

# Lakes Bathrooms Limited – Terms and Conditions of Sale

1. **Interpretation**
- 1.1 The following definitions and rules of interpretation apply in these Conditions.
- 1.2 **Definitions:**
  - Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
  - Collection Location:** Lakes's premises or such other location as may be advised by Lakes.
  - Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 16.6.
  - Contract:** the contract between Lakes 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 Lakes.
  - Delivery Location:** the location set out in Lakes's written acceptance of the Order given pursuant to clause 2.5 or such other location as the parties may agree.
  - Force Majeure Event:** an event or circumstance beyond a party's reasonable control including (without limitation) acts of God, flood, drought, earthquake or other natural disaster, epidemic or pandemic, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination or sonic boom, any law or any action taken by a government or public authority, collapse of buildings, fire, explosion or accident, any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on the existence of the Force Majeure Event, or companies in the same group as that party), non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on the existence of the Force Majeure Event) and interruption or failure of utility service.
  - Goods:** the goods (or any part of them) set out in the Order.
  - Group:** in relation to a company, that company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a **member of the Group**.
  - Incoterms:** Incoterms 2020 (International Chamber of Commerce) or any later version of Incoterms as Lakes may stipulate from time to time.
  - Lakes:** Lakes Bathrooms Limited (registered in England and Wales with company number 02739471).
  - Order:** the Customer's online order submitted via Lakes's website, the Customer's purchase order form, the Customer's written acceptance of Lakes's quotation, or overleaf, as the case may be.
  - Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and Lakes.
  - Trade Marks:** any trade marks, logos and images that Lakes may, by express notice in writing, permit or procure permission for, the Customer to use in respect of the Goods.
  - Warranty Period:** the time periods described in clauses 7.2, 7.3 and 7.4.
- 1.3 Interpretation.
- 1.3.1 A reference to:
  - (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
  - (b) legislation or a legislative provision is a reference to it as amended or re-enacted and will include all subordinate legislation made under that legislation or legislative provision;
  - (c) any words following the terms **including** or **include** or any similar expression will be interpreted as illustrative and will not limit the sense of the words preceding those terms;
  - (d) **writing** or **written** includes email but not fax.
2. **Basis of Contract**
- 2.1 These Conditions apply in all circumstances when Lakes and the Customer are trading with each other in the course of their respective businesses. The Customer may place orders for Goods either online via Lakes's website or offline by contacting Lakes.
- 2.2 The Customer may direct any queries or concerns relating to an Order or any other matter relevant to the Contract or sales to: info@lakesshoweringspaces.com.
- 2.3 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 law, trade custom, practice or course of dealing.
- 2.4 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 and any applicable Specification are complete and accurate.
- 2.5 The Order will only be deemed to be accepted when Lakes issues a written acceptance of the Order, at which point the Contract will come into existence.
- 2.6 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.
- 2.7 Any samples, drawings, descriptive matter or advertising produced by Lakes and any descriptions or illustrations contained in Lakes's catalogues or brochures or on Lakes's website are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They will not form part of the Contract nor have any contractual force.
- 2.8 A quotation for the Goods given by Lakes will not constitute an offer. All quotations are subject to availability of and cost to Lakes of Goods and may be withdrawn or amended by Lakes at any time and are therefore non-binding.
3. **Specification**
- 3.1 The parties will use reasonable endeavours to agree the Specification.
- 3.2 If the parties cannot agree on the Specification, without prejudice to any other rights or remedies Lakes may have, Lakes may cancel the Customer's Order without liability. The Customer will pay Lakes on a time and materials basis fair and reasonable compensation for any work in progress on or in relation to the Goods at the time of termination and management time incurred by Lakes in relation to that Order prior to the time of termination including (without limitation) the cost of any Goods already purchased or commissioned for manufacture, but whilst such compensation will not include loss of profits in relation anything which Lakes would have done under the Contract had this not been terminated, it is agreed that Lakes will be entitled to its usual margin on all work it has carried out up to termination.
4. **Goods**
- 4.1 The Goods are described in Lakes's catalogue as modified by any applicable Specification or, in relation to online orders, in the description(s) of the Goods on Lakes's website.
