

## Total Bathrooms – Terms and Conditions for Consumer Customers

These Terms and Conditions apply to all Goods and Services provided by us, HG Ventures Ltd, trading as Total Bathrooms, a company registered in England and Wales under number 03978209, whose registered office address is at Unit 2, Brassmill Lane Trading Estate, Bath, England, BA1 3JF (referred to as “we/us/our”).

These Terms and Conditions apply to Consumers only. If you are not a Consumer, please refer to our alternative terms and conditions, available upon request.

### 1. Definitions and Interpretation

- 1.1 In these Terms and Conditions, unless the context otherwise requires, the following terms have the following meanings:  
“**Consumer**” is as defined in the Consumer Rights Act 2015;  
“**Contract**” means the contract formed upon our acceptance of your Order, as detailed in clause 2;  
“**Goods**” means the goods which are to be supplied by us to you as specified in our Order Acknowledgement;  
“**Order**” means your order for the Goods (and Services, where applicable);  
“**Order Acknowledgement**” means our acceptance and confirmation of your Order as described in clause 2. Any prices quoted are valid for a period of 30 days unless otherwise specified;  
“**Property**” means the property as detailed in the Order Acknowledgement at which the Goods are to be delivered or the Services are to take place, where applicable;  
“**Services**” means any installation and/or any other services to be provided by us to you as detailed in our Order Acknowledgement; and  
“**You/Your**” means you, the Consumer entering into the Contract with us.
- 1.2 Each reference in these Terms and Conditions to “writing” and “written” includes emails and similar communications.
- 1.3 The headings used in these Terms and Conditions are for convenience only and will have no effect on their interpretation. Each reference to the singular number includes the plural and vice versa.

### 2. The Contract

- 2.1 These Terms and Conditions will form the basis of the Contract between you and us. Please read them carefully before submitting your Order to us, and contact us if you have any queries.
- 2.2 Once we have received and processed your Order, we will send you an Order Acknowledgement or invoice in writing. A legally binding Contract will be formed as soon as we send this Order Acknowledgement or invoice to you. The Contract will include the acceptance of these Terms and Conditions, which will apply between you and us.
- 2.3 No Order you may submit will be deemed to have been accepted by us until it is confirmed in accordance with clause 2.2.
- 2.4 You are responsible for the accuracy of any information submitted to us and for ensuring that the Order reflects your requirements. Our Order Acknowledgement is based on the information provided to us at the time we prepare it. If any errors or discrepancies become evident which affect our price, we reserve the right to adjust it.
- 2.5 No terms or conditions stipulated or referred to by you in any form whatsoever will in any way vary or add to these Terms and Conditions unless we agree otherwise in writing.

### 3. Surveys and Designs

- 3.1 We can arrange a free survey of the Property, provided the Property address is no more than 15 miles from our showroom address as set out above.
- 3.2 If the Property is more than 15 miles but within 30 miles of our showroom address, we require payment of a deposit in order to arrange the survey, which will be deducted from the Order value if the Order meets our minimum requirements. These figures will be agreed with you in advance.
- 3.3 At the time of survey, we will require full access to the relevant areas within the Property. Our pricing will be based on the dimensions we take and any other findings at this time. If any changes occur from the date of survey to the date of delivery, collection or installation, then we will notify you of any additional costs as a result. You will need to confirm the new Order Acknowledgement and accept the new pricing before we can proceed.
- 3.4 Any design work we carry out will relate to the Goods only, and will be to the specifications provided by you.
- 3.5 You are solely responsible for ensuring that the Goods to be provided are suitable for your Property. This includes, but is not limited to, checking all measurements, access points and services (such as plumbing, electrical and builders' works) before placing your Order. We accept no liability if the Goods do not fit or are unsuitable for your intended purpose, even if the design, survey, plans or layouts are provided by us.

### 4. The Goods

- 4.1 We may provide samples, sketches or similar documents, but these are intended for illustrative purposes only and are not intended to provide an exact specification, or to guarantee specific results.
- 4.2 We reserve the right to make minor changes to the specification of the Goods that do not affect their quality or performance, or as may be required to conform to any applicable safety or other legal or regulatory requirements.
- 4.3 Certain Goods may be identified as non-stock, special order or bespoke. Please note that such items are ordered specifically for you and cannot be cancelled, except in accordance with clause 9 below. They may also have extended lead times for delivery or collection.

