

# NRW eSales - User Terms and Conditions

The following Terms and Conditions will apply to Your use of the Website and the Service

## 1. Definitions in these Terms and Conditions:

“**Bid**” means a bid for one or more Lots submitted by a Bidder;

“**Bid Page**” means the detail page describing the Lots in an Event;

“**Bidder**” means a User who has registered and is authorised to submit Bids;

“**Bidding Rules**” means the bidding rules which apply to a particular Lot, as indicated by the icons on the relevant Bid Page;

“**Closing Date**” means the date and time for cessation of bidding indicated on the Bid Page for the Event in question;

“**eSales**” is the name of the online platform that resides on the Website and provides the Service

“**Event**” means the sale of one or more Lots posted together by Natural Resources Wales on the Website;

“**Lot**” means an individual quantity of timber listed for sale by Natural Resources Wales as part of an Event;

“**Lot Information and Conditions**” means the detailed information and conditions relating to a Lot, including the relevant online purchase terms and conditions, which are accessible via the link on the Bid Page for an Event;

“**Natural Resources Wales**” or “**We**” or “**NRW**” means Natural Resources Body for Wales acting in exercise of the powers contained in the Forestry act 1967 and having principal place of business at Natural Resources Body of Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP;

“**Pre-Qualification Requirements**” means each of the requirements set out at clauses 4.1 and 4.2, and any other information reasonably requested by NRW from You prior to the award of a Purchase Contract;

“**Purchaser**” means a Bidder whose Bid has been accepted by Natural Resources Wales in accordance with these Terms and Conditions;

“**Purchase Contract**” has the meaning given in Condition 5.5

“**Purchase Contract Terms and Conditions**” means the specific terms and conditions relating to the Purchase Contract as set out in the Lot Information and Conditions;

“**Service**” means the online bidding and purchase service offered on the Website;

“**User**” means a person whose application for registration has been accepted and is not suspended;

“**Username**” is Your unique identifier used with a password to access the Service on the Website;

“**Viewer**” means a User who has been registered, solely with rights to access and view the Website, and not as a Bidder;

“**Website**” means the online bidding and purchase service and associated information that is accessed from the webpage at <https://esales.naturalresources.wales/> or other web page address as NRW may advise from time to time

“You” means You as browser or User of the Website or the Service;

## **2. Registration**

- 2.1 The Service and the Website is only available to persons who are capable of forming legally binding contracts under applicable law in England and Wales. The Service is not available to Users who are acting for purposes outside their trade, business, or profession as consumers, or to minors.
- 2.2 We reserve the right to accept or refuse any application for registration as a User at Our discretion.
- 2.3 You may apply to register as either a Bidder or a Viewer. Only a duly registered Bidder may submit Bids. A Viewer may access and view the Website but shall have no authority to submit Bids.
- 2.4 By registering as a User You agree that You have read these Terms and Conditions, that You understand these Terms and Conditions and that You are bound by these Terms and Conditions in Your use of the Service and the Website.
- 2.5 If We accept Your application for registration, We will send You an electronic mail validating Your registration and confirming Your Username. You are solely responsible for maintaining the confidentiality of Your Username and password and shall immediately notify Us by electronic mail of any authorised use of Your Username or password.

## **3. Use of the Service**

- 3.1 Access to the Service is entirely at the discretion of Natural Resources Wales and We reserve the right to temporarily or indefinitely suspend the availability of the Service and /or the Website to You at Our discretion and without prior notice.
- 3.2 You agree to comply with any Bidding Rules or other guidelines relating to Your use of the Service posted on the Website from time to time.
- 3.3 You acknowledge that You have registered to use the Website and the Service for the purposes of Your trade, business and profession and not as a consumer, and that any Purchase Contracts which You enter into are entered into for such purposes. You hereby agree to waive all rights under Regulations 9(1), 9(2) and 11(1) of the Electronic Commerce (EC Directive) Regulations 2002.
- 3.4 We may change, suspend, or discontinue any aspect of the Service including availability of any part of the Service, for any reason whatsoever, without notice. In addition, We reserve the right, in Our sole discretion, to correct any errors or omissions in any portion of the Service or the Website.
- 3.5 You are solely responsible for all use of the Website and the Service using Your Username and /or Your password. Your authorisation to use the Service and the Website is personal to You. You are obliged to complete those transactions that are created by or consequential to the use of Your Username and password, whether such transactions are actually authorised by You or not.
- 3.6 You undertake and warrant that:
  - 3.6.1 all information supplied by You to Natural Resources Wales is, and shall be, true and accurate;
  - 3.6.2 no frivolous or vexatious Bids will be posted using Your Username and password;
  - 3.6.3 You will make no attempt to manipulate the bidding process at any time;

- 3.6.4 Any Bid posted using Your Username and password is and will be posted with Your actual authority;
- 3.6.5 No Bid or other material posted on the Website or otherwise provided by You shall be discriminatory, obscene, illegal or infringe the intellectual property of any third party or shall contain viruses, worms, trojans or other items of a harmful or destructive nature.

