

## Appendix two: CON29DW terms and conditions

The Customer the Client and the Purchaser are asked to note these terms, which govern the basis on which this drainage and water report is supplied.

### Definitions

- "Client" means the person, company or body who is the intended recipient of the Report with an actual or potential interest in the Property.
- "Company" means Southern Water Services Limited who produces the Report.
- "Customer" means the person, company, firm or other legal body placing the Order, either on their own behalf as Client, or as an agent for a Client.
- "Order" means any request completed by the Customer requesting the Report.
- "Property" means the address or location supplied by the Customer in the Order.
- "Purchaser" means the actual or potential purchaser of the Property including their mortgage provider.
- "Report" means the drainage and/or water report prepared by Company in respect of the Property.

### 1.0 Agreement

- 1.1 The Company agrees to supply the Report to the Customer subject to these terms and the Drainage and Water Services Network (DWSN) Standards, as set out at [www.dwsn.org.uk](http://www.dwsn.org.uk). The scope and limitations of the Report are described in paragraph 2 of these terms. Where the Customer is acting as an agent for the Client or is acting in the course of the Customer's business, trade or profession then the Customer shall be responsible for bringing these terms to the attention of the Client and/or the Purchaser.
- 1.2 Where the Customer is acting as an agent for the Client or is acting in the course of the Customer's business, trade or profession the Client shall be entitled to the benefit of these terms to the exclusion of the Customer.
- 1.3 The Customer, the Client and the Purchaser agree that the placing of an Order for a Report and the subsequent provision of a copy of the Report to the Purchaser indicates their acceptance of these terms.
- 1.4 If the Customer is not acting wholly or mainly in the course of its business, the Customer may cancel the Order within 14 days of placing the Order, provided that the decision to cancel is made in a clear statement by letter, fax or email. The right to cancel the Order shall expire 14 days from the date on which the Order was made.
- 1.5 If the Customer is not acting wholly or mainly in the course of its business, the Customer must inform the Company if the Customer requires the Company to begin producing the Report on a date sooner than 14 days from the date that the Order was received by the Company.
- 1.6 If the Customer is acting wholly or mainly in the course of its business, the Customer may cancel the Order before the Report is received. Cancellation must be in the form of a clear statement by letter, fax or email.
- 1.7 The Company will reimburse the Customer without undue delay and not later than 14 days after the day on which the Company received the statement of the decision to cancel. The amount reimbursed shall be the full cost of the Report, unless Clause 1.5 or 1.6 applies. If Clause 1.5 or 1.6 applies, the Company may reimburse the cost of the Report less any costs already outlaid in its preparation, including fees due to third parties which have been incurred by the Company in preparing the Report.

### 2.0 The Report

Whilst the Company will use reasonable care and skill in producing the Report, it is provided to the Customer, the Client and/or the Purchaser on the basis that they acknowledge and agree to the following:

- 2.1 The information contained in the Report can change on a regular basis so The Company cannot be responsible to the Customer the Client and/or the Purchaser for any change in the information contained in the Report after the date on which the Report was produced and sent to the Client.
- 2.2 The Report does not give details about the actual state or condition of the Property nor should it be used or taken to indicate or exclude actual suitability or unsuitability of the Property for any particular purpose, or relied upon for determining saleability or value, or used as a substitute for any physical investigation or inspection. Further advice and information from appropriate experts and professionals should always be obtained.
- 2.3 The information contained in the Report is based upon the accuracy of the address supplied by the Customer or Client.
- 2.4 The Report provides information as to the location and connection of existing services and other information in relation to drainage and water enquiries and shall not be relied on or used for any other purpose by the Customer, Client or Purchaser. The Report may contain general advice to the Customer, the Client and/or the Purchaser. The Company cannot ensure that any such general advice is accurate, complete or valid and accepts no liability therefore.
- 2.5 The position and depth of apparatus shown on any maps attached to the Report are indicative. The exact positions and depths of apparatus shown on any maps may be established by undertaking the Customer's or Client's own investigations such as excavations or trial holes. The Company is responsible for inaccuracies in the maps within the Report to the extent that such inaccuracies are a direct result of the Company's negligence and the existence of which the Company ought reasonably to have been aware.

