**TERMS & CONDITIONS**

**1. DEFINITIONS**

In this document the following words shall have the following meanings:

a) “Bathart" a division of Bath Art Ltd, of registered office - Mitchells, Weeford Road, Sutton

Coldfield, West Midlands, B75 6NA

b) “Business address” means Mitchells, Weeford Road, Sutton Coldfield, West Midlands, B75 6NA

c)"Customer" means any person, company, business or organisation in any form who purchases services and/or goods from Bathart.

d)"Goods" means the materials and/or products specified in the proposal and/or required to complete the agreed works.

e)"Services" means the services specified in the quotation.

f) “Works” means the work carried out in the performance of the quotation.

g)” Proposal" means the statement of work, quotation, estimate or other document(s) or correspondence, including email(s), describing the services and goods to be provided by Bathart to the customer.

h) “Notice in Writing” means a letter or email sent by the customer to the business address of Bathart, or by Bathart to the customer, but shall not mean a text or any form of communication made by social media.

i) “Terms and Conditions” means this document.

j) “VAT” means value added tax at the prevailing rate.

**2. GENERAL**

a) These Terms and Conditions shall apply to all contracts for the supply of services and/or goods by Bathart to the customer and shall prevail over any other documentation or communication from the customer. No variation to these Terms and Conditions shall be valid unless agreed in writing by Bathart.

b) Nothing in these Terms and Conditions shall affect the customer's statutory rights.

c) Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which Bathart may be entitled in relation to the goods and services, by any statute, law or regulation.

**3. THE ORDER**

a) Acceptance of the proposal (placing the order) shall only occur by the customer signing acceptance of quotation/terms and conditions provided within 30 days from the date of the proposal. No contract between Bathart and the customer shall come into effect until the customer has accepted the proposal/placed the order in this manner.

b) Any drawings offered at any time, with or in conjunction with a quotation are done so, as an interpretation of the finished article, but should not be taken as an exact rendition. Representative and showroom samples are used to demonstrate typical product, its composition and general appearance.

c) All orders for services and goods shall be deemed to be acceptance of the proposal pursuant to these Terms and Conditions.

d) If the supply of services and/or goods by Bathart is changed, increased or varied in any way with the agreement of Bathart after the acceptance of the proposal, it is understood and agreed that these Terms & Conditions of business will apply to any such changes, increases or variations, not withstanding whether a revised quotation/acceptance is signed by the customer.

e) Bathart reserves the right to amend, modify withdraw any element of the proposal without notice before acceptance of the proposal has been received from the customer.

**4. PRICE AND PAYMENT**

a) The price for the services and goods shall be as specified in the proposal and is inclusive of VAT. If the rate of VAT changes between the date of the order and the date of completion Bathart is entitled to add the necessary additional amount of VAT to the price of the services and goods.

b) Payment of the price shall be in the manner specified in the payment timetable included within the proposal. Time for payment according to the timetable shall be of the essence to the contract.

c) In the event of the customer failing to make full payment on any day upon which it is due, Bathart shall not be under any liability to the customer to complete any further work.

d) In the event of the customer requiring any variation to the proposal, Bathart (if it agrees the variation) shall reserve the right to revise the price accordingly.

Variations and any revised price and/or revised payment timetable will be confirmed by Bathart to the customer and will be deemed to have been agreed by the customer if Bathart proceeds with the works including the variation.

e) During the works matters can sometimes arise which are unforeseen or which Bathart could not have reasonably foreseen. (Examples include poor wall/floor conditions following the removal of old tiling/coverings, plumbing or electrical issues following the lifting of floorboards etc.)

The customer agrees that in these circumstances where there are additional works that are reasonably required to be done to complete the works, an additional price may be payable by the customer based on a fair and reasonable amount for the services/works involved and the goods/materials necessary. Bathart agree that no such additional works will be done or charged for unless Bathart has given the customer prior notice (which may be verbally only) and these additional works will be deemed as having been agreed by the customer. If the customer does not agree to any necessary additional works, the contract will be deemed to have been cancelled by the customer and Bathart will not be responsible for ‘making good’ any damage or disruption caused and will not be responsible for putting the property back to the condition it was in prior to the commencement of the works. If the order is deemed to have been cancelled by the customer in these circumstances, then the customer is required to pay the full quoted amount of all costs (services and goods) incurred by Bathart, including VAT.

