

Sale Terms and Conditions

Harrison Bathrooms Limited

The customer's attention is drawn in particular to the provisions of clause 9.

1. INTERPRETATION

1.1 **Definitions.** In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 10.4.

Confirmation of Order: the written acceptance of Order issued by the Supplier.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from the Supplier.

Deposit: the deposit payable as set out in the Confirmation of Order.

Display Goods: Goods supplied by the Supplier to the Customer for nil or at a reduced rate from the Supplier's published price list in force from time to time and that are specified to be for display and promotional purposes.

Force Majeure Event: has the meaning given in clause 10.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form, the Customer's written acceptance of the Supplier's quotation, or verbally made by the Customer, as the case may be.

Supplier: Harrison Bathrooms Limited (registered in England and Wales with company number 07029876).

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing and any attempt by the Customer to exclude, vary or limit these Conditions shall be void.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order submitted by the Customer are complete and accurate.

- 2.3 The Order shall only be deemed to be accepted when the Supplier issues a written Confirmation of Order, at which point the Contract as constituted by the Confirmation of Order and these Conditions shall come into existence or, if earlier, by the Supplier delivering the Goods or notifying the Customer that the Goods are ready for collection (whichever is earlier).
- 2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.5 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.6 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force and the supply of any Goods set out in such catalogues or brochures is subject to availability.
- 2.7 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue provided that the Supplier has not previously withdrawn it. Such a quotation is an invitation to treat by the Supplier to supply the Goods, subject to the Conditions, to the Customer.
- 2.8 The Supplier reserves the right to amend these Conditions from time to time. The Customer's Order shall be subject to the version of the Conditions in force at the time the Customer places the Order unless any change to the Conditions is required by law or regulatory authority.
- 2.9 Any typographical, clerical or other omission or error in the Order or Confirmation of Order shall be subject to correction without any liability on the part of the Supplier.

3. DELIVERY

- 3.1 The Supplier shall deliver the Goods to the location set out in the Confirmation of Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.
- 3.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

- 3.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.4 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.5 In the event that the Supplier or the Supplier's carrier reasonably considers the Delivery Location unsuitable for delivery, the Supplier reserves the right to deliver the Goods as close to the Delivery Location as reasonably possible.
- 3.6 If the Customer fails to take delivery of the Goods or fails to give the Supplier adequate delivery instructions or make adequate arrangements for delivery at the time stated for delivery, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract the Supplier and without prejudice to any other right or remedy available to the Supplier, the Supplier may store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses including (but not limited to):
- (a) insurance;
 - (b) any costs associated with any failed delivery and rearranging such delivery;
 - (c) the Customer shall have 3 hours from the time of delivery to unload the Goods and thereafter shall be charged demurrage at such rate as incurred by the Supplier.
- 3.7 If 10 Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 3.8 The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including 10% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.

- 3.9 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 3.10 The Supplier accepts no liability for loss or damage to the Goods in transit or storage or however so damaged or for delivering the wrong Goods or for non-delivery or delivery of an incorrect quantity of Goods (even if caused by the Supplier's own negligence) unless notified in writing within 3 Business Days of delivery. If the Customer does not provide the Supplier with such notification then the Goods shall be deemed to have been delivered in accordance with the Order.
- 3.11 A signature on behalf of the Customer on any delivery note (or any equivalent documentation) or deemed signature in accordance with clause 7.2 (b) shall be conclusive evidence as to the quantity, condition and quality of the Goods delivered unless notice is given to the Supplier in accordance with clause 3.10.
- 3.12 If notice of any defects is provided within 3 business days of delivery the Customer must return all goods in accordance with the Supplier's return policy which is annexed to this agreement at schedule one.
- 3.13 Any request to return goods that are surplus to requirements or are no longer required by the Customer must be made within 1 month from the date of delivery. The Supplier has an absolute discretion whether to accept such a request. If the request is accepted the Customer will have to pay: 30% of the value of the goods for any goods returned within 1 month.

4. QUALITY

- 4.1 The Supplier warrants that on delivery the Goods shall:
- (a) be free from material defects in design, material and workmanship;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - (c) be fit for any purpose held out by the Supplier.
- 4.2 Subject to clause 4.3, if:
- (a) the Customer gives notice in writing to the Supplier within a reasonable time of discovery and in any event no later than 6 months from the date of delivery that some or all of the Goods do not comply with the warranty set out in clause 4.1;
 - (b) the Supplier is given a reasonable opportunity of examining such Goods; and

- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

4.3 The Supplier shall not be liable for Goods' failure to comply with the warranty set out in clause 4.1 in any of the following events:

- (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 4.2;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same; or
- (c) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

4.4 The Supplier's reasonable opinion as to the cause of the defect shall be final and binding in the absence of manifest error or conclusive evidence to the contrary.

4.5 Except as provided in this clause 4, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.

4.6 The Supplier reserves the right to make any changes to the Goods which are required to conform with any applicable statutory or regulatory requirements from time to time.

4.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

4.8 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

5. TITLE AND RISK

5.1 The risk in the Goods shall pass to the Customer on completion of delivery.

5.2 Subject to clause 5.4, title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for the Goods and all other sums which are due from the Customer to the Supplier.

