

DEFINITIONS

In these Sale Terms the following meaning shall apply: “We”, “Our” and “Us” means Hills Prospect Plc. “You” and “Your” means the person seeking to purchase Goods from Us. “The Goods” means the goods and/or services to be supplied by Us. “The Terms” means these Sale Terms and any special terms agreed in writing between Us and You. THESE TERMS DO NOT APPLY IF YOU ARE A CONSUMER: AN INDIVIDUAL ACTING OUTSIDE OF YOUR TRADE BUSINESS OR PROFESSION.

THE CONTRACT

2.1 All orders are accepted by Us only under these Terms which may not be altered except with Our written agreement. Any Contrary or additional terms unless so agreed are excluded.

2.2 All prices shown are exclusive of VAT and are subject to change at any time without prior notice.

2.3 All Goods are offered subject to availability and Your order will be accepted when We allocate Goods to Your order. If Goods ordered are not available We will seek Your agreement to substitutes except for vintage changes when We will supply the new vintage unless You have previously specified otherwise.

2.4 Once accepted orders may be cancelled only with Our written agreement. Goods are only supplied on a sale or return basis if We have agreed in writing prior to each such sale and on the following terms: * Returned Goods must in Our sole discretion be resellable at full list price by Us. * Up to 25% of the original order may be returned subject to a charge of £75.

2.5 Our brochures and other literature are for Your guidance only and (in the absence of fraud on Our part) shall not constitute representation by Us.

2.6 Alcohol is only supplied in accordance with current legislation which includes a minimum age requirement for individual purchasers of 18 years.

PAYMENT

3.1 Payment in cash is required at the time of each delivery unless We have agreed in writing to give You credit or a Cheque facility. All accounts are due for payment without deduction or retention on or before the 15th of the month following the month in which the invoice was issued.

3.2 Payment is to be made to Accounts Department, Hills Prospect Plc, Consolidated House, Faringdon Avenue, Harold Hill, Romford, Essex, RM3 8SP.

3.3 Credit is granted subject to a method of payment acceptable to Us and may be reviewed at any time in Our sole discretion. We reserve the right at any time to alter the required method of payment and refuse to execute any order or contract if any account is overdue, the arrangements for payment or Your credit rating is not satisfactory to Us.

3.4 In the event of non-payment, We reserve the right to withhold further deliveries until the overdue balance has been cleared. Where any item on account becomes overdue for payment then the whole of the account, whether of the due date or not, shall be deemed due and payable. All future orders will be invoiced at the full list price.

3.5 In the event of a payment to Us not being honoured, We reserve the right to retake references before reinstating the Credit/Cheque facility.

3.6 In the event of payment not being effected on the due date We reserve the right to charge interest thereafter at the rate of 20% per month whatever the circumstances. Charges are made for dishonoured payments, by cheques or otherwise, at the rate of £37.50 per default.

DELIVERY

4.1 Delivery shall occur when The Goods arrive at the delivery address and are signed for by one of Your authorised signatories shown on your credit application form. It is Your responsibility to advise Us in writing of changes to Your authorised signatories.

4.2 If you fail to take or make arrangements to accept delivery or collect The Goods 5 working days after delivery or collection is offered to You or if We are unable to deliver because of inadequate access or instructions delivery

shall be deemed and We may do any one or more of the following (without prejudice to any other right or remedy We may have):-

- (a) make additional charges for failed delivery
- (b) Store The Goods at Your risk and cost
- (c) Invoice You for The Goods
- (d) Terminate this contract without liability on Our part
- (e) Recover from You all costs and losses incurred by Us

4.4 An agreed delivery day and telesales day is set for You and goods are delivered carriage paid. Deliveries outside this agreed schedule may be subject to a delivery charge.

4.5 We shall not be liable for any damage whatsoever whether direct or indirect (including for the avoidance of doubt any liability to any third party) resulting from any delay by Us in delivery of The Goods or failure to deliver The Goods in a reasonable time whether such delay or failure is caused by Our negligence or otherwise howsoever.

4.6 If We fail to deliver The Goods Our entire liability shall be limited to the excess (if any) over the price of The Goods, of the cost to You (purchasing in the cheapest market reasonably available to You) of similar goods to replace those not delivered.

4.7 Orders will be delivered direct to You and not, on Your behalf, to third parties, except by special arrangements at agreed times.

4.8 There is a minimum delivery of £330 including VAT (Monday to Friday).

4.9 A delivery tariff of £3.95 is levied per delivery.

INSPECTION

5.1 You shall inspect The Goods at the place and time of delivery but nothing in these Terms shall require You to

break packaging and or/unpack Goods which are intended to be stored before use. Any shortages should be noted at the time of delivery and written on the Advice Note/Invoice by Our Drayman. We regret We cannot accept responsibility after the Drayman has left the premises.

