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# NLIS Searchflow Terms and Conditions

## 1 General

- 1.1 These terms and conditions apply to all dealings in respect of the Services between The Conveyancing Channel Limited (registered no. 4149551) whose registered office is at 21 Station Road, Watford, Hertfordshire, WD17 1HT, trading as "Searchflow" ("the Company") and the customer specified at the end of these terms and conditions ("the Customer")
- 1.2 By signing and returning these terms and conditions or electronically accepting them you agree to be bound by the terms and conditions contained herein in relation to the Services. Following receipt, but subject to Clause 1.3, the Company will initiate the process of delivering the Searchflow Materials to the Customer, which process normally takes approximately seven (7) days from the date of the Company's receipt of:
- 1.2.1 signed terms and conditions or the Customer's electronic acceptance of them; or
- 1.2.2 (where applicable) if later the Customer's Direct Debit Mandate Form.
- 1.3 The Company reserves the right to decline the provision of the Services to any Customer and will endeavour to notify the Customer of such decision in writing or electronically within seven (7) days of the Company's receipt of:
- 1.3.1 the signed terms and conditions or of the Customer's electronic acceptance of them; or
- 1.3.2 (where applicable) if later the Customer's Direct Debit Mandate Form, following which neither party shall be under any further obligation to the other.
- 1.4 The Company reserves the right to amend these terms and conditions from time to time by posting the amended version of the terms and conditions on the Website. The amended version shall have effect:
- 1.4.1 immediately from the time of posting; or
- 1.4.2 from such other time stipulated on the Website, in respect of Search Requests not yet submitted by the Customer.

## 2 Definitions

In these terms and conditions, the following definitions shall apply:

- "Charges" means the charges for the Services set out in the Searchflow Price List from time to time in force.
- "Customer Information Form" means the form to be completed by the Customer with information on contact details, branch addresses and passwords.
- "Data Provider" means a third party source to whom the Company submits a Search Request.
- "Map Charges" means the map print charges specified in the Searchflow Price List.
- "Map Data" means any Ordnance Survey map data provided as part of the services.
- "Searchflow Materials" means the Searchflow materials and software (in whatever form and on whatever media), accompanying documentation (including any licences required by Data Providers), password, and all other tangible and intangible materials supplied by the Company to the Customer for the transmission of Search Requests and the receipt of the Services.
- "Searchflow Price List" means the list of the charges from time to time applicable for the processing of Search Requests and/or the transmission or supply of the Search Results to the Customer (current versions of the Searchflow Price List are available upon request and published in paper and electronic format).
- "Searchflow Service Card" means the description of how the Services will be performed by the Company applicable from time to time (current versions of the Searchflow Service Card are available on request and published electronically at the Website).
- "Search Request" means a request from the Customer in the form provided on the Website to the Company for information in respect of specified property and/or persons.
- "Search Results" means any information, data or other materials provided by the Data Provider in response to a Search Request from the Customer.

"Services" means:

- (i) the provision through use of the Searchflow Materials of assistance to the Customer in identifying applicable searches in relation to particular property; and
- (ii) delivering Search Requests received to selected Data Providers and (except where the Data Provider decides to return the Search Results directly to the Customer or its nominee) returning Search Results to the Customer.
- "Website" means the website of the Company from which the Customer can make Search Requests and view their progress (the current address of which is <http://www.searchflow.co.uk>).

## 3 Rights Granted And Services Provided

In consideration of the mutual rights and obligations of the parties:

