

## LANDMARK TERMS AND CONDITIONS

In these Terms, we refer to Landmark Information Group Limited (whose registered office is 7 Abbey Court, Eagle Way, Exeter, EX2 7HY) as "**We**", "**Us**" and "**Our**" and we refer to the contracting party who accesses the Website or places an Order with Us or with an Authorised Reseller as "**You**", "**Your**" and "**Yourself**". All Services and Reports are provided by Landmark Information Group Limited unless otherwise stated.

### DEFINITIONS

In these Terms, the following terms have the following meanings:

"**Agreement**" has the meaning set out in clause 1.e.

"**Authorised Reseller**" means an agent or reseller who We have duly appointed to resell Our Reports and Services.

"**Content**" means any data, computing and information services and software, and other content and documentation or support materials and updates included in and/or supplied by or through the Websites, in Reports or Services or in any other way by Us and shall include both material developed by or on behalf of Us and Third Party Content.

"**End User**" means either: (i) a consumer or a consumer's friend or family member who uses the Services provided to the consumer; (ii) where You are not a consumer, an employee of Yours who uses the Services provided to You; and/or (iii) in respect of the conveyancing Reports identified in clause 2.e only, a person identified in clause 2.e or their respective employees.

"**Fees**" means any charges levied by Us or an Authorised Reseller for Services provided to You.

"**First Purchaser**" means the first person, or legal entity to purchase the Property Site following provision of a Report.

"**First Purchaser's Lender**" means the funding provider for the First Purchaser.

"**Intellectual Property Rights**" means copyright, patent, design right (registered or unregistered), service or trade mark (registered or unregistered), database right or other data right, moral right or know how or any other intellectual property right.

"**On-Demand Service**" means a Service hosted by Us through which an End User is able to access the Content remotely.

"**Order**" means the request for Services from Us by You.

"**Property Site**" means a land site in relation to which We provide a Service.

"**Report**" means any Content that We supply to You in the form of a Report on a Property Site.

"**Services**" means the provision of any service by Us pursuant to these Terms, including without limitation, the use of the Website (whether or not You Order a paid-for Service) and/or any Report.

"**Supplier**" means any third party organisation that provides services, software, data, information and other content or functionality of any form to Us.

"**Terminal**" means a laptop, PC, workstation or other equipment containing a screen on which the Content may be displayed or used and which is internal or personal to You.

"**Terms**" means these terms and conditions.

"**Third Party Content**" means the services, software, data, information and other content or functionality provided by Suppliers and linked to or contained in the Services.

"**Third Party Content Terms**" the terms and conditions, as set out at [http://www.landmarkinfo.co.uk/Terms/terms\\_and\\_conditions\\_299431\\_8.0\\_\\_annexes.pdf](http://www.landmarkinfo.co.uk/Terms/terms_and_conditions_299431_8.0__annexes.pdf) that are specific to Third Party Content, are required by the Suppliers of such Third Party Content and which take precedence over these Terms in the event of any inconsistency.

"**Website**" means any website hosted by Us and includes the Content and any Report, service, document, data-set, software or information contained in such websites or derived from them.

