply of items (including any additional charges for delivery facilitated by Timbermill)

are set out in the Purchase Quote. All furniture or custom build items are listed as supply only and do not include delivery or install unless otherwise noted.

- 7.2. Timbermill will request all delivery and access details from the customer prior to the delivery date including preferred delivery date and time. Either the customer themselves or an authorised nominee must be present at time of delivery.
- 7.3. Timbermill will endeavour to effect delivery of the furniture at the times indicated by the Customer but will not be liable for any delay in delivery or for a failure to deliver under any circumstances.
- 7.4. Where the Customer elects to collect the furniture from Timbermill's premises, Timbermill will confirm the date and time window for collection with the Customer. The client must bring appropriate vehicles, Labour and tools for transporting the items. Timbermill reserves the right at any times to refuse any carrier of the Customer.

8. Title

Title and risk in the products, such as loss and damage, pass to the Customer on delivery or collection of the furniture, as the case may be.

9. Indemnity and Limitation of Liability

- 9.1. Timbermill is not liable to refund a Customer should they cancel the Purchase Quote for reasons of variations in the colour or grain of timber used in the furniture manufactured for a Customer from those samples shown at the time of consultation with the Customer.
- 9.2. All guarantees, terms, conditions, warranties, undertakings or representations express or implied in any way relating to this Agreement are excluded to the maximum extent permitted by law. Notwithstanding this, nothing in this document restricts or modifies any right or remedy including any guaranteed imposed or implied under the Australian Consumer Law (if applicable) which contains guarantees to protect consumers of certain goods and services.
- 9.3. To the extent that Timbermill is able to determine the same, Timbermill's liability for breach is limited to (at Timbermill's sole discretion) the repair or replacement of the furniture or a refund of the price paid by the Customer for the furniture.
- 9.4. Save for any liability that Timbermill may not exclude, to the maximum extent permitted by law, our liability for all claims arising under this document, whether in contract, tort (including without limitation negligence), equity, under statute, under an indemnity, or on any other basis, is limited to an amount equal to the Purchase Quote paid by the Customer.
- 9.5. Subject to the provision of this Clause, Timbermill is not liable for any consequential, indirect or special loss or damage, loss of profits, loss of business, business interruption, cost or amount that the Customer is liable for arising out of any loss suffered by third parties under or relating to this Agreement, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.
- 9.6. The Customer must indemnify Timbermill against all liability, claims, damage, loss, cost and expended (including, without limitation, legal fees, costs and disbursements, on a full indemnity basis) whether incurred against or by Timbermill in respect of:
 - 9.6.1. personal injury;
 - 9.6.2. damage to tangible property;
 - 9.6.3. or a claim by a third party, in respect of the use of the furniture.
- 9.7. To the extent that Timbermill's loss is caused by its negligence, the Customer's liability is diminished.

- 9.8. The Customer is not entitled to set off against or deduct from the price any sums owed or claimed to be owed to you by Timbermill.
- 9.9. The description, illustration and performance of any product contained in our catalogue, marketing material, price list or advertising does not form part of this Agreement unless expressly set out in this Agreement.
- 9.10. Timbermill may complete any blanks on any Purchase Quote on the Customer's behalf.

10. Floor Stock or Ex-Rental Furniture Stock

- 10.1. Timbermill occasionally sells off some of their Showroom stock, Floor Stock from within the warehouse and Ex-Rental stock that is no longer to be hired. These items are sold as is and have minor imperfections, and wear and tear. The customer understands this and purchase of one of these items is acceptance of this.

Part 3 – Purchasing from our 'Doors and Drawers' offering

1. Purchase Quote

- 1.1. The client will be required to send an item list of what they require, after this Timbermill will be able to prepare a formal Purchase Quote including pricing, details and lead times together with other key terms
- 1.2. All sizing and products within the Doors and Drawers offering are set. If any item requires variation this will be classed as custom item and will follow the processes and terms of **Part 1 – Purchase & Manufacture of Custom Furniture & Build Elements** of this Terms & conditions document. It is the responsibility of the client to check the correct items are listed on the quote.
- 1.3. The Customer acknowledges and agrees that timber, and in particular recycled timber, can vary in colour, grain lines and imperfections. The customer must accept this prior to their item being manufactured.