- 5.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) hold the Goods on a fiduciary basis as the Supplier's bailee;
 - (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (e) notify the Supplier immediately if it becomes subject to any of the events listed in clause 8.2; and
 - (f) give the Supplier such information relating to the Goods as the Supplier may require from time to time,

but the Customer may resell or use the Goods in the ordinary course of its business (save on the occurrence of an event set out at clause 8.2).

- 5.4 Notwithstanding the provisions of clause 5.2, where the Goods supplied by the Supplier to the Customer are Display Goods, title to the Goods shall not pass to the Customer until the earlier of:
- (a) 12 months from the date of the Supplier's invoice relating to such Display Goods;
 - (b) the removal of the Display Goods from display at the Customer's premises;
 - (c) the resale or use of the Display Goods in the ordinary course of its business in accordance with clause 5.3,

provided always that, in relation to clauses 5.4(b) and 5.4(c) the Customer shall be liable to make payment to the Supplier in accordance with the provision of clause 6.2 in relation to such Display Goods.

- 5.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.2, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

6. PRICE AND PAYMENT

- 6.1 The price of the Goods shall be the price set out in the Confirmation of Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery.
- 6.2 On the resale or removal from display at the Customer's premises of any Display Goods the Supplier shall be entitled to invoice the Customer for an amount equal to 50% of the Supplier's published price list in force from time to time for such Display Goods less any amount previously paid by the Customer to the Supplier in respect of such Display Goods and the Customer shall make payment of such invoice in accordance with the remaining provisions of this clause 6.
- 6.3 The Supplier may, by giving notice to the Customer at any time up to 10 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, increases in freight costs and increases in labour, materials and other manufacturing costs);
 - (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or
 - (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 6.4 The price of the Goods is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 6.5 The Supplier may invoice the Customer for the Goods on or at any time after the earlier of:
- (a) completion of delivery; or
 - (b) despatch of the Goods from the Supplier's UK premises.
- 6.6 The Customer shall pay the invoice in full and in cleared funds within 20 Business Days of the last day of the month of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.
- 6.7 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**due date**), then the Supplier may:

- (a) charge interest on the overdue amount at the rate of 8% per annum above HSBC Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount;
- (b) claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;
- (c) the Supplier may at its entire discretion, cancel the Contract or suspend any further Orders and/or deliveries to the Customer until the Customer makes payment of any such overdue amount in full;
- (d) appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other Contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer.

6.8 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

6.9 The Deposit is payable by the Customer to the Supplier in cash or cleared funds to the bank account specified by the Supplier within 5 Business Days of the date of the Confirmation of Order. Such Deposit is non-refundable.

6.10 On termination of the Contract, howsoever caused, the rights of the Supplier set out in this clause 6 shall remain in force.

7. CUSTOMER'S OBLIGATIONS AND WARRANTIES

7.1 The Customer warrants and represents that it has all necessary authority to enter into the Contract and that all information provided to the Supplier by the Customer in relation to the Contract is true and accurate and not misleading and that the Supplier is relying on such information in entering into the Contract.

7.2 The Customer agrees to co-operate fully with the Supplier and at the Customer's expense to provide any assistance reasonably required by the Supplier in relation to the Goods in particular the Customer agrees, without limitation, to:

- (a) inspect and check the Goods upon delivery or collection to ensure that they conform to the Order;

- (b) ensure that an authorised representative of the Customer signs any delivery note relating to the Order (or any equivalent documentation) on delivery to confirm that the Goods comply with the Order and that, in the absence of such signature and provided always that the Customer does not provide the Supplier with notice pursuant to clause 3.10, such delivery note shall be deemed to have been signed by an authorised representative of the Customer and the Goods shall be deemed to comply with the Order; and
- (c) immediately notify the Supplier in writing of the resale or removal from display at the Customer's premises of any Display Goods and make payment to the Supplier in accordance with the provisions of clause 6.2.

8. CUSTOMER'S INSOLVENCY OR INCAPACITY

8.1 If the Customer becomes subject to any of the events listed in clause 8.2, or the Supplier reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the Supplier, the Supplier may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and the Supplier without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.

8.2 For the purposes of clause 8.1, the relevant events are:

- (a) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- (b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (d) (being an individual) the Customer is the subject of a bankruptcy petition or order;

- (e) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (f) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- (g) (being a company) a floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- (i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.2(a) to clause 8.2(h) (inclusive);
- (j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
- (k) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
- (l) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

8.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

9. LIMITATION OF LIABILITY

9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

9.2 Subject to clause 9.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of opportunity, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

10. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

11. GENERAL

11.1 Assignment and subcontracting.

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

11.2 Severance.

- (a) If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, 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 the Contract shall not be affected.

- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

11.3 **Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.

11.4 **Variation.** Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Supplier.

11.5 **Governing law and jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

11.6 **Entire agreement** These conditions supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between the Customer and Supplier, whether written or oral, relating to its subject matter. If there is any conflict or inconsistency between any correspondence between the parties or any purchase order these Conditions will take precedence.