

Terms and Conditions

Definitions

"Authorised Reseller" means an agent or reseller of emapsite whom emapsite has duly appointed to resell its 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 emapsite and shall include emapsite developed and Third Party Content.

"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

"Information Pack" means a pack compiled by or on behalf of the owner or prospective buyer of the Property Site, designed to aid the marketing or purchase of the Property Site and containing information provided by or on behalf of the owner or prospective buyer of the Property Site.

"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.

"Order" means the request for Services from emapsite by You.

"Property Site" means a location on which emapsite provides a Service.

References to **"We"**, **"Us"** and **"Our"** are references to emapsite.com Limited ("emapsite"), whose registered office is MASDAR House, No. 1 Reading Road Eversley, Hants RG27 0RP. Where You are not ordering the Services directly from emapsite, but from an Authorised Reseller, references to "emapsite" or "We", "Us" and "Our" shall be construed so as to mean either emapsite and/or the Authorised Reseller as the context shall indicate.

References to **"You/Your/Yourself"** refer to the contracting party who accesses the Website or places an Order with emapsite.

"Report" includes any information that emapsite supplies to You including all reports, services, datasets, software or information contained in them.

"Services" means the provision of any service by emapsite pursuant to these Terms, including without limitation, any Report.

"emapsite Fees" means any charges levied by emapsite for Services provided to You.

"Suppliers" means any organisation who provides data or information of any form to emapsite.

"Terms" means these Terms & Conditions.

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

"Websites" means websites hosted by emapsite and includes the Content and any report, service, document, data-set, software or information contained therein, derived there from or thereby.

1. Terms & Conditions

These Terms govern the relationship between You and emapsite whether You are an unregistered visitor to the Website or are purchasing Services. 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 when You place any Order, or pay for any Services provided. If the person communicating with emapsite is an Authorised Reseller, they must ensure that You agree to these Terms.

The headings in these Terms are for convenience only and shall not affect the meaning or interpretation of any part of these Terms.

emapsite 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 use of the Services by You shall be deemed an acceptance by You to be bound by any such amendments to the Terms.

These Terms, together with the prices and delivery details set out on our Websites, emapsite's Privacy Policy and Your Order comprise the whole agreement relating to the supply of Services to You by emapsite. No prior stipulation, agreement, promotional material or statement whether written or oral made by any sales or other person or representative on our behalf should be understood as a variation of these Terms. Save for fraud or misrepresentation, emapsite shall have no liability for any such representation being untrue or misleading.

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

emapsite will use reasonable care and skill in providing the Services to You, however, the Services are provided on the express basis that the information and data supplied in the Services are derived from third party sources and emapsite does not warrant the accuracy or completeness of such information or data. Such information is derived solely from those sources specifically cited in the Services and emapsite does not claim that these sources represent an exhaustive or comprehensive list of all sources that might be consulted.

3. Intellectual Property

You acknowledge that all Intellectual Property Rights in the Services are and shall remain owned by either emapsite or our Suppliers and nothing in these Terms purports to transfer, assign or grant any rights to You in respect of the Intellectual Property Rights.

Subject always to these Terms You may, without further charge, make the Services available to;

- the owner of the Property at the date of the Report,
 - any person who purchases the whole of the Property Site,
 - any person who provides funding secured on the whole of the Property Site,
 - any person for whom You act in a professional or commercial capacity,
 - any person who acts for You in a professional or commercial capacity; and
- prospective buyers of the Property Site as part of an Information Pack but for the avoidance of doubt, emapsite shall have no liability to such prospective buyer unless the prospective buyer subsequently purchases the Property Site, and the prospective (or actual) buyer shall not be entitled to make the Service available to any other third party. Accordingly emapsite shall have the same duties and obligations to those persons in respect of the Services as it has to You.

Each of those persons referred to in clause 3.b. shall have the benefit and the burden of Your rights and obligations under these Terms. The limitations of emapsite's liability as set out in clause 6 shall apply to all users of the Service in question in aggregate and emapsite shall not be liable to any other person.

All parties given access to the Services agree that they will treat as strictly private and confidential the Services and all information which they obtain from the Services and shall restrict any disclosure to employees or professional advisors to enable the relevant party to conduct its internal business. The requirement in this clause to treat the Services as confidential shall include a requirement to maintain adequate security measures to safeguard the Services from unauthorised access, use or copying.

Each recipient of the Services agrees (and agrees it will cause its employees, agents or contractors who may from time to time have access to the Services to agree) it will not, except as permitted herein or by separate agreement with emapsite:

- effect or attempt to effect any modification, merger or change to the Service, nor permit any other person to do so; or
- copy, use, market, re-sell, distribute, merge, alter, add to or carry on any redistribution, reproduction, translation, publication, reduction to any electronic medium or machine readable form or commercially exploit or in any other way deal with or utilise or (except as expressly permitted by applicable law) reverse engineer, decompile or disassemble the Services, Content or Website; or
- remove, alter or in any way change any trademark or proprietary marking in any element of the Services and You shall acknowledge the ownership of the Content, where such Content is incorporated or used into Your own documents, reports, systems or services whether or not these are supplied to any third party.

create any product which is derived directly or indirectly from the data contained in the Services

The mapping contained in any Services is protected by Crown Copyright and must not be used for any purpose outside the context of the Services or as specifically provided by these Terms.