2. Agreement

- 2.1. The acceptance of the Purchase Quote (whether via online link, oral or written) will be deemed as acceptance of these terms and conditions (being the Terms and Conditions cover page (including general terms), this Part 2 and the Purchase Quote together) and form a contract between Timbermill and the Customer (**Agreement**).
- 2.2. Refer to clause **4.0 Deposit and Final payment** as payment dates will determine the lead time for any order.
- 2.3. On acceptance of a Purchase Quote Timbermill will confirm the lead time on a Doors and Drawers item, unless otherwise agreed by Timbermill all orders will incur the standard lead time noted by Timbermill. Refer to **Clause 3** for any variations related to certain dates.

3. Variations

- 3.1. After an order is place any chances to design or material selection will be deemed a variation of the Agreement. Any changes to design or material selection which is not outlined in the Purchase Quote will be deemed a variation of the Agreement and is subject to the written consent of Timbermill, which may be withheld in its absolute discretion.
- 3.2. The Customer acknowledges and agrees that any changes to the order requested by the Customer may result in an increase to the price and/or lead time in respect of the items.

4. Deposit and Final Payment

- 4.1. A 50% non-refundable deposit is payable by the Customer upon acceptance of the Purchase Quote
- 4.2. All relevant lead times will commence from date of deposit payment
- 4.3. Full payment is required prior to delivery of any Doors and Drawers item

5. Cancellation of Order

- 5.1. Timbermill does not refund or exchange if you change your mind due to the custom nature of our service. In the event that the Customer does not wish to proceed with the purchase of the item prior to the commencement of manufacture, the Customer will forfeit the non-refundable deposit.

6. Ikea Affiliation

- 6.1. IKEA is a registered trademark of Inter-IKEA Systems B.V and is not affiliated with Timbermill PTY LTD.

Part 4 –Level One Workspace Membership Agreement

1. Licence to use the space

- 1.1. Timbermill grants to the Customer a non-transferable, non-exclusive, revocable licence to use the workspace set out in the Schedule (**Workspace**) at Timbermill's premises at 1/70 Shepherd St, Marrickville, NSW 2204 (**Premises**) and the facilities set out in clause 1.4 on the terms and conditions set out in this agreement.
- 1.2. Timbermill grants the licence referred to in clause 1.1 so that the Customer can use the Workspace for the purpose set out in the Membership Agreement (**Purpose**).
- 1.3. This agreement does not create a tenancy or sub-lease or give the Customer any real property in or other rights to the Premises or Workspace.
- 1.4. The agreement will start on the start date in the Schedule and be for the initial term set out in the Schedule. The agreement will automatically rollover for terms of the same period unless terminated by either party in accordance with clause 6.
- 1.5. The Customer will be entitled to 24/7 access to the Premises via Timbermill's Airkey entrance system and with the entry code, Internet access, use of the large communal area with bookable meeting room, copying, printing and scanning facilities, and amenities usage with kitchen and bathroom areas (**Facilities**). In this agreement, a reference to use of the Workspace includes use of the Facilities. The Customer's use of some Facilities may attract an additional charge notified to the Customer from time to time and Customer agrees to pay this additional charge in accordance with clause 3.2.
- 1.6. The licence granted under clause 1.1 is only for the Customers employees and contractors whose names have been given to Timbermill or are given to Timbermill from time to time and access will only be permitted while those employees or contractors are employees or contractors of the Customer.
- 1.7. The Customer agrees that this licence and use of the Workspace gives the Customer no rights of ownership or otherwise to any of Timbermill's intellectual property rights including its trade marks, copyright protected material, know-how, Confidential Information (defined in clause 8.1) designs and patents.

2. Spaces Available

Meeting Room Booking

- 2.1. A meeting room booking is a short-term booking for a casual user within one of the designated meeting rooms. It is charged at an hourly rate, which depends on the total number of people required to use the space. Users are allowed to use the bathroom and kitchen facilities during their booking.

Dedicated or Hot desk space

- 2.2. A dedicated desk space allows use of all of the Facilities. A desk user will be provided with one desk space, desk chair. A dedicated desk Customer is not authorised to use any branding or signage on the dedicated desk space or elsewhere on the Premises.

Private office space

- 2.3. A private office space will:
- 2.3.1. come with an allocated amount of supplied desks & chairs depending on the total size of the office;
 - 2.3.2. be lockable and a key will be provided to main user;
 - 2.3.3. get a logo decal, supplied by the Customer and approved by Timbermill, applied to the office's door;
and
 - 2.3.4. get a line on the entrance signage noting their business name.
- The Customer is not authorised to use any other branding or signage outside of the private office space.

3. Fees and Payment

- 3.1. The fees payable for the use of a workspace vary depending on the type of workspace and are set out in the Schedule (**Fees**).
- 3.2. On the start date of this agreement, except for bookings that are less than two (2) weeks (such as short-term bookings or hot desk spaces), the Customer must pay Timbermill a bond equal to four (4) weeks of fees. If the agreement is terminated and the workspace is left in the same condition as at the start of the agreement, Timbermill will refund this amount to the Customer within 14 days. The bond cannot be used for the final invoice payment unless otherwise agreed upon by both parties.
- 3.3. For any short-term booking, the Customer must pay a bond equal to 25% of their total booking period. If the agreement is terminated and the workspace is left in the same condition as at the start of the agreement, Timbermill will refund this amount to the Customer within 14 days.
- 3.4. The Customer will be invoiced in advance every four (4) weeks based on their licensed Workspace. The invoice will also include any additional charges such as photocopying and printing charges, meeting room or studio space rental fees, or storage charges incurred during the previous period. Payment for all invoiced amounts must be made within seven days of the invoice date.
- 3.5. Notwithstanding clauses 3.2 and 3.3, payment for casual usage, such as the use of a communal area hot desk, must be made on the day of use unless otherwise agreed with Timbermill. In the case of casual usage, the Customer can only be on the Premises during Timbermill's ordinary business hours for that day.

4. Customer obligations and prohibitions

- 4.1. The Customer must:
- 4.1.1. only use the Workspace for the Purpose;
 - 4.1.2. provide their own technology equipment (computers etc) for their own usage;
 - 4.1.3. keep the Workspace clean and tidy at all times for respect of both the space and other users;
 - 4.1.4. inform Timbermill of the names of the people who are authorised to use the Workspace and immediately inform Timbermill if any of these employees or users are no longer employed or engaged by the Customer or inform Timbermill of the names of any additional employees or users who have been authorised to use the Workspace;
 - 4.1.5. ensure that all of its users of the Workspace respect other users of the Premises and local residents including by minimising noise levels;
 - 4.1.6. comply with the fact that private office spaces and dedicated desk spaces are quiet zones by ensuring that any loud telephone calls, group meetings or conversations are held in the communal area or in
 - 4.1.7. comply with all guidelines, rules and regulations relating to the use of the Workspace and Premises including guidelines relating to signage;
 - 4.1.8. comply with all occupational health and safety requirements of Timbermill and any instructions of Timbermill to ensure a safe workplace for all users of the Premises is maintained;
 - 4.1.9. only make any changes to the Workspace or undertake any construction relating to the Workspace with Timbermill's prior written consent.
- 4.2. If the Customer wants to do any building related work in or to their Workspace, including electrical or Internet access related work, the Customer must obtain Timbermill's prior written consent which may be withheld. If the building related work is approved, the Customer agrees to use Timbermill's authorised service providers. Timbermill will provide the Customer with the names of service providers who are authorised to do work on the Premises. The Customer will be responsible for paying the service provider directly unless otherwise agreed.

- 4.3. The Customer agrees that by using the Workspace, it acquires no right to use the "Timbermill" name or any similar name or represent that it has a relationship with Timbermill other than it is a licensee of the Workspace. The Customer must not use the Timbermill name, in whole or in part, or any other name that is substantially identical or deceptively similar to Timbermill.
- 4.4. The Customer must not:
- 4.4.1. use the Workspace for any purpose that is unlawful or prohibited by this agreement;
 - 4.4.2. use the Workspace in any manner that could damage, disable, overburden, or impair any Timbermill server, or interfere with any other person's use and enjoyment of the Premises;
 - 4.4.3. attempt to gain unauthorised access to any other customer's workspace, or accounts, computer systems or networks connected to any Timbermill server or to any of the Facilities, through hacking, password mining or any other means;
 - 4.4.4. obtain or attempt to obtain any materials or information through any means not intentionally made available through the use of the Workspace;
 - 4.4.5. publish, post, upload, distribute or download any materials that are illegal or to which the Customer has no rights;
 - 4.4.6. use the Workspace in connection with contests, pyramid schemes, chain letters, junk email, spamming, spimming or any duplicative or unsolicited messages (commercial or otherwise);
 - 4.4.7. defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others;
 - 4.4.8. use any material or information, including images, which are made available through use of the Workspace, in any manner that infringes any copyright, trade mark, patent, trade secret, or other proprietary right of any party;
 - 4.4.9. upload files that contain viruses, trojan horses, worms, time bombs, candlebots, corrupted files, or any other similar software or programs that may damage the operation of another computer or property of another customer or Timbermill;
 - 4.4.10. restrict or inhibit any other person from using and enjoying the Workspace, Facilities or Premises;
 - 4.4.11. violate any code of conduct or other guidelines which may be applicable to use of the Workspace;
 - 4.4.12. harvest or otherwise collect information about any other person, including email addresses, without the authorisation or consent of that other person; or
 - 4.4.13. create a false identity for the purpose of misleading others.
- 4.5. The Customer must not sublicense its Workspace nor assign any of its rights under this agreement.
- 4.6. The Customer acknowledges that it has inspected the Workspace and the Facilities and agrees to accept them on an "as is" basis as at the start of this agreement. Timbermill makes no representations as to the condition of the Workspace or the Premises and gives no warranty of title, quiet enjoyment, quiet possession or correspondence to description.
- 5. Timbermill's rights and responsibilities**
- 5.1. Timbermill reserves the right at all times to disclose any information about the Customer and the participation in and use of the Workspace as Timbermill deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part in Timbermill's sole discretion.
- 5.2. Timbermill will maintain the Premises in and to a reasonable and customary office standard.
- 5.3. Timbermill has the rights to relocate the Customer to another workspace in the Premises on giving the Customer 30 days' notice provided that the other workspace is substantially similar to the Workspace and provided the Customer will not incur an increase in the Fees or any relocation cost or expense.
- 5.4. Timbermill will use its best endeavours to provide uninterrupted access to the Workspace and Facilities. However, Timbermill will not be liable for any loss or damage suffered by the Customer where access to the Workspace or Facilities is interrupted other than as a direct result of Timbermill's negligent conduct.

- 5.5. Timbermill may enter a Workspace, even when locked, for the purpose of performing repair or maintenance. Timbermill will, where reasonable, give the Customer prior notice of its need to enter the Workspace.

6. Termination

- 6.1. Either party may terminate this agreement immediately by notice in writing to the other party:
- 6.1.1. if that other party breaches a material term of this agreement and fails to remedy the breach within 30 business days after being given notice of the breach;
 - 6.1.2. if that other party breaches a material term of this agreement which is not capable of remedy; or
 - 6.1.3. the other party becomes bankrupt, insolvent, or is placed in liquidation, administration or receivership.
- 6.2. Notwithstanding clause 6.1, if the Customer is in breach of its obligations under clauses 4.3, 4.4 or 4.5, Timbermill may immediately terminate this agreement by notice in writing.
- 6.3. Either party may terminate this agreement without cause on giving the other party 30 days' written notice.
- 6.4. On termination of this agreement, for whatever reason, the Customer's right to access the Premises will end subject to the following. The Customer will have 30 days from the date of termination to request access to the Premises in order to remove all of the Customer's property from the Workspace. Any of the Customer's property remaining on the Premises after this period will be deemed abandoned and may be retained by Timbermill, or disposed of, without liability to the Customer, in such manner as Timbermill determines. Timbermill may require the Customer to reimburse it for any costs or charges incurred by Timbermill in disposing of the Customer's property.
- 6.5. Any provisions of this agreement which by their nature should survive termination or expiration of this agreement, will be deemed to survive termination or expiration of this agreement and continue to bind the parties.