### 1 Basis of Contract

- a. These Terms (including, where applicable, Third Party Content Terms) govern the relationship between Us and You where You use or purchase Services from Us. Where these Terms are not expressly accepted by You, they will be deemed to have been accepted by You, and You agree to be bound by these Terms: (a) when You place any Order, or pay for any Services provided to You by Us; and (b) in respect of Your use of any Website, by accessing and continuing to use any part of this Website. If You do not agree with any of the Terms that apply to Our Websites, then You must not use the Website.
- b. You may be required to register Your details and/or open an account to access or order certain Services. Submission of Your registration and Your use of such Services shall be deemed acceptance of these Terms. You shall ensure that all information provided when submitting your registration is up to date, true, accurate and complete. We reserve the right to suspend or terminate Your access to the Website or block Your ability to place Orders in the event of any breach of this clause 1.b. Each registration is for a single user only. We do not permit You to share Your user name and password with any other person nor with multiple users on a network. It is Your responsibility to maintain the confidentiality of Your password and that You are responsible for all activity that occurs under Your user name and password. We will not be liable where Your password is used by someone else. You should notify Us immediately of any unauthorised use of Your password and any breach of security as soon as You become aware of it.
- c. You shall take all reasonable steps to check that the details that You provide in relation to Your Order are complete, accurate and correct and that the Service is provided for the correct location and property type. Neither We nor any Suppliers shall have any liability for errors or omissions in information provided by or on behalf of You or from Your failure to check that the Service relates to the correct location or property.
- d. We may modify these Terms, and may discontinue or revise any or all other aspects of the Services at Our sole discretion, with immediate effect and without prior notice, including without limitation changing the Services available at any given time. Any amendment or variation to these Terms shall be posted on Our Websites. Continued Orders of the Services or continued use of the Website by You shall be deemed an acceptance by You to be bound by any such amendments to the Terms. We will not file or store a copy of these Terms for each interaction or transaction by You via the Website.
- e. These Terms together with the Third Party Content Terms, any Order You make (if applicable), the Fees (if applicable) and delivery details in relation to the Order and Our privacy policy, which is available on the Website, constitute the entire agreement between the parties relating to the supply of Services to You by Us ("**Agreement**"). 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 in the Agreement or delivery details. Nothing in this clause 1.e shall limit or exclude any liability for fraud.
- f. These Terms shall prevail at all times to the exclusion of all other terms and conditions including any terms and conditions which You may purport to apply even if such other provisions are submitted in a later document or purport to exclude or override these Terms and neither the course of conduct between parties nor trade practice shall act to modify these Terms.

## 2 Services and Licensed Use

- a. Subject to clauses 6.d, 6.k and 6.l, We shall use all reasonable skill, care and diligence in the performance of the Services. In performing search reports and services, We shall comply with the Search Code as developed by the Council for Property Search Organisations (CoPSO) and enforced by the independent Property Code Compliance Board (PCCB).
- b. You shall not hold Yourself out or describe Yourself as Our agent or an agent of any of the Suppliers or as having had any of Your activities endorsed by Us.
- c. Where Content is provided as part of an On-Demand Service, We grant You a non-exclusive, non-transferable licence (without rights to sub-license to any third party other than End Users) to access and use the On-Demand Service (and any output of that service) for the purposes of viewing the Content for the duration permitted in any Order (subject to any Terminal limits (if appropriate)).
- d. Where Content are provided in printed form or in an electronic format for printing (including Reports), We grant You a non-exclusive, perpetual non-transferable licence (without rights to sub-license or provide copies or extracts to any third party other than End Users) to use Content in printed form or in an electronic format for printing (including Reports) for Your commercial or non-commercial use, but without any right to copy, modify, extract or re-utilise any information or data within such printed Content other than as expressly set out in this clause 2.d.
- e. Subject always to these Terms, You may, without further charge, make conveyancing Reports (being all Reports other than the Envirocheck® Reports) available to:
  - i. the owner of the whole or part of the Property Site at the date of the Report;
  - ii. any person who purchases or intends to purchase the whole or part of the Property Site;
  - iii. any person who provides or intends to provide funding secured on the whole or part of the Property Site;
  - iv. any person for whom You act in a professional or commercial capacity in relation to the Property Site; and/or
  - v. any person who acts for You in a professional or commercial capacity in relation to the Property Site.
- f. You shall ensure that acknowledgements of copyright and database right ownership are included in a conspicuous position in all copies of the Content. You may not delete any of Our or the Suppliers' intellectual property protection notices (including without limitation copyright notices or trade marks) from the Content.
- g. You shall not reverse engineer, separate or otherwise tamper with the Content so that Content can be extracted and used for any purpose outside the scope of the Agreement.
- h. If You are a Company or public body, You agree that the licensed use of Content pursuant to the Agreement always excludes its use by any of Your subsidiaries, holding companies or subsidiaries of such holding companies (as such terms are defined in section 1159 of the Companies Act 2006) or by any government entity associated with You (in each case as applicable). You agree, and shall procure, that any such company or entity shall enter into a separate agreement with Us.
- i. All other uses of the Content other than as permitted by the Agreement are prohibited. If You wish to use the Content in a manner which is not authorised by the Terms, then You must contact Us to seek the necessary consents or licences (which may include further licences from the Suppliers), for which there may be additional Fees.
- j. You agree to notify Us should You suspect any infringement of Our or any of Our Supplier's Intellectual Property Rights.
- k. You agree that you will not use the Services (including without limitation Our Websites) in any way that may lead to the encouragement, procurement or carrying out if any criminal or unlawful activity or do anything that may cause damage to the Website or our servers,

systems or equipment or those of third parties, nor access any users' data or penetrate or circumvent any Website security measures or attempt to do any such acts.

