



TERMS AND CONDITIONS FOR THE PURCHASE OF SERVICES

ONESEARCH DIRECT LTD of [6th Floor, SP1, Skypark, 8 Elliot Place, Glasgow, G3 8EP]

TERMS OF TRADING

1. DEFINITIONS

In these Terms, when the following words with capital letters are used, this is what they will mean:

“Address Data” means the property address(es) supplied by you to us when you submit an Order;

“Contract” means the contract for the purchase of Services through the Website which is formed in accordance with term 3 below;

“Event Outside Our Control” means any act or event beyond our reasonable control including, without limitation, strikes, lock-outs, trade union action or any other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks, impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport or prohibitions or enactments of any kind on the part of a local authority or a body responsible for the maintenance of records, including, but not limited to, the Land Registry, Registers of Scotland, Scottish Record Office, HM Registry and Companies House;

“Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, 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;

“Order” means an order for the purchase of Services which you submit to us through the Website using our online ordering system, through a system integration or by email;

“Services” means any property search and / or title search or other related services which we make available for purchase through the Website;

“Terms” means these terms and conditions of purchase; and

“Third Party Materials” means any report, search, data, information or materials acquired by OneSearch from third parties to be provided to you in connection with the Services from time to time.

2. PLACING AN ORDER

2.1. When you order any Services through the Website, through a system integration or by email, these Terms will apply to that Order. By placing an Order by email or through a system integration you are confirming that you accept these Terms. If you do not accept the Terms, then you will not be able to order any Services.

2.2. If we accept your Order, these Terms will form the basis of the Contract between us. Please see term 3 below for more information on how the Contract between us is formed. You should print a copy of these Terms and save them for future reference.

2.3. It is your responsibility to ensure that the details of your Order are correct and accurate and that you provide us with all information relevant to your Order. Our order process allows you to check and amend any errors before submitting your Order through the Website. You should however note that we shall not be responsible for any input errors in your Order.

3. HOW A CONTRACT IS FORMED BETWEEN US

3.1. When you place an Order through the Website you are offering to buy those Services from us. We will send you a confirmation e-mail shortly after you place your Order (“Confirmation”). However, this email is simply confirming receipt of your Order and does not mean that your Order has been accepted. You should note that:-

3.1.1. we are not obliged to accept your Order; and

3.1.2. no contract exists between us for those Services at this stage.

3.2. When you place an Order by email or through a system integration you are offering to buy those Services from us.

3.3. Subject to term 3.4 we will send you an email with the Services which you requested in your Order (“Dispatch Email”). The Dispatch email is our acceptance of your offer to buy the Services from us and the Contract between us will only be formed when we send you the Dispatch Email.

3.4. All the Services shown on our Website are subject to availability. If we are unable to supply you with the Services we will inform you of this by e-mail and we will not process your Order

3.4 For the avoidance of doubt, no one other than you and OneSearch shall have any right to enforce any term of the Contract.

4. OUR SERVICES

4.1. For the purpose of the Contract, the description and any specification of the Services will be set out in the Order.

4.2. We reserve the right to alter the Services or any relative specifications (whether such specifications have been submitted by you in the Order or otherwise), at any time, if we are required to do so by law. In such circumstances we shall notify you as soon as practicable by email and will not process your Order until you have confirmed that you wish us to proceed.

5. PROVISION OF SERVICES

5.1. OneSearch warrants that it will provide the Services using reasonable care and skill.

5.2. OneSearch shall use all reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

5.3. You confirm that you have authority to bind any business or individual on whose behalf you use the Website to purchase Services.

5.4 Services ordered by you and rendered by OneSearch are deemed to have been instructed or ordered by you and you shall be treated as the party responsible for payment for the Services, unless otherwise agreed in writing between the parties before the Order is placed.

5.5 If you are not the person undertaking the transaction in relation to the property that is the subject of the Services but are ordering the Services, directly or indirectly, for such person, you agree to ensure that a copy of any report or search provided as part of the Services is provided to such person before the said transaction is entered into.