- 4.2 Images of the Goods (and any Goods' packaging) on Lakes's website or in any of Lakes's sales brochures or other literature are for illustrative purposes only.
- 4.3 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer will indemnify Lakes against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Lakes in connection with:
  - 4.3.1 any claim made against Lakes for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Lakes's use of the Specification;
  - 4.3.2 personal injury, loss or damage to property arising from the use of the Goods except to the extent that such injury, loss or damage is solely attributable to the negligence or default of Lakes or Lakes's employees or agents.
- 4.4 Clause 4.3 will survive termination of the Contract.
- 4.5 If required by any applicable statute, regulation or law, Lakes reserves the right to amend the Specification for the purposes of achieving compliance or to cease working on an Order if required. In these circumstances, to the extent legally possible, Lakes will raise any such issue promptly with the Customer and the parties will work together using reasonable endeavours to agree a solution, including an amended Specification if necessary. Lakes reserves the right to increase the price of the Goods if any such solution or amendment to the Specification results in increased costs to Lakes.
- 4.6 Any advice or recommendations given by Lakes or its employees or agents relating to the suitability of the Goods is supplied in good faith but the Customer must satisfy itself that the Goods are suitable for the intended purpose.
- 4.7 All sizes, weights, capacities, dimensions and measurements indicated on Lakes's website and in its brochures and other sales literature are for illustrative purposes and are therefore non-binding.
5. **Delivery and Collection**
- 5.1 If Lakes's acceptance of the Customer's Order pursuant to clause 2.5 confirms that Incoterms will apply to the Order, the relevant stated Incoterm will apply. In that case, if there is any conflict between these Conditions and Incoterms, Incoterms will prevail to the extent required to resolve the conflict.
- 5.2 Lakes reserves the right at any time to refuse to make delivery of the Goods if in its sole opinion the storage and offloading facilities proposed by the Customer are unsafe or inadequate for the Goods. All reasonable costs incurred by Lakes in attempting to make delivery in these circumstances will be for the account of the Customer. Delivery of the Goods by Lakes or Lakes's agent for such delivery will in no way constitute a commitment or representation by Lakes as to the suitability of the Customer's storage or offloading facilities.
- 5.3 In the event of an inconsistency between the Goods (as ordered) and the goods actually delivered or made available for collection (e.g. the wrong products are delivered or made available for collection), the Customer will notify Lakes immediately on discovery (but no later than from 28 days of delivery/collection) and Lakes will contact the Customer to arrange re-delivery/collection of the Goods as soon as reasonably practicable following notification of the inconsistency. The incorrect goods will be collected by or returned to Lakes (at Lakes's option) at Lakes's cost and the Customer will co-operate with Lakes in this respect.
  - 5.4 If Lakes delivers the Goods:
    - 5.4.1 Lakes will deliver the Goods to the Delivery Location; the risk in the Goods will pass to the Customer on completion of delivery; and
    - 5.4.2 delivery is completed on the completion of unloading of the Goods at the Delivery Location.
  - 5.5 If Lakes agrees that the Customer may collect the Goods:
    - 5.5.1 the Customer will collect the Goods from the Collection Location within 5 Business Days of Lakes notifying the Customer that the Goods are ready for collection;
    - 5.5.2 the risk in the Goods will pass to the Customer on collection; and
    - 5.5.3 collection is completed on the completion of loading of the Goods at the Collection Location.
- 5.6 Any dates quoted (or shown on Lakes's website during the online check-out process) for delivery/collection are approximate only, and the time of delivery/making the Goods available for collection is not of the essence. Lakes will not be liable for any delay in delivery or collection of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Lakes /with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.7 Lakes is reliant upon its suppliers and if there is a delay with manufacture and/or supply then that could have the resultant effect of delaying Lakes's supply of Goods to the Customer.
- 5.8 If the Customer wishes to change a pre-agreed delivery/collection date or time then it must notify Lakes before 2pm on the day before the advised delivery/collection date. The Customer will pay Lakes's costs in connection with such a request including (without limitation) storage and re-delivery costs.