- 4.4 The nature of certain Goods, such as tiles, means that variations are likely and we cannot guarantee individual items or separate batch Orders will match.

### 5. Delivery and Collection

- 5.1 We will provide an estimated delivery or collection date for the Goods. However, we cannot guarantee that the Goods will be delivered or available for collection on the estimated date, so we strongly advise that you do not book installers or other tradespeople until you have received and thoroughly checked the Goods as further detailed below. We will not be liable for any costs incurred as a result of delays.
- 5.2 Delivery will be to the ground floor front door of the Property by a single driver. You will need to assist with heavy items, unless you have specifically arranged for a two-person delivery.
- 5.3 The driver may, at their sole discretion, agree to provide reasonable assistance in delivering the Goods to the ground-floor interior of the Property. Any such assistance is expressly carried out at your risk and you may need to sign an additional waiver to confirm this. We cannot be held responsible for any loss or damage that may occur to the Property as a result.
- 5.4 Where delivery is included in the Contract, we have included for one delivery only, which will be carried out once all the Goods in the Order Confirmation are available. If you require additional deliveries, this will be chargeable.
- 5.5 You can choose to arrange your own courier or collect your Order from our warehouse during our normal working hours upon prior arrangement. You will need to provide us with as much notice as possible before collecting, and you will need to bring proof of order. We reserve the right to refuse collection if you are unable to comply with this clause 5.5, in which case we may arrange delivery at your cost.
- 5.6 Delivery (or collection, where applicable) will be deemed to have taken place when the Goods have been delivered to the agreed delivery address or have been collected by you and you (or someone identified by you) have taken physical possession of the Goods.
- 5.7 If you fail to take delivery of or collect the Goods at the agreed time, or fail to give us adequate delivery instructions, then we will charge you for the reasonable costs of storage, together with insurance, administration and restocking fees. We may also treat the Contract as cancelled and recover any Goods you have not yet paid for under clause 8.
- 5.8 You must inspect the Goods within 48 hours of delivery or collection, and before the installation begins, whichever is the sooner. You must notify us of any damage or shortages in writing and send photos and/or videos as evidence within this period.

### 6. Installation (where applicable)

- 6.1 Any programme we agree is an estimate only. We may be delayed by factors outside of our control, so unless we agree otherwise in writing, we will have no obligation to begin or complete our Services by a specified date.
- 6.2 Any Services will be carried out during our normal working hours. Works required outside of these hours may incur extra costs.
- 6.3 We will not carry out any building or decorating work but will endeavour to ensure that the Property does not suffer any significant damage as a result of our works. We are not liable for any damage caused which would reasonably be expected with the carrying out of works in the usual way, such as for small scuffs to walls or floors.
- 6.4 You are responsible for ensuring that:
  - 6.4.1 if any consents, licences or other permissions are needed from any third parties such as landlords, planning authorities, local authorities or similar, these have been obtained before we begin the works;
  - 6.4.2 we can gain access to the Property and have sufficient space in the area in which we are due to work, on the agreed dates and at the agreed times. Our price is based on being able to complete our Services in one continuous visit or where we are carrying out our Services in phases, each phased visit is to be continuous;
  - 6.4.3 you remove any valuable, delicate or other such items which may cause an obstruction to us; and
  - 6.4.4 we have access to sufficient free parking, power, water, wi-fi and adequate welfare facilities, to enable us to carry out our Services.
- 6.5 If you fail to comply with any of your responsibilities under this clause 6, then we reserve the right to suspend the Services and charge you for any costs we may incur, such as for storage of Goods or non-productive visits to the Property. We cannot be held liable for any delays incurred as a result.
- 6.6 Where any materials have been supplied by you, we accept no responsibility for them or for any faults in them. If we are delayed in carrying out our Services because of such materials (if, for example, their delivery is delayed), we reserve the right to charge for any costs incurred by us as a result. Any return visits required due to faults in any such materials will be chargeable.