5.2 Unless You advise Our Telesales Department immediately and written notice is received by Our Accounts Department (details at 3.2 opposite) within 3 working days of delivery of any claim apparent on reasonable inspection for loss or damage in transit, short delivery or failure to conform to the Contract The Goods will be deemed to have been delivered in accordance with the delivery documents and You shall not be entitled to and waive any right to reject The Goods.

5.3 Our liability for loss or damage in transit or short delivery apparent on reasonable inspection is limited to supplying The Goods as ordered and We shall not be liable for any damage whatsoever. You remain liable to pay the full invoice price of other Goods delivered in accordance with the Contract. Any other claim for damages is subject to Clause 7.

TITLE AND RISK

6.1 Risk in The Goods shall pass to You when The Goods are delivered. The title to The Goods shall remain with Us until You pay the price of The Goods and any other sums outstanding between You and Us whether in respect of this contract or otherwise.

6.2 Until title passes:-

6.2.1 You shall hold The Goods as Our fiduciary agent and bailee

6.2.2 The Goods shall be stored separately from any other goods and You shall not interfere with any identification marks labels batch numbers or serial numbers on The Goods.

6.3 We shall be entitled at any time to recover any or all of The Goods to which We have title and for that purpose We Our employees or agents may with such transport as is necessary enter upon any premises occupied by you or to which You have access and where The Goods may be or are believed to be situated.

LIABILITIES

7.1 In this Clause “the Defect” shall mean the condition and/or any attribute of The Goods and/or any condition or other circumstance arising from any service provided by Us and/or any other circumstances which but for the effect of these Terms would have entitled You to damages.

7.2 Nothing in these Terms shall exclude or restrict Our liability for death or personal injury resulting from Our negligence or Our liability for fraudulent misrepresentation.

7.3 If you deal as a consumer as defined by the Unfair Contract Terms Act 1977 or the Unfair Terms in Consumer Contract Regulations 1994 any provision of these Terms which is of no effect shall not apply. The statutory right of a consumer are not affected by these Terms.

7.4 Subject to Clause 7.2 and 7.3 of these Terms We shall not be liable by reason of any misrepresentation (unless fraudulent) or in contract tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause for any damages whatsoever. Instead of liability in damages We undertake liability under Clause 7.5 below.

7.5 Where but for the effect of Clause 7.4 of these Terms You would have been entitled to damages against Us We shall not be liable to pay damages but subject to the conditions set out in Clause 7.6 below shall Our sole discretion supply replacement Goods free of charge or refund all (or where appropriate part) of the price paid.

7.6 We will not be liable under Clause 8.5:-

(a) If the Defect would have been apparent on a reasonable inspection under Clause 5.1 of these terms at the time of delivery unless You gave Us the written notices as required by Clause 5.2.

(b) Unless the Defect is discovered within one week from the date of delivery and We are given verbal and written notice of the Defect in this time of it being discovered.

(c) Unless after discovery of the Defect We are given a reasonable opportunity to inspect The Goods and/or packaging before they are used or in any way interfered with.

(d) If the Defect arises from Your negligence mis-use or storage of The Goods in unsuitable conditions.

7.6.1 Subject to Clause 7.2 and 7.3 of these Terms We shall not be under any liability for damages whatsoever or under Clause 7.4 of these Terms as the case may be except in the event of:

- (a) Fraudulent misrepresentation by Us.
- (b) Misrepresentation where the representation was made or confirmed in writing by a Company Signatory.
- (c) Non-compliance with such drawing design measurement or specification; or
- (d) Breach of a written warranty signed by a Company Signatory that The Goods are fit for that purpose.

7.6.2 You will unconditionally full and effectively indemnify Us against all losses damages costs on an indemnity basis and expenses awarded against or incurred by Us in connection with or paid or agreed to be paid by Us in settlement of any claim:

- (a) For infringement of any patents copyright design trademark or any other industrial or intellectual property rights of any other person; and/or
- (b) Arising from any such manufacturing or processing including but not limited to any Defect in The Goods.

This indemnity will be reduced in proportion to the extent that such losses damages costs and expenses are due to our negligence.

7.7 Subject to Clause 8.2 and 8.3 We shall not be liable for misrepresentation (unless fraudulent) or in contract tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof for:

- (a) Any loss of profit, business, contracts, revenues or anticipated savings: and/or
- (b) Any special, indirect or consequential damage of any nature whatsoever.