- 5.9 The Customer will not be liable for the price of and Lakes will refund any amount paid in respect of Goods, which Lakes fails to deliver or make available for collection. Subject only to clause 13 but notwithstanding any other provision of these Conditions or the Contract, Lakes's further liability in respect of such failure will be limited to the lesser of the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality at the cheapest price available and 10% of the price of the Goods in respect of which such failure occurred. However, Lakes will have no liability for any failure to deliver Goods or make the same Goods available for collection to the extent that such failure is caused by a Force Majeure Event or any breach or failure by the Customer.
- 5.10 If the Customer fails to take delivery of the Goods within 3 Business Days of Lakes notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or Lakes's failure to comply with its obligations under the Contract in respect of the Goods:

## Lakes Bathrooms Limited – Terms and Conditions of Sale

- 5.10.1 delivery/collection of the Goods will be deemed to have been completed at 9.00 am on the third Business Day after the day on which Lakes notified the Customer that the Goods were ready; and
- 5.10.2 Lakes will store the Goods until actual delivery/collection takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.11 If 10 Business Days after the day on which Lakes notified the Customer that the Goods were ready for delivery/collection the Customer has not taken or accepted actual delivery of them, Lakes 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.
- 5.12 Lakes may deliver the Goods or make the Goods available for collection by instalments, which will be invoiced and paid for separately. Each instalment will constitute a separate contract. Any delay in delivery or defect in an instalment will not entitle the Customer to cancel any other instalment.
- 5.13 All deliveries must be signed for as confirmation of receipt and acknowledgement that the correct number of items have been delivered.
6. **Overseas Delivery**  
Lakes may at its discretion agree to deliver Goods to addresses outside of the United Kingdom. However, there are restrictions on some Goods for certain international delivery destinations and it is the Customer's responsibility to ascertain information about the existence and applicability of such restrictions. If the Customer orders Goods for delivery outside of the United Kingdom, that order may be subject to import duties and taxes which are applied when the delivery reaches that destination. Lakes has no control over these charges and cannot predict their amount. The Customer will be responsible for payment of any such import duties and taxes. The Customer must comply with all applicable laws and regulations of the country for which the Goods are destined. Lakes will not be liable or responsible if the Customer breaks any such law.
7. **Quality**  
7.1 Lakes will use all reasonable endeavours to pass on to the Customer the benefit of any applicable manufacturer warranty in connection with the Goods.  
7.2 Subject to clause 7.3, Lakes warrants that on delivery/collection, and for an indefinite period thereafter in relation to Goods comprising shower enclosures and associated spare parts which are stated in Lakes's written acceptance of the Order given pursuant to clause 2.5 to be manufactured by Lakes or a member of Lakes's Group, those Goods will:  
7.2.1 conform in all material respects with their description and any applicable Specification;  
7.2.2 be free from material defects in design, material and workmanship.  
7.3 Lakes warrants that on delivery/collection, and for a period of 10 years thereafter in relation to Goods comprising shower enclosures, seals and spare parts which form part of the "Prospect" range and which are stated in Lakes's written acceptance of the Order given pursuant to clause 2.5 to be manufactured by Lakes or a member of Lakes's Group, those Goods will:  
7.3.1 conform in all material respects with their description and any applicable Specification;  
7.3.2 be free from material defects in design, material and workmanship.  
7.4 Lakes warrants that on delivery/collection, and for a period of 3 years from the date of delivery/collection, all Goods which are supplied with glass surfaces which have been treated with a product containing hydrophobic properties will remain more water repellent than untreated glass surfaces provided that the manufacturer's maintenance recommendations are followed and no harsh or abrasive cleaners are used.  
7.5 Subject to clause 7.6, if:  
7.5.1 the Customer gives notice in writing to Lakes during the Warranty Period within 28 days of delivery/collection (and within 24 hours of delivery/collection if the alleged defect is apparent on visual inspection) that some or all of the Goods do not comply with the warranties set out in clauses 7.2, 7.3 or 7.4;  
7.5.2 Lakes is given a reasonable opportunity of examining such Goods; and
- 7.5.3 the Customer (if asked to do so by Lakes) returns such Goods to Lakes's place of business at the Customer's cost,  
Lakes will, at its option, repair or replace any Goods it agrees are defective, or refund the price of the defective Goods in full.