- 3.1 the Company shall:
- 3.1.1 license to the Customer the right to install and use the Searchflow Materials for the purposes of obtaining the Services for advising its clients and generally in the course of its business of the provision of legal advice; and
- 3.1.2 provide the Services to the Customer;
- 3.2 the Customer shall be permitted to:
- 3.2.1 make and store electronic or hard copies of the Search Results (other than Map Data) for its own internal purposes;
- 3.2.2 incorporate the Search Results (other than Map Data) into written advice prepared by the Customer in the normal course of its business; and
- 3.2.3 disclose the Search Results (subject in the case of Map Data to Clause 3.3) in the normal course of the Customer's business to:
- 3231 the client of the Customer for whom the Search Request was made;
- 3232 a person (or persons) who is/are acquiring (or is/are considering acquiring) an interest in the property to which the Search Results relate; or
- 3233 any person who acts in a professional or advisory capacity for any person in Clause 3.2.3.2.
- 3.3 In respect of the Map Data the Customer shall be entitled to print out, subject to payment to the Company of the Map Charges, a single hard copy, which may be photocopied a further five times, of the Map Data using the Searchflow map print facility comprised in the Searchflow Materials for the Customer's own internal use. Should the Customer wish to make multiple hard copies of the Map Data or pass the hard copy on to another party then the Customer must have in place and have paid for a current Ordnance Survey copyright licence which may be obtained direct from Ordnance Survey or through the Company.

## 4 Charges

- 4.1 The Charges will be those included in the Searchflow Price List applicable on the date of the relevant Search Request and will appear on the Customer's screen prior to a request for Services being made.
- 4.2 Unless otherwise indicated, all Charges included in the Searchflow Price List are exclusive of any Value Added Tax for which the Customer shall be additionally liable at the applicable rate from time to time.
- 4.3 The Company may revise the Searchflow Price List from time to time by publishing the same electronically on the Website. Any alterations shall not have effect retrospectively.
- 4.4 The Customer will be charged for the provision of the Services when the relevant key to request the Services is pressed.
- 4.5 The risk of input of information is with the Customer. The Customer entering an incorrect address or requesting searches in error will not remove or limit the Customer's obligation to pay the Charges in respect of any search request.
- 4.6 The Company will either manually or electronically (at its discretion) invoice the Customer daily at the address provided by the Customer on the Customer Information Form. The Customer shall either pay by authorised credit card in advance or discharge the invoiced sums within 7 days of the date of the invoice via a direct debit arrangement.

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4.7 The Company shall be entitled to charge the Customer interest at 4% over the base rate of Barclays Bank plc from time to time in force in respect of any invoices not so discharged and reserves the right to suspend or discontinue the Services without notice to the Customer until such invoices have been paid in full.

#### **5 Liability**

5.1 The Company does not exclude or restrict its civil liability for personal injury or death caused by negligence or any other liability the exclusion or restriction of which is expressly prohibited by law.

5.2 The Customer acknowledges and accepts that the Company only provides the Services to it on the express condition that the Company will not be responsible for nor shall it have any liability to the Customer, the Customer's clients or any other third party directly or indirectly whether in contract tort or otherwise for:

5.2.1 inaccuracies or errors in or omissions from any Search Results provided by a Data Provider;

5.2.2 inaccuracies or errors in or omissions from any register or other information source maintained or used by a Data Provider; or

5.2.3 any act or omission of a Data Provider.

5.3 Without prejudice to Clause 5.2 and subject to the foregoing provisions, the Company shall not be liable for any loss or damage sustained by the Customer, the Customer's clients or any other third party directly or indirectly whether in contract tort or otherwise making use of or relying on the Search Results including but not limited to any loss or damage resulting as a consequence of:

5.3.1 any failure by the Customer to have in place all necessary means of receiving the Search Results (including those specified in the Searchflow Materials), the Maintenance of Internet access, appropriate email facilities and security measures; or

5.3.2

5321 inaccuracies or errors in or omissions from any Search Results; or

5322 any Search Request which is inaccurate, incomplete, illegible, out of sequence or in the wrong form or in respect of the wrong property or arising from late arrival or non-arrival thereof, unless and then only to the extent the loss and damage sustained shall be a direct consequence of the negligent act or omission of the Company.

5.4 Without prejudice and subject to the foregoing provisions, the liability of the Company for all claims by customers and any third parties whether in contract, tort or otherwise for any breach of the obligations of the Company or any omission, negligence or statement of the Company, its employees, servants, agents or sub-contractors in connection with or in relation to services provided by the Company shall not exceed the lesser of:

5.4.1

541.1 the value of the interest(s) being acquired by the claiming parties; or

541.2 the amount of the loan(s) being made by the claiming parties; or

541.3 the purchase price(s) paid by the claiming parties, (as the case may be) by the claiming parties in (or against the security of) the property/properties in respect of which the Search Request(s) was/were made; or

54.2 where the Search Request(s) is/are being made for a purpose other than specified in Clause

54.1 the value of the property/properties in respect of which the Search Request(s) was/were made as at the date of the Search Request(s); or

54.3 the sum of five million pounds.