### 7. Risk and Retention of Title

- 7.1 The responsibility (sometimes referred to as the “risk”) for the Goods remains with us until they have been delivered to the Property or collected by you or someone nominated by you, at which point it will pass to you. Once the risk has passed, it is your responsibility to ensure that there is suitable storage at the Property and that the Goods are adequately insured against any loss or damage to them.
- 7.2 You will only own the Goods once we have received payment in cleared funds for the total Contract value. We reserve the right to recover any Goods in which we retain ownership, if payment is not received in full.

## 8. Payment

- 8.1 We require payment in full at the time the Contract is formed, or payment of a 50% deposit or such other deposit as set out in the Order Confirmation. We will be unable to confirm your Order until this payment has been received in full.
- 8.2 The balance is payable before the Goods can be collected or delivered. We will be unable to confirm the collection or delivery date until this payment has been received in full, in cleared funds.
- 8.3 Payments can be made via bank transfer, by card machine in our showroom, or through a secure payment gateway. No credit or debit card information is provided to us and completion of the transaction will be subject to you agreeing to the payment gateway provider's terms and conditions where applicable. A separate contractual relationship will be created between you and them, and we cannot be held liable for any errors, actions, omissions or incorrect charges that may be made by them.
- 8.4 Any variation must be agreed in writing before we can proceed with the works. Any price variation will become due for payment in accordance with this clause 8.
- 8.5 The time for payment is of the essence of the Contract. If we do not receive any payment by the due date, then without limiting any other rights or remedies available to us, we will have the right to suspend the Order, recover any Goods belonging to us and/or charge you interest on the outstanding amount at the rate of 8% per annum above the Bank of England base rate, accruing on a daily basis from the due date until the actual date of payment, whether before or after judgment. We also reserve the right to charge for any costs we may incur in attempting to recover the outstanding debt.

## 9. Cancellations

- 9.1 As a Consumer, you have a statutory right to a 14 day "cooling-off" period, which begins on the date the Contract is formed and ends 14 calendar days from that date. However, please note that the cooling-off period does not apply to:
- 9.1.1 any purchases made in person at our showroom; or
- 9.1.2 any bespoke Goods or tiles provided by us.

For valid cancellations made within the cooling-off period, we will refund any sums paid to us in advance within 14 days.

- 9.2 If you wish to cancel the Contract after the cooling-off period has expired, please contact us in writing and the following will apply:
- 9.2.1 For in-stock items cancelled prior to delivery or collection, we will provide a full refund. If cancelled after delivery or collection (subject to clause 9.3), we will provide a full refund less 20% restocking costs.
- 9.2.2 For non-stock items we have ordered in for you, if the Order is cancelled prior to delivery or collection, or after delivery or collection (subject to clause 9.3), we will provide a full refund less 30% restocking costs.
- 9.2.3 For seconds or end-of-line items, if the Order is cancelled prior to delivery or collection, we will provide a full refund. No refund will be provided after delivery or collection.
- 9.2.4 For bespoke and/or special-order items, the Order cannot be cancelled once the Contract is formed and no refund will be provided for such items.
- 9.3 All Goods we agree may be returned must be returned to us within 28 days of delivery or collection, unused and unopened, in their original packaging and in a re-saleable condition (to be determined at our absolute discretion) and on the basis that you will be responsible for the costs of returning the Goods to us. Any original delivery costs will not be refunded. No refunds will be provided where the Goods do not conform to this clause 9.3.
- 9.4 If we are providing Services to you, and you wish to cancel the Order, you will remain liable to pay for any Services we have provided up to the date of cancellation.
- 9.5 We reserve the right to cancel the Contract at any time and will confirm this in writing. If we have provided Goods or Services that you have not yet paid for, then we will invoice for these, and the invoice will be immediately due and payable. If we cancel before we have provided any Goods or Services, we will refund any payments you may have made to us in advance, in full.