- 7.6 If the Customer fails to give notice of rejection in accordance with this clause 7, it will be deemed to have accepted these Goods.
- 7.7 Lakes will not be liable for the Goods' failure to comply with the warranties set out in clauses 7.2, 7.3 or 7.4 if:  
7.7.1 the defect arises because the installer of the Goods (whether that is the Customer or a third party) failed to follow Lakes's or the manufacturer's oral or written instructions as to the commissioning or installation of the Goods or (if there are none) good trade practice regarding the same;  
7.7.2 the Customer makes any further use of such Goods after giving notice in accordance with clause 7.5;  
7.7.3 the defect arises because the end customer failed to follow Lakes's or the manufacturer's oral or written instructions as to the use and maintenance of the Goods;  
7.7.4 the defect arises as a result of Lakes following any drawing, design or specification supplied by the Customer;  
7.7.5 the Customer alters or repairs such Goods without the written consent of Lakes;  
7.7.6 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or  
7.7.7 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 7.8 Except as provided in this clause 7, Lakes will have no liability to the Customer in respect of the Goods' failure to comply with the warranties set out in clauses 7.2, 7.3 and 7.4.
- 7.9 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.
- 7.10 No claim for scratched, marked or damaged profiles or glass will be accepted after the Goods have been installed.
- 7.11 The warranties in this clause 7 do not cover glass breakage or any faults arising from installation, modification or improper use.
- 7.12 The Customer will notify end customers purchasing the Goods from the Customer of the applicable product warranties available in connection with the Goods as set out in this clause 7 and of the requirement to register the warranty in accordance with clause 7.13. Such notice will be given to end customers in writing.
- 7.13 **The warranties set out in clauses 7.2, 7.3 and 7.4 will not apply unless the warranty has been registered by following the instructions accompanying the Goods.**
8. **Title**  
8.1 Title to the Goods will not pass to the Customer until the earlier of:  
8.1.1 Lakes receiving payment in full (in cash or cleared funds) for the Goods and any other goods that Lakes has supplied to the Customer in respect of which payment has become due, in which case title to the Goods will pass at the time of payment of all such sums; and  
8.1.2 the Customer reselling the Goods, in which case title to the Goods will pass to the Customer at the time specified in clause 8.3.  
8.2 Until title to the Goods has passed to the Customer, the Customer will:  
8.2.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Lakes's property;  
8.2.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;  
8.2.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery/collection;  
8.2.4 notify Lakes immediately if it becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.4; and  
8.2.5 give Lakes such information as Lakes may reasonably require from time to time relating to:  
(a) the Goods; and  
(b) the ongoing financial position of the Customer.
- 8.3 Subject to clause 8.4, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Lakes receives payment for the Goods. However, if the Customer resells the Goods before that time:  
8.3.1 it does so as principal and not as Lakes's agent; and  
8.3.2 title to the Goods will pass from Lakes to the Customer immediately before the time at which resale by the Customer occurs.
- 8.4 At any time before title to the Goods passes to the Customer, Lakes may:  
8.4.1 by notice in writing, terminate the Customer's right under clause 8.3 to resell the Goods or use them in the ordinary course of its business; and  
8.4.2 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product 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.
9. **Delays**  
9.1 If Lakes's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):  
9.1.1 without limiting or affecting any other right or remedy available to it, Lakes will have the right to suspend the performance of its obligations until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Lakes's performance of any of its obligations;  
9.1.2 Lakes will not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Lakes's failure or delay to perform any of its obligations as set out in this clause 9; and  
9.1.3 the Customer will reimburse Lakes on written demand for any costs or losses sustained or incurred by Lakes arising directly or indirectly from the Customer Default.
10. **Price and Payment**  
10.1 If the Customer has ordered Goods offline, the price for Goods will be the price set out in Lakes's written acceptance of the Order given pursuant to clause 2.5 and will be inclusive of all costs and charges of packaging, insurance, transport of the Goods except if the Goods are to be delivered to the end customer direct in which case the price for Goods will be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which will be invoiced to the Customer in addition.  