## 3 Intellectual Property, Confidentiality and Privacy Policy

- a. You acknowledge and agree that all Intellectual Property Rights in Content and Our Websites are and shall continue to be owned by Us or Our Suppliers and nothing in the Agreement shall transfer, assign or grant any rights to You (save for the licence as set out above).
- b. The names, images and logos identifying Us, companies in the Landmark group, our partners or third parties and our/their products and/or services contained in or sold via the Website are proprietary marks and may not be reproduced or otherwise used without express permission.
- c. Subject to any use of the Content in accordance with these Terms, You acknowledge and agree that You shall, and shall procure that any person to whom You provide access to the Content shall, treat as strictly private and confidential the Services, the Content and all information which they obtain from the Services and Content and you agree to use adequate technical and organisational measures to protect the Content from unauthorised use.
- d. Where mapping is provided by Ordnance Survey, You acknowledge and agree that such mapping contained in any Services is protected by Crown Copyright and must not be used for any purpose outside the context of the Services. Where mapping is provided by any other Supplier, You acknowledge and agree that such mapping is the copyright of the Supplier and must not be used for any purpose outside the context of the Services.
- e. With regard to Ordnance Survey mapping (other than OS OpenData™ in respect of which see Third Party Content Terms (OS OpenData)), copying in whole or in part by any means of map prints or run-on copies provided with the Services is not permitted without appropriate licensing from the relevant Supplier. You must be in possession of or obtain a valid Ordnance Survey Paper Map Copying Licence if You wish to make any further copies of any Ordnance Survey maps supplied with or forming part of the Services.

## 4 Termination

- a. In respect of any On-Demand Service, this Agreement shall expire with respect to that On-Demand Service on the expiry of the subscription period specified in the Order.
- b. At any time, either party may terminate the Agreement with immediate effect by giving the other party written notice:
  - i. if the other party is in material breach of the Terms and, if such breach is capable of remedy, that party fails to remedy the breach within 30 days of written notice specifying the breach and requiring it to be remedied;
  - ii. the other party has a receiver or administrative receiver or administrator appointed over any part of its undertaking or assets or passes a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or if a court of competent jurisdiction makes an order to that effect or if it become subject to an administration order or enter into a voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business or if they are presented with a bankruptcy petition; or
  - iii. if We or a Supplier loses the right to administer Crown copyright and/or Crown database right in respect of the Ordnance Survey Data.
- c. In the event of the termination or expiry of the Agreement with respect to the Service ordered by You:
  - i. You shall, subject to clause 4.c.iii, immediately cease to use the affected Service and Content;
  - ii. You shall, subject to clause 4.c.iii, within 30 days of such termination or expiry, destroy all Content relating to the terminated Service in any media which is in Your possession or control and provide, at Our request, a sworn statement by a duly

authorised person that You no longer hold such Content;

- iii. except in the event of termination by Us under clause 4.b, You may retain Content in an archive following expiry of the Agreement for the sole purpose of addressing a complaint or challenge from a regulator or other third party regarding Your use of such Content during the term of the Agreement. Your rights are on condition that: (a) the archive rights do not apply to Content that include third party Intellectual Property Rights (other than Content provided by Ordnance Survey to the extent that the Intellectual Property Rights in such Content are owned by Ordnance Survey); (b) You shall not disclose Content retained under this clause 4.c.iii to any regulator or other third party except strictly to the extent necessary for the relevant purpose of addressing a complaint or challenge from a regulator or other third party and in paper or read-only electronic format only; (c) You must store such Content separately from any other data which You hold; and (d) subject to clause 6.a, We shall have no liability for Your use of it following termination or expiry of the Agreement; and
- iv. the parties shall have no further obligations or rights under the Agreement (save in respect of any continued use of publicly accessible Websites), without prejudice to those which have accrued to either party prior to termination or expiry save that the "Definitions", clauses 2.f to 2.k (inclusive), this clause 4.c, clauses 5.d, 6, 7, 9, 10 and 11 together with those other clauses the survival of which is necessary for the interpretation or enforcement of the Agreement or which by their nature can be reasonably interpreted as surviving the expiry or termination of the Agreement, shall continue to have effect after such expiry or termination.