## 10. Warranty

- 10.1 All Goods supplied by us will be subject to the extents and limits of the warranty provided to us by the manufacturer's guarantee or warranty. Please check the warranty details provided with the Goods for full details.
- 10.2 Any warranty provided is subject to:
- 10.2.1 payment having been received by us for the total Contract value;
- 10.2.2 you following all protection and cleaning instructions (including installation instructions where applicable) and any other guidance we or the manufacturer may issue to you;
- 10.2.3 you providing written notice to us as soon as reasonably possible after becoming aware of any defect, and permitting us access to investigate where necessary.
- 10.3 We cannot be held liable for, and any warranty offered under this clause 10 will not extend to, any damage, premature deterioration or other issues in respect of normal wear and tear, including the occurrence of limescale, or causes beyond our control including, but not limited to, accident, misuse, vandalism, or installation of the Goods by you or any third party.
- 10.4 Any warranty provided is not transferrable and does not include for the cost of removal or reinstallation of the Goods, unless they have been installed by us.

## 11. Liability

- 11.1 We will be responsible for any foreseeable loss or damage that you may suffer as a result of our breach of these Terms and Conditions or as a result of our negligence. Loss or damage is foreseeable if it is an obvious consequence of our

breach or negligence or if it is contemplated by you and us when the Contract is created. We will not be responsible for any loss or damage that is not foreseeable.

- 11.2 We will not be liable to you for any loss of profit, loss of business, interruption to business or loss of any business opportunity.
- 11.3 We may recommend installers or other trades to you, however, it will be your responsibility to carry out your own due diligence and to choose the installer or other tradesperson suitable for your requirements. You will enter into a separate contract with this third party, subject to separate terms and conditions, and we cannot be held liable for their actions or inactions.
- 11.4 Nothing in these Terms and Conditions seeks to exclude or limit our liability for death or personal injury caused by our negligence (including that of our employees or sub-contractors), or fraud or fraudulent misrepresentation.
- 11.5 Nothing in these Terms and Conditions is intended to or will limit any of your legal rights as a Consumer. For details of your legal rights, please refer to your local Citizens' Advice Bureau or Trading Standards Office.

## 12. Intellectual Property Rights

- 12.1 Copyright in any designs, drawings or other documents we provide will belong to us, but where are permitted to do so, we will grant you a royalty-free non-exclusive licence to use and reproduce said documents for your own use, solely in connection with the works. You are not permitted to share them with any other company, without obtaining our express written permission. Any licence granted will be automatically revoked if any payment due under the Contract is not received by us in full.
- 12.2 We will have no liability for improper use of any designs or other documents provided by us, or for amendments to the designs or other documents once they have been provided to you.
- 12.3 You warrant that any design, document or instruction given by you will not cause us to infringe any third party's intellectual property rights.

13. **Events Outside of Our Control (Force Majeure):** We will not be liable for any failure or delay in performing our obligations where that failure or delay results from any cause that is beyond our reasonable control. Such causes include, but are not limited to, supplier shortages, adverse weather, power failure, internet service provider failure, industrial action, fire, flood, storm, earthquake, act of terrorism or war, governmental action, epidemic, pandemic, natural disaster, or any other event that is beyond our control.

14. **Data Protection:** All personal information we may collect will be collected, used and held in accordance with the provisions of the Data Protection Act 2018, the UK GDPR, and any subsequent amendments to them.

## 15. Other Important Terms

- 15.1 We may transfer (assign) our obligations and rights under these Terms and Conditions and the Contract to a third party (if, for example, we sell our business). If this occurs, we will inform you in writing. Your rights under these Terms and Conditions will not be affected and our obligations will be transferred to the third party who will remain bound by them.
- 15.2 You may not transfer (assign) or subcontract your obligations and rights under these Terms and Conditions (and under the Contract, as applicable) without our express written permission.
- 15.3 The Contract is between you and us. It is not intended to benefit any other person or third party in any way and no such person or party will be entitled to enforce any provision of these Terms and Conditions.
- 15.4 Any part of these Terms and Conditions found to be unlawful, invalid or otherwise unenforceable would be severed from our Contract. This will not affect the validity and enforceability of the remaining parts of the Contract.
- 15.5 If the rights under these Terms and Conditions are not exercised or enforced following a breach of contract by either party, this does not mean that either of us has waived our right to do so at a later date.