10.2 If the Customer has ordered Goods online, the price for the Goods will be as quoted on Lakes's website at the time the Customer submits its Order and will be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which will be charged to the Customer in addition. Such charges will be as advised to the Customer during the check-out process, before the Customer confirms its Order.  
10.3 A large number of Goods are sold through Lakes's website. It is always possible that, despite Lakes's reasonable efforts, some of the Goods on Lakes's website may be incorrectly priced. If Lakes discovers an error in the price of the Goods the Customer has ordered Lakes will contact the Customer and give the Customer the option of continuing to purchase the Goods at the correct price or cancelling its Order. Lakes will not process the Order until the Customer's instructions have been received. If Lakes is unable to contact the Customer using the contact details provided by the Customer during the order process, Lakes will treat the Order as cancelled and notify the Customer. If Lakes mistakenly accepts and processes an Order where a pricing error is obvious and unmistakable and could reasonably have been recognised by the Customer as a mispricing, Lakes may cancel supply of the Goods and refund the Customer any sums already paid.  
10.4 For Orders placed online, the Goods may be paid for by PayPal, debit card or credit card. Payment for all Goods ordered online and all applicable charges is in advance.  
10.5 In respect of Goods ordered offline, Lakes may invoice the Customer for the Goods on or at any time after the completion of delivery or collection (as the case may be).  
10.6 The price of the Goods excludes amounts in respect of value added tax (**VAT**), which the Customer will additionally be liable to pay to Lakes at the prevailing rate, subject to the receipt of a valid VAT invoice.  
10.7 The Customer will pay each invoice submitted by Lakes:  
10.7.1 within 30 days of the end of the month in which the invoice is dated or in accordance with any credit terms agreed by Lakes and confirmed in writing to the Customer; and

## Lakes Bathrooms Limited – Terms and Conditions of Sale

- 10.7.2 in full and in cleared funds to a bank account nominated in writing by Lakes, and time for payment will be of the essence of the Contract.
- 10.8 If the Customer fails to make any payment due to Lakes under the Contract by the due date for payment, then the Customer will pay interest on the overdue amount at the greater of 5% per annum above the Bank of England's base rate from time to time and the High Court judgment rate from time to time. Such interest will accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer will pay the interest together with the overdue amount.
- 10.9 All amounts due under the Contract will be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). Lakes 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 Lakes to the Customer.
- 11. Returns**
- 11.1 If the Customer notifies Lakes within 3 months of delivery/ collection, Lakes may allow the Customer to return Goods which are in a resalable condition provided that:
- 11.1.1 there are no more than 6 individual boxes containing Goods being returned at any one time;
- 11.1.2 Lakes will be entitled to charge carriage and restocking fees of 25% of the invoiced value of all Goods which the Customer is requesting to return up to a maximum charge of £60 in respect of up to 6 individual boxes containing Goods.
- 11.2 For the Goods to be considered to be in resalable condition the Goods must form part of a current range sold by Lakes and the Goods' packaging must be unopened and undamaged.
- 11.3 The charges outlined in clause 11.1.2 will not apply if the Customer places an order for Goods with an invoice value which is at least equal to 200% of the invoice value of the Goods the Customer is requesting to return. Such order must be placed immediately when the return is requested.
- 12. Data Protection**
- Each party will, at its own expense, ensure that it complies with and assists the other party to comply with the requirements of all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including (i) the Data Protection Act 2018 and any successor UK legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK). Each party will ensure that it has all necessary consents and notices in place to enable the lawful transfer of personal data to the other for the purposes of each party fulfilling its obligations under the Contract. Neither party will use or disclose personal data provided to it by the other in connection with the Contract other than for the purpose of fulfilling the Contract.