5.6 These Terms and any document expressly referred to in them and the Order and Dispatch Email constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between both parties, whether written or oral, relating to its subject matter and any other terms and conditions implied by trade, custom, practice or course of dealing.

5.7 You acknowledge that in entering into this Contract you have not relied on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms, any document expressly referred to in them or the online order form.

5.8 Both parties agree that neither party shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

5.9 In providing search reports and services OneSearch will comply with the Search Code.

6. SPECIFIC ONLINE OFFERS

We may offer specific discounts on certain services from time to time. Such

discounts will be subject to the specific terms and conditions stated on the Website in respect of these offers, in addition to these Terms.

7. PRICE AND PAYMENT

7.1. The prices for our services will be provided to you when you set up an account facility with us. We will do what we reasonably can to ensure that the prices provided to you are accurate and up to date, however, it is always possible that, despite our best efforts, some of the services we sell may be incorrectly priced. If we accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the contract, refund you any sums you have paid and require the return of any property search, title search or other documentation provided to you in furtherance of the Services. The prices provided to you are exclusive of VAT and any other applicable taxes (which are charged at the current rate).

7.2. We reserve the right to update the prices for the Services at any time and if we do so we will advise you by email or letter.

7.3. Unless otherwise agreed when you set up an account facility with us, our standard payment terms are 30 days from the date of invoice “the Due Date”.

7.3 If payment is not made or received by the Due Date, we reserve the right to retain any reports or searches prepared for you as part of the Contract until full payment is received.

7.4 We shall be entitled to charge, and you shall pay, interest on all sums not paid by the Due Date at the rate of 4% above the Bank of Scotland plc base rate from time to time until the date upon which full payment is received. You shall pay the interest together with the overdue amount.

7.6 You may be subject to validation checks and/or third party authorisations depending on your method of payment.

8. CANCELLATION

We may cancel any Contract (or any part of the Contract) for any reason, in which event we will notify you by email.

9. OUR LIABILITY

9.1 Nothing in these Terms limits or excludes our liability for:

9.1.1. death or personal injury caused by our negligence; and

9.1.2. fraud or fraudulent misrepresentation.

9.2. Subject to term 9.1, we will under no circumstances whatever be liable to you, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

9.2.1. any loss of profits, sales, business, or revenue;

9.2.2. loss or corruption of data, information or software;

9.2.3. loss of business opportunity;

9.2.4. loss of anticipated savings;

9.2.5. loss of goodwill; or

9.2.6. any indirect or consequential loss.

9.3. Subject to term 9.1 and 9.2, our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £10 million in relation to Services provided in connection with residential and commercial properties.

9.4. Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Services. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Services are suitable for your purposes.

10. YOUR WARRANTY

10.1. You agree to indemnify and hold harmless OneSearch for any costs, damages, expenses, losses and liability (including settlement costs and legal fees) incurred in relation to any claim, action or proceeding brought against us due to breach by you of these Terms.

10.2. You shall notify us immediately of any misuse or potential misuse of

your account information or password and you agree to take responsibility for all payments incurred through use of your account and / or password.

11. USE OF INFORMATION / DATA

11.1. We only use your personal data, which you provide to us in connection with your Order and as set out in our Privacy Policy which can be found at <http://www.onesearchdirect.co.uk/PrivacyPolicy.html>. Please take the time to read our Privacy Policy as it includes important terms which apply to you.

11.2. We maintain a database of address information (not any personal data) to which we will add the Address Data (the "Database"). We sell the Database and information contained on the Database (including the Address Data) to third party marketing companies to be used to issue marketing communications to addresses about services which may be of interest to the inhabitants / proprietors of those addresses.

11.3. You confirm that you have obtained the necessary consents from all third parties to enable you to provide us with the Address Data for the use described at term 11.2.

12. INTELLECTUAL PROPERTY

12.1. All Intellectual Property Rights in or arising out of or in connection with the Services shall remain in the ownership of OneSearch and may not be reproduced, transmitted or distributed without our express prior written consent.