## 5 Payments

- a. Where You do not pay the Fees at the point of purchase You agree that You will pay the Fees at the rates set out in Our or Our Authorised Reseller's invoice within 30 days of the date of each invoice without deduction, counterclaim or set off. Where Your order comprises a number of Services or severable elements within any one or more Services, any failure by Us or an Authorised Reseller to provide an element or elements of the Services shall not prejudice Our or an Authorised Reseller's ability to require prompt payment in respect of the Services delivered to You.
- b. VAT shall be due in addition to any Fees. You shall pay any other applicable indirect taxes related to Your use of the Services.
- c. Neither We nor any Authorised Reseller shall be required to notify You in advance of any amendment to the Fees and the placing of any further Order for Services shall be deemed acceptance of any revisions to the Fees.
- d. If You fail to pay by the due date any amount due and payable by You under the Agreement, We shall be entitled, but not obliged to, charge You interest on the overdue amount, payable by You immediately on demand, accruing on a daily basis from the due date up to the date of actual payment, after as well as before judgment, at the rate set out in the Late Payment of Commercial Debts (Interest) Act 1998 from time to time and fixed sum compensation under the Late Payment of Commercial Debts Regulations 2002.

## 6. Liability

- a. Nothing in these Terms excludes or limits either party's liability for death or personal injury caused by that party's negligence or wilful default or for fraud, and the remainder of this clause 6 is subject to this provision. If You are a consumer, Your statutory rights (which include, for example, that We will provide the Services to a reasonable standard and within a reasonable time) are not affected by anything in these Terms.
- b. Save as set out in clause 6.a, We shall not be liable to You or to any End User in contract, tort (including negligence) or for breach of statutory duty or in any other way for:
  - i. any indirect or consequential losses (which includes any loss that could not have been reasonably expected by You and Us at the time of entering into these Terms);

- ii. loss arising from or in connection with loss of revenues, profits, contracts or business or failure to realise anticipated savings; or
  - iii. loss of goodwill or reputation.
- c. Save as set out in clause 6.a, Our total liability to You and/or any End User in contract or tort (including negligence) or for breach of statutory duty shall not exceed:
    - i. in respect of any Services other than the Promap® service, an amount of ten million pounds (£10,000,000) per claim or series of connected claims; and
    - ii. in respect of our Promap® service, an aggregate amount of £350,000.
  - d. The Content that Services are based on is partly derived from third party sources. Therefore, save as set out in clause 6.l in respect of risk assessments and professional opinions, We do not warrant the accuracy or completeness of any information or Content provided, unless We should reasonably have been alerted to any omission, error or inaccuracy in the Content. Such Content is provided specifically from the sources as described by Us and We do not claim that these represent an exhaustive or comprehensive list of all sources that might be consulted. We shall not be liable for any inaccurate statement, opinion or risk rating in a Service which resulted from a reasonable interpretation of the Content
  - e. You acknowledge and agree that neither You nor any End User shall have any claim or recourse against any Supplier of Third Party Content.
  - f. You acknowledge and agree that We do not warrant that the online supply of Website, Content or Services or any internet ordering service will be: uninterrupted or error free or provide any particular facilities or functions; free from defects; free from software viruses; free of error from computer malfunction, inaccurate processing; free from corruption of data whilst geo-coding, processing by computer or electronic means or in the course of transmission; or similar, although We will use reasonable endeavours to correct any such issues within a reasonable period of them becoming known (which may be limited to notifying the relevant Supplier). We will not be liable to You or to any other person in the event that all or any part of Our Websites is discontinued, modified or changed in any way. Time shall not be of the essence in providing the Website, Content or Services.
  - g. You acknowledge and agree that no physical inspection of the Property Site reported on is carried out as part of any Services offered by Us and We do not warrant that all land uses or features whether past or current will be identified in the Services. The Services do not include any information relating to the actual state or condition of any Property Site nor should they be used or taken to indicate or exclude actual fitness or unfitness of a Property Site for any particular purpose.
  - h. You acknowledge and agree that We will not be held liable in any way if a Service is used otherwise than as provided for in these Terms and/or in the Report or Service.
  - i. You acknowledge and agree that the Services have not been prepared to meet Your or anyone else's individual requirements and it is Your responsibility to ensure that the Services ordered are suitable for Your (or the End User's) intended purpose.
  - j. You acknowledge and agree that You shall, on receipt of a Report carry out a reasonable inspection to satisfy Yourself that there are no apparent defects or failures with respect to the description and location of the Property Site and shall promptly inform Us if there are any such defects or failures.
  - k. All liability for any insurance products purchased by You rests solely with the insurer. We do not endorse any particular product or insurer and no information contained within the Services should be deemed to imply otherwise. You acknowledge that:
    - i. if You Order any such insurance We will deem such as Your consent to forward a copy of the Report to the insurers. Where such policy is purchased, You acknowledge and agree that You are entirely responsible for ensuring that the insurance policy offered is suitable for Your needs and should seek independent advice;