**5. PERFORMANCE OF WORKS**

a) Bathart shall use their best endeavours to ensure their attendance on the date(s) agreed. However, the dates of commencement and completion of works indicated by Bathart are an estimate only and are not guaranteed. The estimated dates shall not be of the essence of the contract and Bathart shall not be liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the commencement and completion of the works. Bathart will notify the customer as soon as possible of any delay and will agree a new commencement date if necessary with the customer.

b) If Bathart are unable to commence the works, or continue with them having already commenced as a result of the customer's action or inaction, Bathart reserve the right to reschedule the remainder of the works at a time convenient to Bathart.

c) Bathart shall be entitled to utilise sub-contractors as appropriate under Bathart's direction.

d) Bathart accepts no responsibility or liability where sub-contractors are paid separately/directly by the customer. Bathart are entitled to suggest alternative installation options and Customer acknowledges in no event are Bathart to be deemed responsible/liable for any damages, breakages, bad workmanship or unsatisfactory completion of any works.

e) Customers must be aware that during the performance of the works dust may well be created. Bathart will make reasonable efforts to prevent the spread of this dust but it is the customer's responsibility to protect their property from any damage, and Bathart cannot accept responsibility or liability for cleaning of customer property beyond the area of which is subject of works.

f) We recommend that you examine all purchased goods to check that they are as ordered and undamaged as soon as possible after delivery. Please open each box and check that everything is as ordered and appears in good condition. Bathart will replace goods free of charge that have been incorrectly supplied or damaged in transit during our delivery. Please notify your designer within 7 days from the day after the day on which the goods were received and we will arrange for a replacement item to be delivered and the damaged item to be collected. All damaged goods, wherever possible, should be returned in their original packaging.

g) Customer acknowledges that tiles inherently vary in shade and colour. In no event shall Bathart be liable for any variation in shade and/or colour between tiles received and sample tiles. Customer acknowledges that some tile wearing, crazing or scratching may occur over a period of time with use. Customer acknowledges that in no event shall Bathart be liable for any damages, whether in contract, tort or otherwise, stemming from the original design layout, including any damages which may result from the improper placement of tiles, improper selection of patterns, or blending of colours. Customer acknowledges in no event shall Bathart be liable for any damages, which may result from shortages or overages of tiles ordered.

**6. CANCELLATION - All forms of cancellation must be by notice in writing.**

6.1 Cancellation by Customer

a) If the customer cancels the order prior to the estimated commencement date of the works, the customer may be liable (at Bathart’s discretion) for any costs plus VAT incurred to Bathart.

These costs include, but are not limited to:

* costs incurred by Bathart for the ordering or purchasing of goods which are not refundable to Bathart by the goods supplier(s)
* administration costs

If a deposit payment has been received by Bathart prior to the customer cancellation, these costs will be deducted from the deposit and the balance returned to the customer. If the costs incurred exceed any deposit payment, then an additional payment will be required to Bathart.

b) The customer is not entitled to cancel the order following the commencement of works unless Bathart are in breach of these Terms and Conditions.

6.2 Cancellation by Bathart

a) Bathart may cancel the order by notice in writing to the Customer if:

- the Customer is in breach of these Terms and Conditions.

- the Customer does not make a payment when it falls due.

- proceedings are or are likely to be commenced by or against the customer alleging bankruptcy or insolvency.

- An administrator, receiver or administrative receiver is appointed or is reasonably likely to be appointed over all or part of the customer's undertaking and assets.

b) Upon cancellation by bathart, any money due to Bathart in respect of the order which has been cancelled shall become immediately due and payable and Bathart shall be under no further obligation to provide goods or services.

c) Following cancellation by Bathart in these circumstances, Bathart will not be responsible for ‘making good’ any damage or disruption caused and will not be responsible for putting the property back to the condition it was in prior to the commencement of the works.

**7. RISK &TITLE**

a) All risk in the goods shall pass to the customer upon delivery.

b) Title in the goods shall not pass to the customer until Bathart have been paid in full in accordance with these Terms and Conditions.

c) Should payment not be made in accordance with these Terms and Conditions, Bathart reserves the right (and shall be allowed access by the Customer) to remove any goods supplied or fitted by Bathart. The cost of any damage caused by such removal of products will be of no responsibility or liability to Bathart.

**8. CUSTOMER'S OBLIGATIONS**

a) To enable Bathart to perform its obligations the Customer shall:

i. Co-operate with Bathart.

ii. Make the site available to Bathart for the duration of the works and ensure a safe supply of necessary services and utilities.

iii. Ensure that all personal property and belongings are removed from any working areas.

iv. Provide Bathart with any information reasonably required.

v. Obtain all necessary permissions, licenses and consents (e.g. Planning or Buildings Regulations approval) which may be required before the

vi. Commencement of works, the cost of which shall be the sole responsibility of the customer. It is not the responsibility of Bathart to check that the customer has obtained any required consents or permissions.

vii. Comply with such other requirements as may be set out in the proposal or otherwise agreed between the parties.