12.2. You acknowledge that your use of any Third Party Materials and the Intellectual Property Rights therein is restricted to the extent of any terms of use or licence terms imposed by the third party providing the Third Party Materials.

12.3. In respect of each report provided under the Contract, we grant a licence to you to use such report and to pass such report to others to use, in its entirety, in connection with the property transaction for which it was requested. You are not entitled to use any such report for any other purpose or provide it to any third party for any other purpose. You shall not be entitled

to modify or amend, nor make derivative works from, any such report. You shall not extract or copy any parts of the data contained in such report nor use, sell, transfer, distribute or publish such extracted data for any purpose whatsoever.

12.4. No licence to use the report shall be granted to you until such time as payment for the Services is made in full to OneSearch. Until full payment is made to OneSearch you shall have no right to use and/or to rely upon the data comprised in such reports.

13. THE WEBSITE

13.1. The information, materials and opinions contained on the Website are for general information purposes only, are not intended to constitute professional advice, and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances.

13.2. The Website contains links to websites operated by third parties. The inclusion of such links does not imply any endorsement or approval of any products, information, materials or services offered or provided on these third party websites

13.3. We accept no liability for any claims, penalties, loss, damage or expenses arising from: any reliance placed on the content of the Website; the use of or inability to use the Website; the downloading of any materials from the Website; or any unauthorised access to or alteration to the Website.

14. DISPUTE RESOLUTION

14.1. We will endeavour to resolve any dispute between the parties.

14.2. OneSearch Direct is registered with the Property Codes Compliance Board as a subscriber to the Search Code. A key commitment under the Code is that firms will handle any complaints both speedily and fairly.

14.3. In furtherance of this commitment we will comply with the following minimum standards:

- a) produce a formal written complaints procedure and tell you what this is;
- b) acknowledge a complaint within 5 working days of its receipt;

- c) normally deal with a complaint fully and in writing within 20 working days of receipt;
- d) keep you informed by letter, telephone or e-mail, as preferred, if we need more time;
- e) provide a final written response at the latest within 40 days of receipt; and
- f) liaise, at your request, with anyone acting formally on your behalf

If you are not satisfied with our final response, or if we exceed the response timescales, you may refer the complaint to The Property Ombudsman scheme (TPOs); Tel: 01722 333306, website: www.tpos.co.uk, email: admin@tpos.co.uk.

We will co-operate fully with the Ombudsman during an investigation and comply with his final decision.

15. OTHER IMPORTANT LEGAL TERMS

15.1. We will not be responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract which are caused by an Event Outside Our Control. If an Event Outside Our Control takes place that affects the Contract we will contact you as soon as reasonably possible to notify you. Please note our obligations under the Contract will be suspended for the duration of the Event Outside Our Control.

15.2. Each term of these Terms operates separately. If any of these terms is found by any court or relevant authority to be unlawful or unenforceable, the other terms shall not be affected and shall remain in full force and effect. If any term of these Terms is found to be unlawful or unenforceable but would be lawful and enforceable if some part of the term were deleted, the term in question shall apply with such deletion as may be necessary to make it lawful and enforceable.

15.3. If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and that will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will do so only in writing, but that will not mean that

we automatically waive any later default by you.

15.4. We may perform any of our obligations or exercise any of our rights under the Contract ourselves or where applicable, through any other persons (legal or otherwise) or entities.

15.5. We may transfer our rights and obligation under a Contract to another organisation but this will not affect your rights under these Terms. You may only transfer your rights or your obligations under these Terms to another person if we give our prior written agreement.

15.6. You acknowledge that you have not relied on any statement, promise or representation made or given by, or on behalf of, us which is not set out within these Terms or any document expressly referred to in them.

15.7. If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your Order.

15.8. Please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our Website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee. The provisions of this term shall not apply to the service of any proceedings or other documents in any legal action.

15.9. For the avoidance of doubt a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

15.10. These Terms are governed by the laws of England and Wales. This means that a Contract for the purchase of Services through the Website and any dispute or claim arising out of or in connection with it will be subject to the laws of England and Wales. You and we both agree that the courts of England and Wales will have exclusive jurisdiction.