- ii. all decisions with regard to the offer of insurance policies for any premises will be made solely at the discretion of the insurers and We accept no liability in this regard; and
  - iii. the provision of a Report does not constitute any indication by Us that insurance will be available on the Property Site.
- l. We may provide You with professional opinions or a risk assessment in a Report. You acknowledge and agree that We shall carry out (or procure that third parties carry out) such assessment with reasonable skill and care and that We shall be liable where any such risk assessment is carried out negligently.
- m. Neither You, nor any End User or any other person may rely on a Service more than 12 months after it was originally provided.
- n. Without limiting Our liability under these Terms for Content that You purchase, while We endeavour to ensure that the information on Our Websites is correct, We make no promise nor do We give any warranty or guarantee regarding the accuracy and completeness of the material on Our Website. We may make changes to the material on Our Websites, or to the products and prices described in it, at any time without notice.
- o. Without limiting Our liability under these Terms for Content that You purchase, the material on Our Website is provided "as is", without any conditions, warranties or other terms of any kind. Accordingly, to the maximum extent permitted by law, We provide you with Our Websites on the basis that all representations, warranties, conditions and other terms (including, without limitation, the conditions implied by law of satisfactory quality, fitness for purpose and the use of reasonable care and skill) which but for this legal notice might have effect in relation to Our Websites are excluded. This does not affect Your statutory rights.
- p. We shall not be, nor shall any authors be, held liable for and damage or loss that You incur arising from errors or omissions in information provided or for technical problems encountered on Websites or any other websites to which links are established. We do not accept any liability for damage to Your computer or for any loss of data that results from Your use of the Websites and We cannot guarantee that any files that You download are free from viruses, contamination or destructive features or for any problems or inadequacies with Your computer, software, email system, internet facilities, or equipment.
- q. Links to other third party websites on Our Websites are provided solely for ease of reference and Your convenience. If You use these links, You leave Our Website. We have not reviewed these third party websites and We do not have any control over, nor are We responsible for, these websites or their content or availability or for the products or services that such third parties may offer. We do not endorse or make any representations about them, or any material found there, or any results that may be obtained from using them. If You decide to access any of the third party websites linked to via Our Websites, You do so entirely at Your own risk. We give no promises or guarantees as to the availability or operation of the links and We shall not be liable for any broken or incorrectly operating link. You are not permitted to create links to Our Websites. Should You wish to link to a Website (whether by way of a hypertext link or framed content), please contact Us. Creation of any link shall be subject to such terms as We may notify from time to time and We reserve the right at any time for any reason to require You to remove or disable any link.
- r. You shall use all reasonable endeavours to ensure that End Users are made aware of and agree to the limitations and exclusions of liability set out in this clause 6.
- 7. Contribution – Envirosearch® Residential and Homecheck Professional® Environmental Reports Only**
- a. Nothing in this clause 7 shall operate to override or vary the provisions of clause 6. Save where expressly provided and regardless of the result of Reports, this clause 7 shall apply solely to:
- i. Envirosearch® Residential Reports; and
  - ii. Homecheck Professional ® Environmental where Our preferred risk assessment provider certifies that the level of environmental risk identified in the report is not likely to be sufficient for the property to be described as "contaminated land" as defined by section 78(A)2 of Part IIA of the Environmental Protection Act 1990 and where Our preferred risk assessment provider should have identified such risk.