16. **Governing Law and Jurisdiction:** These Terms and Conditions and any Contract between you and us will be in accordance with the laws of England and Wales and any dispute will fall within the jurisdiction of the courts of England and Wales.

## Total Bathrooms – Terms and Conditions for Trade Customers

These Terms and Conditions apply to all Goods provided by us, HG Ventures Ltd, trading as Total Bathrooms, a company registered in England and Wales under number 03978209, whose registered office address is at Unit 2, Brassmill Lane Trading Estate, Bath, England, BA1 3JF (referred to as “we/us/our”).

These Terms and Conditions apply to trade Customers only. If you are a Consumer (as defined in the Consumer Rights Act 2015), please refer to our alternative terms and conditions, available upon request.

### 1. Definitions and Interpretation

- 1.1. In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:  
“**Contract**” means the contract formed as detailed in clause 2, which will incorporate, and be subject to, these Terms and Conditions;  
“**Customer/you/your**” means the sole trader, firm, corporate body or Consumer entering into the Contract with us. Where an individual is entering into the Contract on behalf of a business, the individual confirms they have the authority to enter into the Contract on behalf of that business and the business will be our Customer in the context of the Contract;  
“**Goods**” means any goods which are to be supplied by us to you;  
“**Order**” means your order for the Goods; and  
“**Order Acknowledgement**” means our acceptance and confirmation of your Order as described in clause 2. Any prices quoted are valid for a period of 30 days unless otherwise specified.
- 1.2. Unless the context otherwise requires, each reference in these Terms and Conditions to:
  - 1.2.1. “writing” and “written” includes emails;
  - 1.2.2. a statute or a provision of a statute refers to that statute or provision as amended or re-enacted at the relevant time;
  - 1.2.3. “Terms and Conditions” refers to these Terms and Conditions as amended or supplemented at the relevant time;
  - 1.2.4. a clause refers to a clause of these Terms and Conditions;
  - 1.2.5. “party/parties” refer to the parties to these Terms and Conditions;
  - 1.2.6. any reference to a party includes its respective employees, agents and sub-contractors.
- 1.3. The headings used in these Terms and Conditions are for convenience only and will have no effect upon their interpretation.
- 1.4. Words imparting the singular number include the plural and vice versa. References to persons include corporations.

### 2. Basis of the Contract

- 2.1. Once we have received and processed your Order, we will send you an Order Acknowledgement or invoice in writing. A legally binding Contract will be formed as soon as we send this Order Acknowledgement or an invoice to you, or you submit a purchase order to us, and the Contract will include the acceptance of these Terms and Conditions, which will apply between you and us.
- 2.2. If you send us a purchase order, we will check the prices on your purchase order against our up-to-date price list. If the prices do not match, we will contact you to advise of the correct price and will obtain your consent before proceeding.
- 2.3. No terms or conditions stipulated or referred to by you in any form whatsoever will in any respect vary or add to these Terms and Conditions unless we agree otherwise in writing.
- 2.4. You are responsible for the accuracy of any information submitted to us and for ensuring that the Order reflects your requirements. Our Order Acknowledgement is based on the information provided to us at the time we prepare it. Should any errors or discrepancies become evident which affect the order value, we reserve the right to adjust it.
- 2.5. Any typographical, clerical or other error or omission in any sales literature, Order Acknowledgement, price list, invoice or other document or information issued by us will be subject to correction without any liability on our part.

### 3. Orders and Specifications

- 3.1. The quantity, quality and description of, and any specification for, the Goods will be as set out in our Order Acknowledgement. The Goods will only be supplied in the minimum units as stated, or in multiples of those units, where applicable. Orders received for quantities other than these minimum units will be adjusted accordingly.
- 3.2. Any design work we carry out will relate to the Goods only, and will be to the specifications provided by you.
- 3.3. You are solely responsible for ensuring that the Goods to be provided are suitable for the property in which they are to be installed. This includes, but is not limited to, checking all measurements, access points and services (such as plumbing, electrical and builders’ works) before placing the Order. We accept no liability if the Goods do not fit or are unsuitable for the intended purpose, even if the design, survey, plans or layouts are provided by us.
- 3.4. We may provide samples, sketches or similar documents, but these are intended for illustrative purposes only and are not intended to provide an exact specification, or to guarantee specific results.
- 3.5. We reserve the right to make minor changes to the specification of the Goods that do not affect their quality or performance, or as may be required to conform to any applicable safety or other legal or regulatory requirements.
- 3.6. The nature of certain Goods, such as tiles, means that variations are likely and we cannot guarantee individual items or separate batch Orders will match.

- 3.7. It is your responsibility to ensure that any use, re-sale or distribution of the Goods by you or any third party is in compliance with all instructions issued by us, and any applicable statutory requirements. If the Goods are to be shipped, re-sold or distributed outside of the UK, you will be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties, import and export taxes and other charges on them.

### 4. Delivery and Collection

- 4.1. Any delivery or collection dates specified are approximate only and we will not be liable for any delay, howsoever caused. Time for delivery or collection is not of the essence of the Contract. We may also deliver in advance of the specified delivery date upon giving you reasonable notice.
- 4.2. Delivery will be to the ground floor front door of the Property by a single driver. You will need to assist with heavy items, unless you have specifically arranged for a two-person delivery.
- 4.3. The driver may, at their sole discretion, agree to provide reasonable assistance in delivering the Goods to the ground-floor interior of the Property. Any such assistance is expressly carried out at your risk and you may need to sign an additional waiver to confirm this. We cannot be held responsible for any loss or damage that may occur to the property as a result.
- 4.4. Where delivery is included in the Contract, we have included for one delivery only, which will be carried out once all the Goods in the Order Confirmation are available. If you require additional deliveries, this will be chargeable.
- 4.5. You can choose to collect your Order from our warehouse during our normal working hours upon prior arrangement. You will need to provide us with as much notice as possible before collecting, and you will need to bring proof of order. We reserve the right to refuse collection if you are unable to comply with this clause 4.5, in which case we may arrange delivery at your cost.
- 4.6. Delivery (or collection, where applicable) will be deemed to have taken place when the Goods have been delivered to the agreed delivery address or have been collected by you and you (or someone identified by you) have taken physical possession of the Goods.
- 4.7. If you fail to take delivery of or collect the Goods at the agreed time, or fail to give us adequate delivery instructions, then we will charge you for the reasonable costs of storage, together with insurance, administration and restocking fees. We may also treat the Contract as cancelled and recover any Goods you have not yet paid for under clause 5.
- 4.8. You must inspect the Goods within 48 hours of delivery or collection, and before the installation begins, whichever is the sooner. You must notify us of any damage or shortages in writing and send photos and/or videos as evidence within this period.

### 5. Pricing and Payment

- 5.1. All prices quoted are exclusive of VAT, where applicable.
- 5.2. We reserve the right to increase the price of the Goods at any time before delivery to reflect any increase in the cost to us which is due to any factor beyond our control (including, but not limited to, any significant increase in the costs of labour, materials or other costs of manufacture). In this event, we will contact you to obtain your consent on the new pricing before proceeding with the Order.
- 5.3. We may, at our sole discretion, offer to open a credit account for you. You agree that in doing so, we may:
  - 5.3.1. carry out credit checks, and obtain third parties references as to your financial standing; and
  - 5.3.2. at any time, upon giving you written notice, change our credit payment terms and/or reduce, amend or withdraw the credit facilities offered to you.
- 5.4. We reserve the right to request payment up front by way of pro-forma if you do not have a credit account with us (if, for example, you are a new Customer), if you exceed your credit limit, if, for any reason, we are not satisfied of your creditworthiness, or if we so decide at our sole discretion. In this event, no Goods will be released for delivery until such time as any invoice issued by us has been paid in full.
- 5.5. All invoices issued by us are payable in full, within 30 days end of month from the date of invoice, unless otherwise agreed in writing, without set off, withholding or deduction.
- 5.6. We will be entitled to invoice you on or at any time after your Order for the Goods has been placed. If you wrongfully fail to accept delivery, we will be entitled to invoice you for the quoted price at any time after we have notified you that the items are ready for collection or (as the case may be) we have tendered delivery of the items.
- 5.7. Payment must be made on the due date notwithstanding that delivery may not have taken place and/or that the ownership in the Goods has not passed to you, where applicable.
- 5.8. The time for the payment is of the essence of the Contract. If you do not make payment to us by the due date, then without prejudice to any other rights or remedies available to us, we will have the right to cancel any Orders in progress, suspend any further deliveries to you, and/or charge you interest on the overdue sum at the rate of 8% per annum above the Bank of England base lending rate from time to time. Interest will accrue on a daily basis from the due date for payment until the actual date of payment of the overdue sum, whether before or after judgment. We will also charge for any costs we may incur in attempting to recover any outstanding sum.

### 6. Risk and Retention of Title

- 6.1. Risk of damage to or loss of any Goods will pass to you at the time when we notify you that they are available for collection, or in the case of delivery, at the time of delivery or when we attempted to deliver the Goods.
- 6.2. Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Terms and Conditions, legal and beneficial title in the Goods (and all other Goods supplied by us to you under any other Contract whatsoever) will not pass to you until we have received payment in cleared funds of all sums payable to us under all Contracts in force between you and us, together with interest or other sums payable under such Contracts.
- 6.3. Until such time as the title in the Goods passes to you, you will hold the Goods as our fiduciary agent and they must be properly stored, protected, insured and identified as our property. Until title has passed, you will be entitled to resell or use the Goods in the ordinary course of business but will account to us for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and you must keep all such proceeds separate from any monies or property of yours or any third party.
- 6.4. We will be entitled at any time to require you to deliver up to us any Goods in which we retain title and, if you fail to do so immediately, to enter upon any premises of yours or any third party where we reasonably believe the Goods are being stored, during normal business hours, to repossess them.

## **7. Cancellation**

- 7.1. You may not cancel or change any Order once the Contract is formed, except with our agreement in writing, and on the basis that you agree to indemnify us in full against all loss (including loss of profit), costs (including all labour and materials used), restocking, charges and expenses incurred by us as a result. We will not accept the cancellation or return of any bespoke or special order Goods.
- 7.2. All Goods we agree may be returned must be returned to us within 28 days of delivery or collection, unused and unopened, in their original packaging and in a re-saleable condition (to be determined at our absolute discretion) and on the basis that you will be responsible for the costs of returning the Goods to us. Any original delivery costs will not be refunded. No refunds will be provided where the Goods do not conform to this clause 7.2.
- 7.3. We reserve the right to cancel the Contract at any time and will confirm this in writing. If we cancel before we have provided any Goods, we will refund any payments you may have made to us in advance, in full.
- 7.4. In the event of cancellation:
  - 7.4.1. all payments due under the Contract will become due and immediately payable. In respect of Goods provided but for which no invoice has been submitted, we will be entitled to submit an invoice, which will become immediately due and payable;
  - 7.4.2. any and all obligations of the parties which either expressly or by their nature continue beyond the cancellation or expiration of the Contract will survive cancellation on a pro-rata basis.

## **8. Defects, Shortages and Warranty**

- 8.1. It is your responsibility to inspect any order within 48 hours of delivery or collection. We will be under no liability for any damage or shortages that would be apparent on reasonable careful inspection if the provisions of this clause 8.1 are not complied with and, in any event, will be under no liability if a written complaint is not made to us within this timeframe detailing the alleged damage or shortage.
- 8.2. If any Goods do not conform to the agreed specification, or are otherwise defective, you must notify us in accordance with clause 8.1. We will have no liability under this clause 8 if we have not received this notice, if we have not received payment in full under the Contract by the due date for payment, or in respect of:
  - 8.2.1. any defect in the Goods arising from any drawing, design or specification supplied by you;
  - 8.2.2. any defect arising from normal wear and tear, wilful damage, negligence, improper storage or installation, abnormal conditions at the property, failure to follow our or the manufacturer's instructions (whether oral or in writing), misuse, alteration or repair of the Goods without our prior written approval, or as a result of any other cause beyond our reasonable control.
- 8.3. Where any valid claim is notified to us in accordance with this clause 8, then subject to you giving us suitable opportunity to inspect, investigate and test the alleged defect or failure where applicable, and if we find the Goods to be defective, we will be entitled to replace the Goods (or the part in question) free of charge or, at our sole discretion, refund to you the price of the Goods (or a proportionate part of the price) by way of credit, and we will have no further liability to you.
- 8.4. All Goods supplied by us will be subject to the extents and limits of the warranty provided to us by the manufacturer's guarantee or warranty. Please check the warranty details provided with the Goods for full details.
- 8.5. Any warranty provided is subject to the provisions of clause 8.2. Any warranty provided is not transferrable and does not include for the cost of removal or reinstallation of the Goods.