- 13. Trade Marks**
- 13.1 Lakes grants to the Customer the non-exclusive right to use the Trade Marks in England, Wales, Scotland, Northern Ireland and Ireland in the promotion, advertisement and sale of the Goods, subject to these Conditions. The Customer acknowledges and agrees that all rights in the Trade Marks will remain in Lakes, and that the Customer has and will acquire no right in them by virtue of the discharge of its obligations under the Contract, except for the right to use the Trade Marks as expressly provided in the Contract.
- 13.2 The Customer will:
- 13.2.1 comply with Lakes's instructions in relation to the form, manner and application of the Trade Marks;
- 13.2.2 market and sell the Goods only under the Trade Marks, and not in association with any other trade mark, brand or trade name; and
- 13.2.3 not use the Trade Marks as part of the name under which the Customer conducts its business, or any connected business, or under which it sells or services any products (except the Goods), or in any other way, except as expressly permitted under the Contract.
- 13.3 The Customer will not, without the prior written consent of Lakes:
- 13.3.1 alter or make any addition to the labelling or packaging of the Goods displaying the Trade Marks;
- 13.3.2 do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to the Trade Marks or the reputation or goodwill associated with the Trade Marks;
- 13.3.3 apply for or obtain registration of any trade mark, service mark or design in any country that consists of, or comprises, or is confusingly similar to, the Trade Marks;
- 13.3.4 make any addition or modifications to the Goods or to any advertising and promotional materials supplied by Lakes; or
- 13.3.5 alter, deface or remove any reference to the Trade Marks, any reference to Lakes or any other name attached or affixed to the Goods or their packaging or labelling.
- 13.4 The Customer will not sub-license, assign, transfer, charge, or otherwise encumber the right to use, reference, or designate the Trade Marks to any other party, except as otherwise expressly permitted under the Contract.
- 13.5 The Customer will promptly give notice to Lakes in writing if it becomes aware of:
- 13.5.1 any infringement or suspected infringement of the Trade Marks or any other intellectual property rights relating to the Goods within the Territory; or
- 13.5.2 any claim that any Product or the manufacture, use, sale or other disposal of any Product within the Territory, whether or not under the Trade Marks, infringes the rights of any third party.
- 13.6 In respect of any matter that falls within clause 13.5.1:
- 13.6.1 Lakes will in its absolute discretion, decide what action to take in respect of the matter (if any);
- 13.6.2 Lakes will conduct and have sole control over any consequent action that it deems necessary and the Customer will on being so requested by Lakes and at Lakes's cost assist in taking all steps to defend the rights of Lakes including the institution at Lakes's cost of any actions which it may deem necessary to commence for the protection of any of its rights; and
- 13.6.3 Lakes will pay all costs in relation to that action and will be entitled to all damages and other sums that may be paid or awarded as a result of that action.
- 13.7 In respect of any matter that falls within clause 13.5.2:
- 13.7.1 Lakes and the Customer will agree what steps to take to prevent or terminate the infringement and the proportions in which they will share the cost of those steps and any damages and other sums that may be awarded to or against them; and
- 13.7.2 failing agreement between the parties, either party may take any action as it considers necessary or appropriate, at its own expense, to defend the claim and will be entitled to and responsible for all damages and other sums that may be recovered or awarded against it as a result of that action.
- 13.8 On request by Lakes at any time, the Customer will immediately stop using the Trade Marks.
- 14. Limitation of Liability**
- 14.1 The restrictions on liability in this clause 14 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 14.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 14.2.1 death or personal injury caused by negligence;
- 14.2.2 fraud or fraudulent misrepresentation;
- 14.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- 14.2.4 defective products under the Consumer Protection Act 1987.
- 14.3 Subject to clause 14.2, Lakes'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, will in no circumstances exceed the price of the Goods.
- 14.4 Subject to clause 14.2, the following types of loss are wholly excluded:
- 14.4.1 loss of profits;
- 14.4.2 loss of sales or business;
- 14.4.3 loss of agreements or contracts;
- 14.4.4 loss of anticipated savings;
- 14.4.5 loss of use or corruption of software, data or information;
- 14.4.6 loss of or damage to goodwill; and
- 14.4.7 indirect or consequential loss.
- 14.5 This clause 14 will survive termination of the Contract.