### 3.0 Liability

- 3.1 The Company shall not be liable to the Client or the Purchaser for any failure defect or non-performance of its obligations arising from any failure of or defect in any machine, processing system or transmission link or anything beyond The Company's reasonable control.
- 3.2 The Report is produced only for use in relation to individual domestic property transactions and cannot be used for development of land, commercial development of domestic properties, or commercial properties for intended occupation by third parties.
- 3.3 The Company shall not be liable to the Customer, Client or Purchaser in contract, tort or otherwise for any incorrect information in the Report unless any such liability arises as a direct consequence of the Company's negligence and the existence of which incorrect information the Company ought reasonably to have been aware.
- 3.4 The Company shall accept liability for death or personal injury arising from its negligence.
- 3.5 With the exception of liability under Clause 3.4, the liability of the Company in connection with these terms to the Customer, Client or Purchaser in contract, tort or otherwise shall not exceed the aggregate sum of Ten Million Pounds (£10,000,000).

#### 4.0 Copyright and confidentiality

- 4.1 The Customer the Client and/or the Purchaser acknowledge that the Report is confidential and is intended for the personal use of the Client and the Purchaser. The copyright and any other intellectual property rights in the Report shall remain the property of the Company, save for those intellectual property rights which are the property of the Law Society or Ordnance Survey, whichever is applicable. No intellectual or other property rights are transferred or licensed to the Customer the Client or the Purchaser except to the extent expressly provided.
- 4.2 The Customer or Client is entitled to make copies of the Report but may only copy Ordnance Survey mapping or data contained in or attached to the Report, if they have an appropriate licence from the originating source of that mapping or data.
- 4.3 The Customer the Client and/or the Purchaser agree (in respect of both the original and any copies made) to respect and not to alter any trademark, copyright notice or other property marking which appears on the Report.
- 4.4 The maps contained in the Report are protected by Crown Copyright and must not be used for any purpose outside the context of the Report.
- 4.5 The Customer the Client and/or the Purchaser agree to indemnify The Company against any losses, costs, claims and damage suffered by The Company as a result of any breach by either of them of the terms of paragraphs 4.1 to 4.4 inclusive.
- 4.6 The enquiries contained in the Report are protected by copyright owned by the Law Society of 113 Chancery Lane, London WC2A 1PL and must not be used for any purpose outside the context of the Report.

#### 5.0 Payment

- 5.1 Unless otherwise stated all prices are inclusive of VAT. The Customer shall pay for the price of the Report specified by The Company, without any set off, deduction or counterclaim. Unless the Customer or Client has an account with the Company for payment for Reports, The Company must receive payments for Reports in full before the Report is produced. For Customers or Clients with accounts, payment terms will be as agreed with the Company.

#### 6.0 General

- 6.1 If any provision of these terms is or becomes invalid or unenforceable, it will be taken to be removed from the rest of these terms to the extent that it is invalid or unenforceable. No other provision of these terms shall be affected.
- 6.2 These terms shall be governed by English law and all parties submit to the exclusive jurisdiction of the English courts.
- 6.3 Nothing in these terms and conditions shall in any way restrict the Customer, the Client or the Purchaser's statutory or any other rights of access to the information contained in the Report.
- 6.4 The Customer may make a complaint to the company using the complaints procedure which is available on the Company's website. If the Customer is dissatisfied with the outcome having followed the complaints procedures, the Customer may refer the complaint to the Property Ombudsman using The Property Ombudsman Scheme (TPOs). Further information can be obtained by visiting [www.tpos.co.uk](http://www.tpos.co.uk).
- 6.5 These terms and conditions are the only terms that shall apply in connection with the issue of the Report by the Company and save where specifically incorporated by reference shall constitute the entire agreement between the parties.
- 6.6 In the event of any ambiguity or inconsistency between these terms and conditions and the terms on the Company's website, these terms and conditions shall take precedence over any such terms on the website.
- 6.7 Save as provided for in Clause 1.2, it is not intended that any other person who is not a party to these terms has any right to enforce any term of these terms under the Contracts (Rights of Third Parties) Act 1999.

**These Terms and conditions are available in larger print for those with impaired vision.**