## **9. Liability and Indemnity**

- 9.1. Nothing in these Terms and Conditions excludes or seeks to exclude our liability for death or personal injury caused by our negligence, or for fraud or fraudulent misrepresentation.
- 9.2. Except as provided in clause 9.1 above, we will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any

loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our employees, agents or otherwise) in connection with the performance of our obligations under the Contract. All warranties or conditions whether express or implied by law are expressly excluded to the maximum extent permitted by law.

- 9.3. In the event of a breach by us of our express obligations under these Terms and Conditions, your remedies will be limited to damages, which in any event, will not exceed the total price paid by you under the Contract for the individual Goods which are the subject of the alleged breach.
- 9.4. You agree to indemnify us against all damages, losses, costs, claims and expenses suffered by us as a result of your actions or inactions, including those of your employees, sub-contractors or agents.

## **10. Intellectual Property**

- 10.1. Copyright in any designs, drawings or other documents we provide will belong to us, but where are permitted to do so, we will grant you a royalty-free non-exclusive licence to use and reproduce said documents for your own use, solely in connection with the works. You are not permitted to share them with any other company, without obtaining our express written permission. Any licence granted will be automatically revoked if any payment due under the Contract is not received by us in full.
- 10.2. We will have no liability for improper use of any designs or other documents provided by us, or for amendments to the designs or other documents once they have been provided to you.
- 10.3. You warrant that any design, document or instruction given by you will not cause us to infringe any third party's intellectual property rights
- 10.4. Any designs and other documentation we may provide will be submitted in our normal standard format only. If additional copies or specific requirements are needed, we reserve the right to apply additional charges.

## **11. Assignment and Sub-Contracting**

- 11.1. You may not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under this Contract.
- 11.2. We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under this Contract, without your consent.

12. **Force Majeure:** We will not be liable for any failure or delay in performing our obligations where that failure or delay results from any cause that is beyond our reasonable control. Such causes include, but are not limited to, supplier shortages, adverse weather, power failure, internet service provider failure, industrial action, fire, flood, storm, earthquake, act of terrorism or war, governmental action, epidemic, pandemic, natural disaster, or any other event that is beyond our control.

13. **Data Protection:** Both parties agree to comply with all applicable data protection legislation including, but not limited to, the Data Protection Act 2018, the UK GDPR, and any subsequent amendments to them.

## **14. Other Important Terms**

- 14.1. No failure or delay by either party in exercising any of its rights under the Contract will be deemed to be a waiver of that right, and no waiver by either party of a breach of any provision of the Contract will be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 14.2. In the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) will be deemed severed from the remainder of these Terms and Conditions (and the Contract, as appropriate). The remainder of these Terms and Conditions will be valid and enforceable.
- 14.3. Nothing in this Contract will render or be deemed to render us an employee or agent of yours or you an employee or agent of ours.
- 14.4. No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 will not apply.
- 14.5. All notices are to be in writing, addressed to the most recent address or email address notified to the other party and will be deemed duly given when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; when sent, if transmitted by email and a successful return receipt is generated; or on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid.

## **15. Law and Jurisdiction**

- 15.1. These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising from them or associated with them) will be governed by, and construed in accordance with, the laws of England and Wales.
- 15.2. Any dispute, controversy, proceedings or claim between the parties relating to these Terms and Conditions or the Contract (including any non-contractual matters and obligations arising from them or associated with them) will fall within the exclusive jurisdiction of the courts of England and Wales.