#### **4. Pre-Qualification Requirements**

- 4.1 You agree to ensure that the following Pre-Qualification Requirements have each been met before making any Bids. NRW will not accept Your Bids if You have not met these requirements:
  - 4.1.1 You must complete a Timber Sales Qualification Form (TSQF) and have it accepted by Us. You must update and resubmit a TSQF for acceptance whenever any information or circumstances referred to in the TSQF change. The form is available with the sales documents on the Website and should be emailed to [timber.sales@cyfoethnaturiolcymru.gov.uk](mailto:timber.sales@cyfoethnaturiolcymru.gov.uk);
  - 4.1.2 You must also complete a Health & Safety Questionnaire (HSQ) and have it accepted by Us. You must update and resubmit a TSQF for acceptance whenever any information or circumstances referred to in the TSQF change. The form is available with the sales documents on the Website and should be emailed to [timber.sales@cyfoethnaturiolcymru.gov.uk](mailto:timber.sales@cyfoethnaturiolcymru.gov.uk)4.1.2;
  - 4.1.3 We will need at least two weeks to assess Your HSQ or Your TSQF and will advise You if further information is needed. We therefore advise to You to allow at least four weeks before the relevant Event closes to Bids for your HSQ or TSQF to be accepted by Us;
  - 4.1.4 You must also complete a Conflict of Interest (COI) form and email it to [timber.sales@cyfoethnaturiolcymru.gov.uk](mailto:timber.sales@cyfoethnaturiolcymru.gov.uk) before the relevant Event closes to Bids. You must do this for each Event. The form is available with the sales documents on the Website.
- 4.2 You are responsible for keeping Your Pre-Qualification Requirements current and accurate. If You mis-state or misrepresent any information in Your Pre-Qualification Requirements, You may be excluded from future eSale events for a period of up to 3 years and if a Purchase Contract has been entered into, You may be liable for damages and the Purchase Contract may be terminated.
- 4.3 You must not Bid until we are satisfied that You have met the Pre-Qualification Requirements. If information comes to light which causes us to re-evaluate whether or not You have met the Pre-Qualification Requirements to our satisfaction, we may take any action in our discretion, including preventing You from Bidding, disregarding your Bid or terminating any Purchase Contract that You may have entered into.

#### **5. Bidding and Acceptance of Bids**

- 5.1 Following registration as a Bidder and meeting the Pre-Qualification Requirements You are entitled to Bid for Lots at an Event, in accordance with the Bidding Rules and subject to these Terms and Conditions.
- 5.2 Each Event shall close to Bids at the Closing Date without further notice or reminders to You.
- 5.3 Events posted on the Website, and the individual Lots within each Event, are in the form of an invitation to treat. A Bid posted by You shall constitute a binding offer for the Lot in question, capable of acceptance by Us in whole or in part, subject to the Bidding Rules

and any timber quantity limit that we decide to apply under Conditions 5.7 or any limit that You decide to specify at the time of bidding as a condition of Your Bid.

- 5.4 We shall be under no obligation to accept the highest or any Bid, whether or not Our reserve has been met.
- 5.5 Acceptance of a Bid shall be entirely at Our discretion. We will send You an email via the eSales system to accept Your Bid. Such notification of acceptance shall create a binding agreement ("Purchase Contract") between Us and You and such contract shall be deemed to incorporate the Lot Information and Conditions and NRW's timber despatch procedure along with the relevant Purchase Contract Terms and Conditions.
- 5.6 Where no Bid is satisfactory to Us, We may at Our sole discretion, approach anyone who has Bid in the Event and seek to negotiate a sale of the relevant Lot. Otherwise, We may offer the relevant Lot or Lots or any aggregation of any parts of them in any later Event or Events. Alternatively, we may deal with the relevant Lot in any other way we consider appropriate.
- 5.7 We may decide at any time, including during the consideration of Bids, to set a limit on the total quantity that You may buy in a particular Event. Where a limit is set before the relevant Event, we will tell you giving as much notice as we can. Where a limit is set during the consideration of Bids we will tell You before accepting Bids.
- 5.8 Where a quantity limit is applied by Us or by You, We will decide at Our sole discretion which of Your Bids if any will be accepted by Us within that limit.