7. Indemnity and limitation of liability

- 7.1. Except as expressly set out in this agreement, and subject to any guarantees, warranties or conditions that by law may not be excluded, all guarantees, warranties or conditions implied by law or otherwise relating to the granting of the licence and use of the Workspace are excluded.
- 7.2. If Timbermill is liable for the breach of an imposed or implied guarantee, warranty or condition, Timbermill's liability is, at its option, limited to the supply of an equivalent licence.
- 7.3. To the maximum extent permitted by law, the aggregate liability of Timbermill under or in relation to this agreement (including indemnities) arising out of all or any act, omission or event or series of related acts, omissions or events will not exceed the dollar value of the fees that the Customer has already paid under this agreement.
- 7.4. To the maximum extent permitted by the applicable law, in no event shall Timbermill or its subsidiaries (whether or not wholly-owned), affiliates, divisions, directors, employees, agents and independent contractors, successors or assigns be liable for any direct, special, incidental, indirect, punitive, consequential or other damages whatsoever (including, but not limited to damages for: loss of profits, loss of confidential or other information, business interruption, personal injury, loss of privacy, failure to meet any duty (including of good faith or of reasonable care, negligence, and any other pecuniary or other loss whatsoever) arising out of or in any way related to the participation in or inability to participate in or use of the Workspace, the provision of or failure to provide the Workspace, or otherwise under or in connection with any provision of this agreement, even in the event of the fault, tort (including negligence), strict liability, breach of contract or breach of warranty of Timbermill, and even if Timbermill has been advised of the possibility of such damages.
- 7.5. You agree to defend, indemnify and hold harmless Timbermill, its subsidiaries (whether or not wholly-owned), affiliates, divisions, directors, employees, agents and independent contractors against any claims, damages, costs, liabilities and expenses (including, but not limited to, reasonable legal fees) arising out of or related to any claims, including negligence, made by third parties against Timbermill arising out of your use of the Workspace.

8. Confidentiality

- 8.1. In this agreement, Confidential Information means all information that is disclosed by Timbermill or another Customer, or seen by the Customer on the Premises, that is non-public, confidential or proprietary in nature including, without limitation, information about business, sales, operations, know-how, trade secrets, business affairs, any knowledge gained through examination or observation of or access to the facilities, computer systems and/or books and records of Timbermill or another Customer, any analyses, compilations, studies or other documents prepared by Timbermill or another Customer or otherwise derived in any manner from the confidential information that you are obliged to keep confidential or know or have reason to know should be treated as confidential.
- 8.2. The Customer must ensure that any users of the Workspace:
- 8.2.1. only use the Confidential Information for the purpose for which it has been disclosed;
 - 8.2.2. keep all Confidential Information confidential;
 - 8.2.3. not use or disclose to a third party any Confidential Information without Timbermill's or the other Customer's prior written consent.
- 8.3. On termination of this agreement or on request by Timbermill, the Customer must return, destroy or delete, all of the Confidential Information that is in the Customer's possession or control.

9. Disparagement

- 9.1. The Customer must not, during and after the participation in and use of the Workspace, make any statements or comments of a defamatory or disparaging nature to any third party regarding Timbermill, Level One, any of Timbermill's directors, personnel, agents, policies, services or products, or any other Customer.

10. Insurance

- 10.1. Timbermill carries liability and business personal property insurance which does not cover the Customer's equipment. The Customer is responsible for taking out and maintaining an appropriate level of insurance for its business for the use of the Workspace including to cover its equipment and other goods while they are on the Premises.
- 10.2. The Customer must have its own public liability insurance with a minimum value of \$5 million and its own workers' compensation insurance. The Customer must provide a certificate of currency to Timbermill before the Customer begins to use the Workspace and at any time during the term of the agreement if requested by Timbermill to do so.