

# THE HILL BRUSH COMPANY LTD

## CURRENT TERMS AND CONDITIONS OF SALE

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#### 1. GENERAL

All orders are accepted on the terms, conditions and exclusions herein contained. These terms, conditions and exclusions (either taken as a whole or in any part or individually) shall not be varied, nor shall their application to any order be excluded or limited in any way whatsoever, except as agreed by us in writing; all special requirements with regard to marking, labelling, packing etc., must be agreed in writing. Any additional work will be charged at our standard rates unless such work is included in a Contract.

#### 2. PRICE

Prices quoted are those ruling at the date of the quotation or as shown in our list, and shall be subject to revision if increases in cost or other circumstances arise. Prices quoted exclude Value Added Tax, Sales Taxes or any similar Taxes which will be charged additionally to the Buyer.

#### 3. TERMS OF DELIVERY

a) Dates for delivery are given in good faith and as accurately as possible, but are not guaranteed. We shall be under no liability whatsoever for any delay in performance of any order by reason or in consequence of force majeure or of any matter or thing outside our control including but not limited to labour troubles, civil commotion, natural catastrophe, government restriction, shortage of supplies or customer's instructions or lack of instructions. We shall have the right to despatch any portion of the goods ordered and we shall be entitled to invoice the customer for such despatched portion so that for the purposes of payment each portion shall be deemed to be a separate contract and may be invoiced separately. Should the customer notify us of inability to receive or store goods ordered or should the customer fail to give us adequate delivery instructions when required or fail to collect goods sold ex-works, the goods will be stored at the customer's risk and expense. We shall be entitled to manufacture the goods immediately upon receipt of the customer's written order or as soon thereafter as we think fit, irrespective of any date which may be specified for delivery thereof.

b) Where the Buyer orders goods for delivery by instalments each delivery shall constitute a separate contract and the Buyer shall not be entitled to refuse to take delivery of or refuse to pay for any instalments on the grounds that a previous instalment was defective or otherwise.

c) Unless we otherwise agree in writing our carriage paid terms are as set out on the first page of our catalogue. The cost of delivery of goods below the minimum value will be charged to the Buyer at our discretion.

d) We may deliver against any order an excess or deficiency of up to 10% of the quantity ordered, provided that where there is an excess or deficiency on delivery the amount charged for the goods delivered will be adjusted proportionately.

#### 4. PROPERTY IN GOODS

Until the H.B.C. has been paid in full by the Buyer for goods supplied by the H.B.C., such goods remain the property of the H.B.C. although the risk therein passes to the Buyer at the time of delivery (subject to the provisions in Clause 3(a) herein relating to storage of goods at the customer's expense), and the Buyer shall indemnify the H.B.C. against any loss or deterioration thereof or damage thereto, and without prejudice to any other remedies, the H.B.C. may repossess those goods at any time from the Buyer, and for that purpose the H.B.C., its agents and servants may enter any premises upon which the goods are situated. In the event of the Buyer reselling any goods delivered to it by H.B.C. before H.B.C. has been paid in full, such part of the proceeds of such resale as are equivalent to the price at which the goods were invoiced to the Buyer by H.B.C. shall be held by the Buyer on trust for H.B.C. and shall be placed by the Buyer in a separate account so as to be identifiable as being in the beneficial ownership of H.B.C. Further, the fact that property in the goods remains H.B.C.'s until the price has been paid in full shall not prevent H.B.C. from maintaining an action against the Buyer for the price of the goods.

#### 5. RETURNABLE CONTAINERS AND PALLETS

Returnable Containers and pallets remain our property at all times and may be charged on invoice. If so charged the Buyer will be given full credit if such returnable containers or pallets are promptly returned (consigned carriage paid) to us at the point from which they were originally despatched in good condition to our satisfaction.