**9. GUARANTEES**

a) Bathart shall perform the services with reasonable skill and care and to a reasonable standard in accordance with recognised standards and codes of practice.

b) All labour, installation services and workmanship undertaken by Bathart are guaranteed for a period of 12 months from completion of works.

This guarantee will become null and void if the goods supplied and/or services provided by Bathart are:

i. Subject to misuse or negligence.

ii. Repaired, modified or tampered with by anyone other than a Bathart representative.

iii. Undertaken on instruction from the customer against the written or verbal advice of Bathart.

c) A minimum call out charge of £50 + vat will apply to any works required outside of the 12-month guarantee period regardless of cause.

d) The guarantee comes into effect immediately upon completion of the installation provided that the full price has been paid, otherwise it is void in its entirety.

d) Bathart will not guarantee any work in respect of blockages in waste and drainage systems etc.

e) Goods supplied by Bathart are guaranteed for the period and on the terms as specified by the manufacturer's warranty applicable to the goods. We will replace at our discretion, in part or whole, a product which is defective in operation, materials or workmanship. If the exact model is no longer available, we will endeavour to provide the nearest equivalent from our then current range. To be covered by the guarantee, all products should be installed in accordance with the instructions provided and be for domestic use only. Products must be purchased and installed in the UK and Ireland only. This product guarantee applies to the original purchaser or end user and the original installation address only, is non-transferable and takes effect from the date of purchase. The guarantee does not cover damage during fitting, accidental or malicious damage, improper use or negligence, discolouration due to prolonged exposure to sunlight or UV light, general wear and tear (for example, light bulbs, hinges, cartridges & shower hoses are items that need to be replaced periodically), damage due to poor installation or servicing or consequential loss. Care should be taken in hard water areas to ensure that cartridges are regularly cleaned. We require original proof of purchase to be provided for us to be able to consider any claim, so please keep your invoice and/or receipt. Bathart reserve the right to alter the details of, or wholly withdraw elements of these guarantees entirely at their discretion. Existing commitments will be honoured up to the date the change is made and in accordance with the terms of this document. Our guarantee is in addition to your statutory rights.

f) Where the customer supplies any form of materials or products, Bathart accept no responsibility for any defects or damage and offers no guarantee for these items. It is the customer's responsibility to ensure that such items supplied by them are correct, free from defect and will fit into the installation. Bathart will not be liable for additional labour or other costs caused by or remedying a problem with defective, damaged or incorrect materials or products supplied by the customer.

g) Products sold as ex display have been installed in our store and may well have scuffs and cosmetic damage consistent with normal use and where ever possible we have tried to show affected areas prior to sale. Ex-display products are sold without Bathart guarantees. This does not affect a customer's statutory rights.

h) If the customer is not satisfied with the works then the customer shall give notice in writing within 14 days to Bathart and shall afford Bathart (and their insurers if appropriate) the opportunity of both inspecting such works and carrying out any necessary remedial works if appropriate. The customer accepts that if they fail to notify Bathart then Bathart shall not be liable in respect of any defects in the works carried out.

**10. LIMITATION OF LIABILITY**

a) Nothing in these Terms and Conditions shall exclude or limit the liability of Bathart for death or personal injury.

b) Except to the extent precluded by law, Bathart shall not be liable under any circumstances to the customer or any third party for any indirect or consequential loss of profit, consequential or other economic loss suffered by the customer howsoever caused, as a result of any negligence, breach of contract, misrepresentation or otherwise.

c) For the avoidance of doubt, time shall not be of the essence and Bathart shall incur no liability to the customer in respect of any failure to complete the works by any indicated/agreed completion date.

d) Bathart will always maintain public liability insurance is in place.

**11. FORCE MAJEURE**

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

**12. SEVERANCE**

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions here of shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

**13.GOVERNING LAW**

These Terms and Conditions shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

**14. PRIVACY / DATA PROTECTION**

a) Bathart will not share or disclose to any third party, any personal details supplied to Bathart during business except to undertake a financial check of the customer if deemed necessary by Bathart.

b) The customer agrees that Bathart may take photographs, before, during and after the works and these may be used at the discretion of Bathart for the purpose of advertising or inclusion on social media and websites.

**15. COMPLAINTS**

In the unlikely event that a customer experiences a problem or wishes to complain about the service provided by Bathart, the customer must put their complaint in writing to the Managing Director, Bathart Ltd, Mitchells, Weeford Road, Sutton Coldfield, West Midlands, B75 6NA at their earliest opportunity. Upon receipt of this complaint, Bathart will endeavour to resolve the matter within 14 working days.