- b. We are prepared to offer, on a discretionary basis without any admission or inference of liability, a contribution towards the costs of any remediation works required under a Notice (as defined below) on the terms of this clause 7 ("the Contribution") – subject to us reserving the right to withdraw the offer of a contribution at any time.
- c. In the event that a Remediation Notice is served on the First Purchaser or First Purchaser's Lender of a Property Site under Part IIA of the Environmental Protection Act 1990 ("the Notice") We may, at our absolute discretion, contribute to the cost of such works as either the First Purchaser or First Purchaser's Lender (but not both) are required to carry out under the Notice subject to the provisions of this clause 7 and on the following terms:
- i. the Contribution shall only apply to contamination or a pollution incident present or having occurred prior to the date of the Report;
  - ii. the Contribution shall only apply where the Property Site is a single residential dwelling house or a single residential flat within a block of flats. For the avoidance of doubt, this obligation does not apply to any commercial property, nor to any Property Site being developed or redeveloped whether for residential purposes or otherwise;
  - iii. the Contribution is strictly limited to the cost of works at the Property Site and at no other site; and
  - iv. the Contribution will not be paid in respect of any of the following: (1) radioactive contamination of whatsoever nature; (2) asbestos or asbestos-containing materials on or in structures or services serving the Property Site. For the avoidance of doubt, We may contribute towards asbestos in the ground; (3) the intentional disregard of or knowing wilful or deliberate non-compliance by any owner or occupier of the Property Site with any statute, regulation, administrative complaint, notice of violation, or notice letter of any Regulatory Authority; (5) any condition which is known or ought reasonably to have been known to the First Purchaser or the First Purchaser's Lender prior to the purchase of the Report; (6) any condition which is caused by acts of war or an act of terrorism; (7) any property belonging to or in the custody or control of the First Purchaser which does not form a fixed part of the Property Site or the structure; and/or (8) any losses incurred following a material change in use of, alteration or development of the Property Site.
- d. Without prejudice to Your other rights and remedies under the Agreement, the maximum sum that may be contributed by Us in respect of any Contribution shall be limited to; £60,000 for Homecheck Professional® Environmental Reports and; £100,000 for Envirosearch® Residential Reports. In the event that more than one Report is purchased on the Property Site the Contribution shall only be considered under the first Report purchased by or on behalf of any First Purchaser or First Purchaser's Lender and no Contribution shall be considered in respect of subsequent Reports purchased by or on behalf of such First Purchaser, First Purchaser's Lender or any person connected to them.
- e. We shall only consider a Contribution where the Notice is served within 36 months of the issue date of the Report.
- f. Any rights to a Contribution under this clause 7 are not assignable in the event of a sale of the Property Site and We shall not make any Contribution after the date of completion of such sale.
- g. In the event the First Purchaser or First Purchaser's Lender wishes to claim any Contribution, it shall notify Us in writing within 3 months of the date of the Notice. The First Purchaser or First Purchaser's Lender (as applicable) shall comply with all Our reasonable requirements with regard to the commission and conduct of the remediation works to be carried out under the Notice, and in the event the First Purchaser or First Purchaser's Lender (as applicable) does not do so, including without limitation, obtaining Our prior written consent to any estimates for such works or complying with any other reasonable request by Us, We shall not be required to pay any Contribution. Notwithstanding the