**6. NOTIFICATION OF LOSS OF, OR DAMAGE TO, OR NON DELIVERY OF GOODS**  
Claims for damage to or loss of goods in transit must be submitted in writing both to us and to the carrier (if appropriate) as follows:-

a) In the case of non-delivery of the whole of any consignment or of any separate packing forming part of consignment - within 3 days of the date of despatch shown on the invoice or advice note (whichever is the earlier).

b) In the case of damage to or partial loss of the goods or shortages from packages - within three days of delivery. The goods received must have been signed for as damaged or incomplete.

Failing which we shall not be liable in respect of any such claim and the goods shall be deemed to have been delivered in accordance with the contract complete and in a satisfactory condition. In no case shall H.B.C.'s liability in respect of claims for damage to or loss of goods in transit extend beyond an obligation either to repair or replace free of charge any such goods or (the election to be H.B.C.'s alone) to pay to the Buyer up to the invoice price of the goods in respect of which a claim is made, and in neither event shall H.B.C. be liable for consequential loss, damage or expense howsoever arising.

#### 7. BAR CODING

While every care will be taken to Bar Code goods as requested, no responsibility whatsoever is accepted for faulty coding. Customers are particularly warned against the use of self-peeler labels which can easily be swapped while goods are on display. We will not be held liable for any problems arising from Bar Coding when labels of this type are used.

#### 8. PAYMENT

Unless otherwise agreed in writing, payment shall be made at the net invoice value, without any deductions, by the last day of the month following the month in which delivery was made, or in which (if ex-works), the goods were ready for collection. Failure by the Buyer to make punctual payment shall entitle us to suspend any outstanding deliveries, or to cancel the contract so far as it remains unperformed at our option, and without prejudice to our rights to claim for the price of goods already delivered or manufactured at the date of cancellation, and for loss or injury occasioned thereby.

#### 9. WARRANTY AND EXCLUSIONS

a) We undertake that the goods delivered to the Buyer will be of normal industrial quality and H.B.C.'s duty to the Buyer relating to the quality of the goods delivered shall be limited wholly and exclusively to the duty to deliver goods of the aforesaid quality. Save as aforesaid any warranty or conditions, statutory or otherwise express or implied, whether oral or written as to quality of the goods or their fitness for a particular purpose are excluded and negated.

b) The application and use of the goods is the absolute responsibility of the Buyer. Any technical and other advice, information and data provided by us, whether verbally, in writing or by way of trials or tests, is given without warranty and the Buyer shall be deemed to have carried out his own tests to ensure the suitability of the goods for his intended purposes and applications and the Buyer shall be deemed to have placed no reliance on any advice, information or data provided by us.

c) The Buyer must give us immediate written notice containing full particulars of any claim that the goods are not of the proper quality to enable us to investigate the complaint before the remainder of the consignment of goods is used or returned to us. We shall not be liable for any defects in quality in the absence of such immediate notification and, in any event, our liability hereunder or in the case of any other breach of contract or misrepresentation shall be strictly limited to the invoice price of the goods proved by the Buyer to be of defective quality or to be such as to cause us to have been in breach of contract or guilty of misrepresentation and shall not extend to consequential loss of any kind howsoever arising.

#### 10. CONTRACTS NOT ASSIGNABLE

This Contract is between us and the Buyer as principals, and is not assignable without our written consent.

#### 11. INDEMNITY AGAINST INFRINGEMENT OF PATENTS AND RIGHTS

The Buyer shall indemnify us against all damages, penalties, costs and expenses to which we may be liable as a result of work done in accordance with the Buyer's specification which involves the infringement of any letters patent, registered design, intellectual property rights, proprietary process or otherwise.

#### 12. GOVERNING LAW

This contract shall be governed by and constructed in accordance with the laws of England and the Buyer agrees to submit to the jurisdiction of the English Courts.

#### 13. INSURANCE

We do not accept any liability for consequential loss.

#### 14. TELEPHONE CONTACT

From time to time customers may be telephoned by our sales office. If you would prefer not to be contacted by telephone we would request that you notify us of this in writing.

**COMPANY NAME:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PLEASE PRINT NAME:** \_\_\_\_\_