MONTHLY ACCOUNT & CHEQUE TERMS AND CONDITIONS OF SALE

7.8 You will unconditionally fully and effectively indemnify Us against all losses damages penalties costs on an indemnity basis and expenses awarded against or incurred by Us in connection with or paid or agreed to be paid by Us in settlement of any claim by any third party arising from the supply or use of The Goods. This indemnity will be reduced in proportion to the extent that such losses damages penalties costs and expenses are due to Our negligence.

7.9 Without prejudice to any other provision of these Terms in any event Our total liability for any one claim or for the total of all claims arising from any one act of default on Our part (whether arising from Our negligence or otherwise) shall not exceed the limit of liability laid down by Our insurers in respect of such claim.

DEFAULT & TERMINATION

8.1 "Insolvent" means You becoming unable to pay Your debts within the meanings of Section 123 (Company) or Section 268 (individual) of the Insolvency Act 1986 or You ceasing to pay Your debts in the ordinary course of business or being unable to pay Your debts as they become due or You ceasing or threatening to cease to carry on Your business.

8.2 "Associated Company" means Your subsidiary or holding company as defined in Section 736 and Section 736A of the Companies Act 1985 or a subsidiary of such holding company, or any company over which Your directors or shareholders have control as defined in Section 840 of the Income and Corporation Taxes Act 1988.

8.3 If you fail to pay any invoice or any sum due to Us under any contract on the Due Date or Your credit limit is

exceeded or You or Your Associated company becomes insolvent or there is a material change in Your or Your

Associated Company's constitution or You commit a material breach of this contract and fail to remedy that breach after being requested to do so all sums outstanding between You and Us under this and any other contract shall become immediately due and payable and We shall be entitled to do any one or more of the following (without prejudice to any other right or remedy We may have):-

(a) Require payment in cleared funds in advance of further deliveries of Goods.

(b) Charge interest on the monies outstanding at the rate of 8 per cent above the Bank of England Official Dealing Rate in force from time to time from the due date until the date of payment after as well as before judgement.

(c) Suspend or cancel any further deliveries of Goods to You under any contract without liability on Our part.

(d) Without prejudice to the generality of Clause 6 of these Terms exercise any of Our rights to that Clause; and/or

(e) Terminate this or any other contract with you or any Associated Company without liability on Our part.

8.4 You shall reimburse Us costs including legal costs on an indemnity basis which We incur in enforcing Our rights under this Contract including but not limited to recovery of any sums due.

TITLE AND RISK

9.1 This contract shall be governed and interpreted according to the Law of England and Wales and You agree to submit to the non-exclusive jurisdiction of the English Courts.

9.2 Any reference in these Terms to any Statute or Statutory Provision includes a reference to that Statute or Statutory Provision as from time to time amended extended or re-enacted.

9.3 The headings in these Terms are for convenience only and shall not affect their interpretation.

9.4 Except as provided otherwise in these Terms We shall not be deemed to be in breach of contract nor liable

for any delays or failures to perform any of Our obligations under this contract due to any cause beyond Our reasonable control.

9.5 The waiver by Us of any breach or default of these Terms shall not be construed as a continued waiver of that

breach nor as a waiver of any subsequent breach of the same or any other provision.

9.6 If any clause or sub-clause of these Terms is held by a competent authority to be invalid or unenforceable the

validity of the other clauses and sub-clauses of these Terms shall not be affected and they shall remain in full force and effect.

HILLS PROSPECT PLC
DATA PROTECTION NOTICE

If You are an individual or a group of individuals by signing below You agree that We may:

* Seek, hold and process any information obtained about You from You or third parties for the purpose of and as a result of this and any other applications or agreements You or Your company have with Us. This will include a

search with a licensed credit reference agency which will keep a record of that search, and will store that information with other businesses.

* Use this information for credit assessment purposes including assessing Your credit limit and to administer and

operate the credit account granted to You or Your company and analyse the conduct of that credit account. This may include further searches with licensed credit reference agencies, as above.

* Disclose any information We hold about You to licensed credit reference agencies; other suppliers and creditors to help Us and others make credit decisions; to help prevent or detect fraud or other crimes; to trace debtors; to provide trade references; on a confidential basis to Our agents and sub-contractors; to insurance companies for the purposes connected with insurance produces that relate or might relate to Your credit account; to any person to whom We propose to transfer Our rights and/or responsibilities under this contract and to the extent We

are required or permitted to do so by law.

* Hold and use this information during and for 6 years after Our trading relationship and thereafter destroy the

information except for contact details, a record of credit limits and date of and grounds for account closure.

* If You are a body corporate or incorporate We may process information as above relating to Your directors, shareholders or members including searches with licensed credit reference agencies.