

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 7 (LIMITATION OF LIABILITY).

1. INTERPRETATION

1.1. The following definitions and rules of interpretation apply in these Conditions.

1.2. Definitions:

Conditions	these terms and conditions as amended from time to time in accordance with clause 10.3.
Contract	the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.
Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures	as defined in the Data Protection Legislation.
Customer	the person or firm who purchases Services from the Supplier.
Data Protection Legislation	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).
Intellectual Property Rights	patents, rights to inventions, copyright and similar and related rights, trade marks and service marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, rights in computer data, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Ordnance Survey	Ordnance Survey Limited, a company registered in England and Wales under company number 09121572 and whose registered office is at Explorer House, Adanac Drive, Nursling, Southampton, Hampshire, SO16 0AS.
Order	the Customer's written acceptance of the Supplier's quotation.
Services	the services supplied by the Supplier to the Customer.
Supplier	Chloe Weeks of Acorns, Bury Road, Beyton, Bury St Edmunds, Suffolk, IP30 9AB, a sole trader trading as "Footprint Land Registry Plans".
UK Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

1.3. Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes fax and email.

2. BASIS OF CONTRACT

- 2.1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2. The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence.
- 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 trade, custom, practice or course of dealing.
- 2.4. Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 30 days from its date of issue.

3. SUPPLY OF SERVICES

- 3.1. The Supplier shall use reasonable endeavours to meet any performance dates specified by the Customer but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.2. The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 3.3. The Customer acknowledges that the Supplier is a draughtsman and is not held out as a surveyor.
- 3.4. The Customer acknowledges that the plans produced by the Supplier are produced for the purposes of attachment to applications made to HM Land Registry and not for any other purpose. If the Customer requires the plan for any purpose other than a Land Registry application the use and limitations of that use must be agreed in writing at the time of order by the Supplier. The Customer acknowledges that all plans are based upon the base plans produced by Ordnance Survey and are subject to any inaccuracies, whether in measurements or otherwise, that the base plans contain. The Customer further acknowledges in any event that all measurements in the plans produced by the Supplier are approximate.
- 3.5. If the Customer supplies the measurements the Customer agrees that the Customer is solely responsible for the accuracy of the dimensions or boundaries supplied by them (or by others on their behalf).

4. CHARGES AND PAYMENT

- 4.1. The cost of the Services shall be provided to the Customer by way of an estimate prior to commencement of the Services. In addition, the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred in connection with the Services including Ordnance Survey maps, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

- 4.2. The Supplier shall invoice the Customer on completion of the Services.
- 4.3. The Customer shall pay each invoice submitted by the Supplier:
- (a) within 30 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
- time for payment shall be of the essence of the Contract.
- 4.4. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 4.5. If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 8, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 4.5 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 4.6. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 5. INTELLECTUAL PROPERTY RIGHTS**
- 5.1. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
- 5.2. The Customer acknowledges that the base plans provided to the Supplier by Ordnance Survey and/or any intermediary supplier (where appropriate) of plans remain subject to the copyright of Ordnance Survey.
- 5.3. Subject always to clause 5.2, the Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, non-exclusive, royalty-free licence in the plans produced by the Supplier for one year following the purchase of data by the Supplier from Ordnance Survey and/or any intermediary supplier of plans in order to provide the Services (excluding materials provided by the Customer).
- 5.4. The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 5.3.
- 5.5. The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the purpose of providing the Services to the Customer.
- 6. DATA PROTECTION**
- 6.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 6 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 6, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the Data Protection Legislation from time to time in force in the UK and any other law that applies in the UK.

- 6.2. The parties acknowledge that for the purposes of the Data Protection Legislation, in connection with the Services the Customer is the controller and the Supplier is the processor.
- 6.3. Without prejudice to the generality of clause 6.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.
- 6.4. Without prejudice to the generality of clause 6.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process that personal data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
 - (e) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Customer without undue delay on becoming aware of a personal data breach;
 - (g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the personal data; and

- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 6 and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 6.5. The Customer does not consent to the Supplier appointing any third party processor of Personal Data under the Contract.
- 6.6. Either party may, at any time on not less than 30 days' notice, revise this clause 6 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
7. **LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 7.1. The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £250,000 per claim.
- 7.2. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 7.3. Subject to clause 7.2, the Supplier's total liability to the Customer shall not exceed £250,000. The Supplier's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.
- 7.4. This clause 7.4 UPDATE FCsets out specific heads of excluded loss:
- (a) Subject to clause 7.1, the types of loss listed in clause 7.4(b) are wholly excluded by the parties.
 - (b) The following types of loss are wholly excluded:
 - (i) Loss of profits
 - (ii) Loss of sales or business.
 - (iii) Loss of agreements or contracts.
 - (iv) Loss of anticipated savings.
 - (v) Loss of use or corruption of software, data or information.
 - (vi) Loss of or damage to goodwill.
 - (vii) Indirect or consequential loss.
- 7.5. The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 7.6. Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an

event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire twelve months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

7.7. This clause 7 shall survive termination of the Contract.

8. TERMINATION

8.1. Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party written notice.

9. CONSEQUENCES OF TERMINATION

9.1. On termination of the Contract the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services undertaken but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

9.2. Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

9.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

10. GENERAL

10.1. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

10.2. **Entire agreement.**

(a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

10.3. **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

10.4. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

10.5. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal

and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

10.6. **Third party rights.**

- (a) Unless it expressly states otherwise, 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.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

10.7. **Governing law.** 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 shall be governed by and construed in accordance with the law of England and Wales.

10.8. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall 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.