payment of the Contribution by Us the First Purchaser or First Purchaser's Lender as applicable shall take all reasonable steps to mitigate any costs incurred in connection with the conduct of works required under the terms of any Notice.

- h. In the event that the First Purchaser or First Purchaser's Lender receives any communication from a statutory authority to the effect that there is an intent to serve a notice received under Part IIA of the Environmental Protection Act 1990 You shall use reasonable endeavours to ensure that they advise Us within a maximum period of two months from receipt of such communication. This clause 7.h and the service of any notice under it shall not affect the provisions of clauses 7.e and 7.g, and any such communications, even if advised to Us will not operate as notice under clause 7.e.

## 8. Assignment and Sub-contracting

- a. We shall be entitled to assign or transfer the Agreement.
- b. The Agreement is personal to You. You shall not assign, transfer, sub-licence or otherwise deal with any of Your rights and obligations under the Agreement without Our prior written consent.
- c. We may authorise or allow Our contractors and other third parties to provide to Us and/or to You services necessary or related to the Services and to perform Our obligations and exercise Our rights under these Terms, which may include collecting payment on Our behalf.

## 9. Events Beyond Our Control

- a. Neither party to the Agreement shall be liable for any delay or failure to perform their obligations caused by any circumstance beyond their control, and such party shall be entitled to a reasonable extension of time for the performance of such obligation.

## 10. Complaints and Dispute Resolution

- a. Any complaints in relation to the Services should, in the first instance, be in writing addressed to the Customer Service Support Manager at Our registered office. We will (or Our agents will) respond to any such complaints in writing as soon as practicably possible.
- b. If any dispute arises out of or in connection with the Terms of the Agreement or their validity ("**Dispute**") the parties undertake, subject to clause 10.c, that prior to commencement of court proceedings they will negotiate in good faith to settle such Dispute by mediation in accordance with the Centre for Effective Dispute Resolution Model Mediation Procedure as in force from time to time, which Procedure is deemed to be incorporated by reference into this clause. Unless otherwise agreed between the parties, the mediator will be nominated by the Centre for Effective Dispute Resolution. To initiate the mediation a party shall give notice in writing to the other party to the dispute requesting a mediation. The mediation will start not later than 21 days after the date of service of such notice. If the Dispute has not been resolved to the mutual satisfaction of the parties within 60 days (or such other period as they shall agree) after the date of service of such notice then either party may refer the Dispute to the courts in accordance with clause 11.f.
- c. Clause 10.b shall be without prejudice to the rights of termination stated in clause 4.b and in addition shall not prevent Us from:
  - i. applying for injunctive relief in the case of: (1) breach or threatened breach of confidentiality; or (2) infringement or threatened infringement of Our or Our Suppliers' Intellectual Property Rights; or
  - ii. pursuing a debt claim for the payment of the Fees.

## 11. General

- a. If any provision of the Agreement is found by either a court or other competent authority to be void, invalid, illegal or unenforceable, that provision shall be deemed to be deleted from the Agreement and never to have formed part of the Agreement and the remaining provisions shall continue in full force and effect.
- b. No delay, failure or omission on Our, or any Supplier's, part in enforcing, exercising or pursuing any right, power, privilege, claim or remedy conferred by or arising under the Agreement or by law shall be deemed to be or construed as a waiver of that or any other right,

power, privilege, claim or remedy, nor shall any single or partial exercise of any such right, power, privilege, claim or remedy preclude the exercise of that or any other right, power, privilege, claim or remedy.

- c. Our privacy policy as displayed on Our Website and updated from time to time governs the use that We shall make of any information provided by You or an End User.
- d. A person who is not a party to any contract made pursuant to these Terms shall have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any terms of the Agreement and We shall not be liable to any such third party in respect of the Products, save that any Supplier may enforce any of these terms and conditions against You in accordance with the Contracts (Rights of Third Parties) Act 1999. Notwithstanding any other provisions of the Agreement, We may rescind or vary the Agreement in accordance with its terms without the consent of the Suppliers and accordingly section 2(1) of the Contracts (Rights of Third Parties) Act 1999 shall not apply.
- e. You shall ensure that each End User agrees to comply with and is bound by the Terms and shall procure that We may in Our own right enforce such terms and conditions against the End User pursuant to the Contracts (Rights of Third Parties) Act 1999.
- f. The Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and, subject to clause 10.b, each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales.

Version 8.0. Last updated: 27th September 2013.

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