5.5 Subject to Clause 5.1, but notwithstanding anything else contained in these Terms and Conditions, the Company shall not be liable to the Customer or any third party for loss of profits or contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever.

5.6 The Customer acknowledges and accepts:

5.6.1 that electronic information sent via the Internet can be affected by errors in transmission, destructive programmes and or information introduced maliciously by third parties such as viruses, worms, Trojan horses or other code that manifests contaminating or destructive properties.

Whilst the Company will use its reasonable endeavours to procure that such destructive programmes are restricted it is not liable for the presence of such programs in the Search Results except to the extent to which the presence of destructive programs is caused by the failure of the Company to use such reasonable endeavours; and

5.6.2 that the Company has no control over the Internet or documentation transmitted by email or via the Internet. The Services do not include protection for or privacy of such information.

5.7 Subject to Clause 5.1, the Company shall not have any liability to any third party except in accordance with the Company's terms and conditions or except as otherwise expressly agreed in writing by the Company.

#### **6 Warranties**

6.1 The Company warrants that:

6.1.1 the Services will be performed with reasonable skill and care and, as far as reasonably possible, will be performed materially in accordance with the specifications included on the Searchflow Service Card current at the time the Customer submits the Search Request;

6.1.2 it is authorised to provide the Services on these Terms and Conditions; and

6.1.3 the provision of the Services will not infringe any third party rights.

6.2 The Company does not warrant that:

6.2.1 the Services will meet the Customer's individual requirements and the Customer acknowledges that it is the responsibility of the Customer to ensure that the Services and Search Requests (including without limitation the property identification) meet its requirements. The Company shall not be liable for any failure of the Services to provide any facility or function not specified in the Searchflow Service Card; nor that

6.2.2 any information provided by a Data Provider will be accurate or complete, but the Company shall, if so reasonably requested and where possible, assign to the Customer at the Customer's cost the benefit of any warranty, guarantee or indemnity given by such Data Provider to the Company.

6.3 The Customer warrants that:

6.3.1 the information supplied by the Customer when completing and submitting the Customer Information Form is true, accurate and complete and that it will notify the Company in writing of any changes in such information; and that

6.3.2 it/he/she:

632.1 will not allow any third party to use any Searchflow Materials; and

632.2 is authorised to receive the Services on these Terms and Conditions; and

632.3 in its use of the Services will comply with all applicable laws, regulations and codes of practice; and

632.4 will keep confidential and secure all user names and passwords used in relation to the Services and accepts that use of a user name and password allocated to a Customer shall constitute sufficient authority to the Company to perform the Services and be entitled to payment for so doing; and

632.5 will obtain and maintain suitable equipment including hardware, software and communication links necessary to allow the Customer to access the Services and receive electronic communications from the Company.

6.4 These Terms and Conditions are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

## 7 Intellectual Property Rights

7.1 All intellectual property rights to any Searchflow Materials and Search Results provided to the Customer by the Company shall at all times remain the property of the Company, the Company's licensors or the relevant Data Provider. The Customer undertakes that it shall not at any time make any copy of any such material or otherwise deal with such material or disclose the same whether directly or indirectly to any third party except in accordance with these Terms and Conditions. 7.2 The Searchflow Materials and Search Results provided in electronic or hard copy form will include the Company's logo and name, and the logos and names of its licensors and relevant Data Providers. Such documentation shall not be altered or adulterated so as to remove reduce in size or obliterate such logos and names.

## 8 Assignment

The right to be provided with the Services is personal to the Customer and is not transferable. In no circumstances is access to the Services to be permitted, facilitated or resold by the Customer to any other person or entity.