- 15. Termination**
- 15.1 Without limiting its other rights or remedies, Lakes may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 15.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- 15.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 15.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 15.1.4 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 15.2 Without limiting its other rights or remedies, Lakes may suspend provision of the Goods under the Contract or any other contract between the Customer and Lakes if the Customer becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.4, or Lakes reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 15.3 Without limiting its other rights or remedies, Lakes may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 15.4 On termination of the Contract for any reason the Customer will immediately pay to Lakes all of Lakes's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, Lakes will submit an invoice, which will be payable by the Customer immediately on receipt.
- 15.5 Termination or expiry of the Contract, however arising, will not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 15.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract will remain in full force and effect.
- 16. General**
- 16.1 Dispute resolution.**
- 16.1.1 An Expert is a person appointed in accordance with this clause 16.1.1 to resolve any disagreement between the parties as to whether the Goods comply with the warranties set out in clauses 7.2, 7.3 and 7.4. Where under the Contract a party wishes to refer a matter to an Expert, the parties will first agree on the appointment of an independent Expert and agree with the Expert the terms of his appointment. If the parties are unable to agree on an Expert or the terms of the Expert's appointment within 7 days of either party serving details of a suggested expert on the other, either party will then be entitled to request the Centre for Effective Dispute Resolution (**CEDR**) to appoint a suitable and appropriate Expert with the required expertise. The Expert is required to prepare a written decision including reasons and give notice of the decision to the parties within a maximum of 3 months of the matter being referred to the Expert. If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required, then either party may apply to CEDR to discharge the Expert and to appoint a replacement Expert with the required expertise and this clause 16.1.1 will apply to the new Expert as if they were the first Expert appointed. Each party will with reasonable promptness supply each other with all information and give each other access to all documents, personnel and things as the other party may reasonably require to make submissions to the Expert. The Expert will act as an expert and not as an arbitrator. The Expert will determine the matters referred to the Expert under the Contract. The Expert's written decision on the matters referred to the Expert will be final and binding on the parties in the absence of manifest error or fraud. All matters

## Lakes Bathrooms Limited – Terms and Conditions of Sale

- concerning the process and result of the determination by the Expert will be kept confidential among the parties and the Expert. Each party will act reasonably and co-operate to give effect to the provisions of this clause 16.1.1 and otherwise do nothing to hinder or prevent the Expert from reaching their determination. The Expert and CEDR will have no liability to the parties for any act or omission in relation to this appointment, save in the case of bad faith.
- 16.1.2 If any other dispute arises in connection with the Contract or these Conditions, the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing (**ADR notice**) to the other party the dispute, referring the dispute to mediation. If there is any point on the logistical arrangements of the mediation, other than nomination of the mediator, upon which the parties cannot agree within 14 days from the date of the ADR Notice, where appropriate, in conjunction with the mediator, CEDR will be requested to decide that point for the parties having consulted with them. Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR notice.
- 16.1.3 For the avoidance of doubt, clause 16.1 will not prevent Lakes from immediately initiating court proceedings to seek any interim relief (including injunctive relief) or take advantage of any applicable time limitation.
- 16.2 **Force Majeure.** Lakes will not be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. In such circumstances Lakes will be entitled to a reasonable extension of the time for performing such obligations.
- 16.3 **Assignment and other dealings.** Lakes may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Lakes.
- 16.4 **Confidentiality.** Each party undertakes that it will not disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 16.4. Each party may disclose the other party's confidential information (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. Each party will ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 16.4. Neither party will use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 16.5 **Entire agreement.** The Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it will have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 16.6 **Variation.** No variation of the Contract will be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 16.7 **Waiver.** A waiver of any right or remedy is only effective if given in writing and will not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy will not waive that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy.
- 16.8 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed deleted, but that will not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 16.8 the parties will negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 16.9 **Notices.** Any formal notice given to a party under or in connection with the Contract will be in writing and will be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case). Any such formal notice will be deemed to have been received if delivered by hand, at the time the notice is left at the proper address and if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting. This clause 16.9 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 16.10 **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 16.11 **Governing law and jurisdiction.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, will be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.