## **6. Termination**

- 6.1 We expressly reserve the right to suspend or terminate Your right to use the Service and the Website at Our discretion, for any reason and without notice.
- 6.2 You may notify Us at [Timber.Sales@cyfoethnaturiolcymru.gov.uk](mailto:Timber.Sales@cyfoethnaturiolcymru.gov.uk) at any time of Your wish to terminate Your use of the Website and/or the Service, in which case We shall within ten working days revoke Your access rights to the Website and / or the Service and confirm to You that Your right to use the Website and the Service has been terminated.

## **7. Liability**

- 7.1 Except in respect of death or personal injury caused by Our negligence, or as expressly provided in these Terms and Conditions, We, Our agents, representatives, or contractors, shall not be liable to You for any losses or expenses incurred by You by reason of any representation (unless fraudulent), or any implied warranty, condition or other term or any duty at common law or as a result of breach of contract and hereby exclude liability to the fullest extent permitted by law. Without prejudice to the foregoing generality We, Our agents, representatives or contractors shall have no liability for any of the following;
  - 7.1.1 indirect or consequential loss including without limitation, loss of profit, contract, information, anticipated savings or opportunity;
  - 7.1.2 interruption to the Service (including any failure to send any notification to You) or access to the Website.
- 7.2 The world wide web is beyond Our reasonable control and that of Our agents, representatives, or contractors, and none of Us or them guarantees that the Website or the Service will be available continuously and free from faults. In addition, We may need to carry out maintenance of the Website from time to time and/or to suspend operations but in doing so shall attempt to keep any disruption to a minimum.

- 7.3 You accept full responsibility for the protection of Your computer systems including hardware, software and stored data from viruses, worms, trojans or other items of a disruptive nature which may be downloaded or otherwise received from the Website.
- 7.4 You must not attempt to interfere with the proper working of Our Website or the Service and, in particular, You must not attempt to circumvent security, tamper with, hack into or otherwise disrupt any computer system, server, website, router or any other internet connected device.
- 7.5 Where We communicate with or send notifications to You by electronic mail, We will use reasonable endeavours to communicate information as soon as practicable, however You hereby acknowledge that electronic mail deliveries may be delayed or lost, and We accept no liability in respect of any delay or loss in the receipt by the User of any notifications.

## **8. Data Protection and Confidentiality**

- 8.1 The Website and the Service use cookies to retrieve Your details for each use and to enable the functionality and support ease of use. We use cookies in accordance with Our privacy policy details of which are available at <https://naturalresources.wales/footer-links/privacy-notice/?lang=en>.
- 8.2 Details of Bids received are confidential and information contained in Bids shall not be divulged by Us to other Bidders other than as set out in this Condition 8. If You are unsuccessful You may request to be advised by email of the reason why Your Bid was not accepted.
- 8.3 You acknowledge that all or any information that You provide whether during registration, an update of registration or within particular Bids, may contain data protected by the Data Protection Act 2018 and You have no objection to the processing of any such information for the purpose of the Service. You warrant that You have obtained all necessary consents in respect of the use of any such data which relates to third parties and its disclosure to Us.
- 8.4 We may use information provided by You to contact You by electronic mail, text message, telephone, fax or post with information relating to the Service. You may advise Us at any time by email that You do not wish Your information to be used for such purposes.
- 8.5 We may use information provided by You to compile, use and to provide third parties with aggregate statistics about the Service and related site information, but these statistics will not contain information which would identify You.

## **9. Freedom of Information**

- 9.1 You acknowledge that We may receive requests from third parties to disclose certain information in terms of the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004. Where We feel that such disclosure is necessary to enable Us to meet our obligations under said Act or Regulations, and the requested information includes information about You or Your Bids, we will endeavour to advise You prior to disclosing the information to the relevant third party. You hereby acknowledge that any disclosure by us under the said Act or Regulations will not constitute a breach of Condition 8 or of any of our other obligations under these Terms and Conditions.

## **10. Amendments, Modifications and Supplements**

- 10.1 We may amend, modify or supplement these Terms and Conditions, and the Purchase Contract Terms and Conditions, at any time by posting the amended, modified or supplemented terms on the Website. The amended, modified or supplemented terms

shall be effective when posted on the Website and will apply to all Bids submitted after that date and to any Purchase Contract that may result from those Bids

**11. Complaints and concerns**

- 11.1 If You have any complaints, or any concerns about any material which appears on the Website, please use the contact details shown on the Website.

**12. Governing Law and jurisdiction**

- 12.1 These Terms and Conditions, use of the Website and the Service shall be governed by and construed in accordance with the applicable law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction.