

Premier HIPs TERMS AND CONDITIONS FOR PROVISION OF SERVICES

The services referred to on this quote are provided by Premier HIPs Ltd of 27a Kingsbury Aylesbury Buckinghamshire HP20 2JA

1. SCOPE OF CONTRACT

1.1 The terms and conditions set out in this Agreement and the Quote shall govern the contract between Premier HIPs Ltd and the Customer for the provision of the Services.

1.2 Including to the exclusion of all other terms and conditions, any oral or written quotation, purchase order, acceptance or acknowledgement of an order by the Customer, any specification not set out in this Agreement or any other document (whether or not referred to in this Agreement) or any purported attempt by the Customer to impose or incorporate its own terms and conditions.

1.3 drawings, descriptive matter, specifications, advertising and promotional material issued by Premier HIPs Ltd and any descriptions or illustrations contained in Premier HIPs Ltd's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services described in them and shall not form part of this Agreement.

1.4 In this Agreement (i) any terms in the singular shall include the plural and vice versa; (ii) the words "include" "including" "in particular" or "excluding" or the like will not be construed as terms of limitation, (iii) any reference to a "Clause" means a clause of this Agreement; (iv) the headings are included for convenience only and may not be used on construing or interpreting this Agreement.

1.5. "Home Information Pack" means the pack of documents required by a home seller to provide to prospective purchasers of their home containing a mandatory Energy Performance Certificate, mandatory searches and legal documents and other optional reports such as a Home Condition Report and as defined in the Home Information Pack Regulations 2007 or as may subsequently be varied or amended.

1.6 "Services" means the service to be provided by Premier HIPs Ltd to the Customer as described in the Quote and "Deliverable" means those documents to be provided in the Service, again as set out in the Quote.

1.7 "Consumer" means where the Customer is an individual or individuals who currently uses the Property exclusively or primarily for their own private use (including where the individual(s) live in a property and rent out rooms which are not self contained units).

"Business" means where the Customer is either (i) a company partnership or sole trader or (ii) individual(s) acting other than as Consumers for example estate agents who are requesting the Service as they are marketing a property.

In this Agreement, any clauses which state they are for Consumers or for Businesses, that clause applies only to that group of Customers.

2. QUOTATIONS

2.1 The parties confirm that all quotations provided by Premier HIPs Ltd are not an offer capable of acceptance. Each order for Services on the basis of the Quote by the Customer shall be deemed to be an offer by the Customer to purchase the Services subject to this Agreement. No such order placed by the Customer shall be deemed to be accepted by Premier HIPs until a written confirmation of the order is sent to the Customer.

2.2 Unless previously withdrawn or Premier HIPs Ltd specify otherwise in writing, quotations are valid for a period of 14 days only from the date of issue. If, after such a period, Premier HIPs Ltd, at the Customer's request, agrees to supply the Services detailed in such a lapsed quotation this Agreement shall apply thereto.

3. PERFORMANCE

3.1 Premier HIPs Ltd will use reasonable endeavours to perform the Services and deliver the Deliverables to the Customer by or within any date or period agreed in writing but such dates or periods are estimates only given in good faith and Premier HIPs Ltd will not be liable for any failure to complete or deliver by such dates or within such periods. Time for performance of the Services or delivery of the Deliverable will not be of the essence nor be made of the essence by notice. In any event, or if no dates or periods are so specified, performance or delivery will be within a reasonable time.

3.2 Where the Customer wishes to change the scope of the Services or any Deliverables, including any dates for performance or delivery it shall put such request in writing to Premier HIPs Ltd. Premier HIPs Ltd shall confirm in writing whether it will be able to comply with the request and set out any changes to the Fees or dates of performance or delivery. The Client will then have 2 working days to confirm in writing to the Supplier whether it wishes to go ahead with the requested change. For the avoidance of doubt, although Premier HIPs Ltd will endeavour to comply with reasonable requests by the Client for such changes, it shall not be under any obligation to do so.

3.3 The Customer shall provide Premier HIPs Ltd with such information, cooperation, assistance and access to the Property, at the Customer's cost, as Premier HIPs Ltd will not be responsible for any delays as a result of the Customer's breach of this Clause. For example, if the Customer delays giving Premier HIPs Ltd access to the Property or relevant information required for Premier HIPs Ltd to perform the Services.

3.4 Neither party shall be liable for any breach of its obligations under this Agreement due to any cause beyond its reasonable control (“**force majeure**”) provided the party concerned has acted reasonably and prudently to prevent and to minimise the effect of such causes. For the avoidance of doubt where the customer suffers a force majeure event, the Customer shall still be liable to pay any Fees which become due and payable

for Services provided by Premier HIPs Ltd during the event of force majeure and where Premier HIPs Ltd suffers a force majeure event, the Customer shall not be liable to pay for any Services not provided by Premier HIPs Ltd. Should an event of force majeure continue without interruption for 3 months or more, then either party may by notice to the other, cancel this Agreement without incurring any liability for any resulting loss or damage.

4. CUSTOMER'S INSTRUCTIONS

4.1 If Services are carried out to a specification, design or other instruction supplied by the Customer or any third party on the Customer's behalf then:

- (i) the Customer will be solely responsible for the suitability and accuracy of such specification, design or other instruction; and
- (ii) the Customer warrants to Premier HIPs Ltd that Premier HIPs Ltd's use of, or its acting upon, such specification, design or other instruction will not infringe any rights of any third party.
- (iii) the Customer will reimburse Premier HIPs Ltd for any loss damage or expense Premier HIPs Ltd may incur as a result of any claim made against Premier HIPs Ltd in relation to such specifications, design or other instruction and/or Premier HIPs Ltd's use of it, including any compensation paid to a third party and Premier HIPs Ltd's associated legal costs.

5. SAFETY

5.1 The Customer undertakes that it will at all times provide a safe environment for any of Premier HIPs Ltd's employees, agents or sub-contractors who pursuant to providing the Services attend the Property or any other premises which are under the Customer's ownership and/or control. The Customer will comply with all statutory or other regulations and codes of practice in connection with such premises.

5.2 the provision of the Services involves Premier HIPs Ltd working on or with any materials provided by the Customer, it is a fundamental condition of this Agreement that the Customer shall ensure that such hardware, equipment or other materials shall not present either on their own or when handled in any manner which should be reasonably anticipated by the Customer, nay hazardous situation whether to Premier HIPs Ltd, its employees, agents or sub-contractors, or otherwise. In particular the Customer shall immediately

inform Premier HIPs Ltd of any suspected hazard including but not limited to those of a radioactive, explosive, toxic, carcinogenic, biological environmental or other nature. If any such hazards are identified during the course of the provision of the Services Premier HIPs Ltd reserves the right to terminate this Agreement immediately. Any costs or expenses incurred by Premier HIPs Ltd up to the date of such

termination and all loss or damage resulting from Premier HIPs Ltd's exposure to any such hazard (including the Fees for any Services provided up to the time of termination) shall be payable by the Customer.

5.3 The Customer will reimburse Premier HIPs Ltd and Premier HIPs Ltd's employees, agents and sub-contractors, in respect of any loss, damage, expense, claim or injury it may suffer as a result of any breach of this Clause.5.

6. CONFIDENTIALITY

6.1 party shall keep strictly confidential all information concerning the business of the other party (including any trade secrets and intellectual Property Rights, patents, trademarks, registered designs and applications for same, copyright, design rights, know-how, trade and business names and any other similar protected rights in any country) received from or on behalf of the other party, or otherwise relating to this Agreement and in each case which is of a secret or confidential nature (“**Confidential Information**”).

6.2 Each party undertakes to only use the other party's Confidential Information for the purposes envisaged by this Agreement. Premier HIPs Ltd shall only disclose the Customer's Confidential Information to such of its employees, agents and sub-contractors who have a reasonable need to know the same and who are subject to a written equivalent obligation of confidentiality.

6.3 The obligations of confidence contained in this Clause 8 shall not apply to any Confidential Information that the recipient party can reasonably prove (i) was in the public domain at the time of disclosure; (ii) was lawfully in its possession and was not acquired directly or indirectly from the other party or from a third party under an obligation of confidence (directly or indirectly) to the other party; (iii) is or becomes public knowledge by act or acts other than those of such party; and/or (iv) is required to be disclosed by law.

7. TERMINATION

7.1 This Agreement shall automatically terminate upon the complete delivery of the Services and/or Deliverables as set out on the Quote.

7.2 This Agreement may be terminated for cause by either party in the following circumstances, with immediate effect, from the date of service on the other of written notice if the other party is in breach of any material obligation under this Agreement and if the breach is capable of remedy, that party has failed to remedy such breach within 28 days of receipt of notice to do so.

7.3 Where the Customer is a Consumer, Premier HIPs Ltd may terminate this Agreement immediately if a bankruptcy order is made against them (or any of them).

7.4 Either party may terminate this Agreement if (i) an order is made or a resolution is passed for the winding up of the other party; or (ii) an administrator is

appointed to manage the affairs, business and property of the other party; or (iii) a receiver is appointed of any of the other party's assets or undertaking or (iv) the other party makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way.

7.5 Without prejudice to any other of its rights or remedies, upon termination, the Customer shall immediately pay the Fees for Services performed up to the time of termination provided that any Deliverables completed, or part completed will be provided to the Customer.

8. FEES AND PAYMENTS

The Fees shall be calculated as set out on the Quote and if not set out on the Quote, calculated in accordance with Premier HIPs Ltd's then current rates.

8.1 Unless otherwise agreed with Premier HIPs Ltd in writing, invoices shall be rendered at Premier HIPs Ltd's discretion either on completion of the Services or at intervals during the performance of the Services.

8.2 Invoices are payable by the date for payment as set out on that invoice.

8.3 Without prejudice to any other rights of Premier HIPs Ltd, interest will be payable on all amounts which are overdue for more than thirty days at 3% above Barclays Bank plc base rate from time to time calculated from the due date for payment until the date of actual payment.

8.4 Without prejudice to any other rights Premier HIPs Ltd may have, Premier HIPs Ltd may suspend its performance of the Services during any period in which any invoices or other payments due under this Agreement remain overdue including any interest payable thereon.

9. WARRANTIES

9.1 Premier HIPs Ltd warrants that (subject to the other provisions of this Agreement) it will use reasonable skill and care in providing the Services.

9.2 If the performance of the Services do not conform with the warranty in Clause 9.1 Premier HIPs Ltd shall at its option either; (i) promptly carry out such Services to the correct standard or (ii) refund the price of the applicable at the pro rata amount of the Fees. Such remedy will only be available to the Customer if it reports the non-conformity with the warranty to Premier HIPs Ltd within 3 months or receipt of the Service and Deliverables.

9.3 If Premier HIPs Ltd complies with Clause 9.2 it shall have no further liability for a breach of the warranty in Clause 9.1 in respect of such Services. If the Customer does not report the breach of the warranty within the limit in Clause 9.2 it shall have no remedy.

9.4 For Consumers only: The warranty given in Clause 9.2 is given in addition to the Customer's statutory rights which cannot be excluded or limited by law and which the Customer can assert independently of this warranty. The Customer should contact its local trading standards office for details of these.

9.5 For Business only: All warranties, conditions and other terms implied by statute or common law (save as expressly provided in this Agreement and for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from this Agreement.

9.6 Any re-supplied Services under Clause 9.2 will be warranted on these terms.

10. LIABILITY

10.1 Premier HIPs Ltd accepts liability for any loss or damage to private property, death or personal injury caused by the Services supplied, the negligence or deliberate misconduct of Premier HIPs Ltd, or any employees, agents or sub-contractors acting on Premier HIPs Ltd's behalf, provided, however that in all case (except for death or personal injury, where there shall be no limitation of liability) Premier HIPs Ltd's liability for losses suffered by the Customer shall be assessed as set out in Clauses 10.2, 10.3 and 10.4 below.

10.2 For Consumers: Premier HIPs Ltd shall accept liability for reasonably foreseeable losses arising as a direct consequence of breach by Premier HIPs Ltd of its statutory duty. However, Premier HIPs Ltd shall not be liable in certain circumstances, for example, where the causes or potential causes of the loss:

- (i) were not reasonably foreseeable by Premier HIPs Ltd; and or
- (ii) were known by the Customer to the exclusion of Premier HIPs Ltd at the time the Agreement was entered into; and/or
- (iii) arose from the use of the Services and/or Deliverables for purposes other than those of providing documentation for a Home Information Pack;
- (iv) were reasonably foreseeable and preventable by the Customer.

10.3 For Businesses: in any event Premier HIPs Ltd's total liability to the Customer shall not exceed £5000.

10.4 In claiming against Premier HIPs Ltd for any such losses, the Customer is expected to have acted reasonably, for example, with regard to:

- (i) how the losses were accrued – including steps taken to mitigate or to avoid losses occurring; and

- (ii) taking reasonable precautions to avoid loss (such as contacting Premier HIPs Ltd promptly upon becoming aware of an issue.

11. GENERAL

11.1 Sub-Contracting: Premier HIPs Ltd reserves the right to sub-contract the provision of the whole or part of any Services required under this Agreement in whole or in part and provided that the sub-contract occurs without negatively affecting the provision of the Services and Deliverables and the rights and remedies of the Customer under the Agreement.

11.2 Assignment: Neither party may assign, transfer, or otherwise dispose of its rights or obligations under this Agreement without the prior written consent of the other party (not to be unreasonably withheld or delayed).

11.3 Modification: No variation or modification of this Agreement (including any specification of the Services) shall be valid unless in writing and signed by both parties.

11.4 No Waiver: The failure of either party to require the performance of any of the terms of this Agreement or the waiver by either party of any default under this Agreement will not prevent a subsequent enforcement of such term, nor be deemed a waiver of any subsequent breach.

11.5 Severability: Should any provision of this Agreement be declared invalid for any reason, such decision will not affect the validity of any remaining provisions which will remain in force and effect. In any such event, the parties will negotiate in good faith to replace the invalid provision with a provision of equivalent economic effect.

11.6 Status of the Parties: Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties or to authorise either party to act as agent for the other and neither party shall have authority to act in the name or on behalf of or otherwise bind the other in any way.

11.7 No Set Off: The Customer shall pay all Fees to Premier HIPs Ltd in full (without deduction or withholding more than a reasonable and proportionate amount except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Premier HIPs Ltd to justify withholding payment of more than a reasonable and proportionate amount of any such amount, in whole or in part).

11.8 Third Parties: Nothing in this Agreement will be construed as conferring any rights on any person that is not a Party to this Agreement, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

11.9 Notices: Any notices should be in writing and should be made by hand, by recorded delivery or by

email or fax (for notices sent by email a supporting physical copy must be sent on the same day by post) to such numbers as the parties may specify from time to time. Notices sent by hand, by fax or by recorded delivery post will be treated as having been received on

the working day after the day upon which they were sent. Proof of fax transmission and of successful far-end receipt must be kept. Emails will only be treated as having been received when a non-automated response is obtained from the email recipient.

11.10 Entire Agreement: This Agreement constitutes the entire Agreement and supersedes all previous verbal or written proposals and Agreements between the Parties relating to the Services. The Customer shall have no remedy and Premier HIPs Ltd shall have no liability, in respect of any statement whether written or oral made to it upon which it relied in entering into this Agreement unless such statement was made by Premier HIPs Ltd knowing that it was untrue or it was a statement as to a fundamental matter under the Agreement.

11.11 Governing Law: This Agreement, all matters regarding the interpretation or enforcement of it and any other matters or disputes arising in connection with it or its subject matter, including the Services shall be governed by English law and the parties hereby submit to the exclusive jurisdiction of the English courts.