## 9 Termination

9.1 Where the Customer is a consumer within the meaning of The Consumer Protection (Distance Selling) Regulations 2000 ("the Regulations"), then Regulation 10 thereof gives the Customer the right to cancel this agreement within seven business days after the day on which the contract with the Company is concluded unless in the meantime the Company has been requested to and commences performance of the Service. By transmitting a Search Request to the Company the Customer confirms that it requests and agrees to the Company commencing the Services and acknowledges that the processing by the Company of the Search Request constitutes commencement by the Company of the performance of the Service and accordingly the Customer has no right thereafter to cancel this contract for services pursuant to the Regulations.

9.2 This licence may be terminated by either party at any time on giving 30 days written notice to the other party.

9.3 This licence may be terminated by either party forthwith if the other party is in material breach of its obligations hereunder.

9.4 Upon termination the Company will continue to provide to the Customer the Search Results paid for before the date of such termination.

10 Force Majeure

10.1 Neither party shall be responsible for delays or failures in performance resulting from Force Majeure.

10.2 The operation of this Agreement shall be suspended during the period and only during the period in which the Force Majeure continues to have effect.

10.3 For the purposes of these Terms and Conditions, "Force Majeure" means any event or series of events beyond the reasonable control of either party and which could not have been prevented or overcome by the exercise of due care, caution and diligence by the party affected. Events beyond the reasonable control of the parties shall include (without limitation):

10.3.1 act of God, storm, flood, epidemic or other natural physical disaster; and

10.3.2 accidents, fire explosion; and

10.3.3 any war or preparation for war, hostilities, revolution, riot or civil disorder, insurrection, terrorism; and

10.3.4 failures of public utility supplies (electricity, post, telecommunications) or general failure of the Internet; and

10.3.5 the introduction of, or any amendment to, a law or regulation, or any change in its interpretation or application by any authority; and

10.3.6 any breach of contract, termination of contract, default by, or insolvency of, a third party on whom the Company relies for the provision of the Services (including Local Government Information House Limited, Macdonald Dettweiler Limited, any other NLIS authority and NLIS hub provider, and any Data Provider), other than a company in the same group as the Company or an officer or employee of the Company or of such a company.

## 11 Applicable Law

The construction validity and performance of this Agreement shall be governed by English law and the Customer irrevocably submits to the exclusive jurisdiction of the English Courts.

## 12 Acquiescence, Forbearance & Waiver

12.1 The parties agree that:

12.1.1 For a waiver of any right to be effective it must be given expressly in writing by a duly authorized representative.

12.1.2 Any acquiescence to a breach or forbearance to enforce a right does not consent to the breach nor prejudice enforcement of the right unless the consent or forbearance is given expressly in writing by a duly authorised representative.

12.1.3 Any other form of purported acquiescence, forbearance, consent or waiver will not be of any effect.

12.1.4 No failure or delay on the part of either of the parties to exercise any right or remedy under this Agreement is to be construed or to be treated as a waiver of or bar to the exercise or enforcement of the right or remedy.

12.1.5 Any effective waiver of acquiescence to or forbearance in any breach of any provision of or to the exercise or enforcement of any right or remedy is not to be taken or held to prejudice the subsequent enforcement or exercise of a right remedy or provision.

## 13 Notices

13.1 Any notice to be given under this Agreement must be in writing signed by a duly authorized representative of the relevant party.

13.2 All notices, documents, communications and any other data to be provided under this Agreement must be in the English language unless otherwise agreed.

13.3 Notices are to be sent to the address of the other party as given herein or to such other address as that party may have previously notified to the party giving notice as its address for such service.

13.4 Notices can be delivered (properly addressed) by registered post or by hand.

13.5 A party shall not attempt to prevent or delay the service on it of a notice connected with this Agreement.

13.6 In the absence of acknowledgement of receipt from the recipient party proof of delivery of a notice remains with the sender.

## 14 Rights of Third Parties

14.1 These Terms and Conditions are not intended to, and do not, give any person who is not a party to the agreement between the Company and the Customer any rights to enforce any provisions contained herein for the purposes of the Contracts (Rights of Third Parties) Act 1999.