You are permitted to make five copies of any Report, but are not authorised to re-sell the Report, any part thereof or any copy thereof unless you are an Authorised Reseller. Further copies may not be made in whole or in part without the prior written permission of emapsite who shall be entitled to make a charge for each additional copy.

4. Charges

VAT at the prevailing rate shall be payable in addition to the emapsite Fees. You shall pay any other applicable indirect taxes related to Your use of the Services.

An individual or a monthly invoice showing all Orders created by You will be generated subject to these Terms. You will pay the emapsite Fees at the rates set out in emapsite's or its Authorised Reseller's invoice. The emapsite Fees are payable in full within 30 days without deduction, counterclaim or set off. You acknowledge that time is of the essence with respect to the payment of such invoices. emapsite reserve the right to amend the emapsite Fees from time to time and the Services will be charged at the emapsite Fee applicable at the date on which the Service is ordered.

We may charge interest on late payment at a rate equal to 3% per annum above the base lending rate of National Westminster Bank plc.

emapsite or its Authorised Reseller shall not be obliged to invoice any party other than You for the provision of Services, but where emapsite or its Authorised Reseller does so invoice any third party at Your request, and such invoice is not accepted or remains unpaid, emapsite or its Authorised Reseller shall have the option at any time to cancel such invoice and invoice You direct for such Services. Where Your order comprises a number of Services or severable elements within any one or more Services, any failure by emapsite or its Authorised Reseller to provide an element or elements of the Services shall not prejudice emapsite's or its Authorised Reseller's ability to require payment in respect of the Services delivered to You.

emapsite provides free to air viewing of many different types of mapping and other data. In some cases, notably with OS MasterMap, 1:10 000 scale colour raster, 1:25 000 scale colour raster, 1:50 000 scale colour raster and aerial photography this service carries an overhead for emapsite. We recognise that such a service carries a risk but our intention is to maintain the service for the benefit of our users. Where users require view only services they should contact our Customer Service team to learn more about how these services can be provided in a cost-effective and legitimate manner. Individual users who exceed certain thresholds of viewing activity without otherwise using our services will, generally, be contacted by our sales team to discover more about their requirements and so that emapsite can provide a suitable service. If users persist in viewing data with no intention to purchase emapsite will block such users. emapsite reserves the right to re-apply view charging to individual users, companies or otherwise at any time.

5. Termination

emapsite may suspend or terminate Your rights under these Terms without any liability to You with immediate effect if at any time:

- You fail to make any payment due in accordance with clause 4 Charges;
- You repeatedly breach or commit or cause to be committed any material breach of these Terms; or You commit a breach and You fail to remedy the breach within 7 days of receipt of a written notice to do so; additionally, without prejudice to the foregoing, emapsite may remedy the breach and recover the costs thereof from You.

If Your rights are terminated under this clause and You have made an advance payment We will refund You a reasonable proportion of the balance as determined by Us in relation to the value of Services previously purchased.

emapsite reserves the right to refuse to supply any or all Services to You without notice or reason.

6. Liability

We provide warranties and accept liability only to the extent stated in this clause 6.

Nothing in these Terms excludes either party's liability for death or personal injury caused by that party's negligence or wilful default, and the remainder of this clause 6 is subject to this provision and Your statutory rights.

As most of the information contained in the Services is provided to emapsite by others, emapsite cannot control its accuracy or completeness, nor is it within the scope of emapsite's Services to check the information on the ground. Accordingly, emapsite will only be liable to You for any loss or damage caused by its negligence or willful default and subject to clause 6.0 below neither emapsite nor any person providing information contained in any Services shall in any circumstances be liable for any inaccuracies, faults or omissions in the Services, nor shall emapsite have any liability if the Services are used otherwise than in accordance with these Terms.

Save as precluded by law, emapsite shall not be liable for any indirect or consequential loss, damage or expenses (including loss of profits, loss of contracts, business or goodwill) howsoever arising out of any problem, event, action or default by emapsite.

In any event, and notwithstanding anything contained in these Terms, emapsite's liability in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever arising by reason or in connection with this Contract (except in relation to death or personal injury) shall be limited to an aggregate amount not exceeding £1 million if the complaint is in relation to a Report on residential property and an aggregate amount not exceeding £1 million in respect of any other Report or Service purchased from emapsite.

emapsite will not be liable for any defect, failure or omission relating to Services that is not notified to emapsite within six months of the date of the issue becoming apparent and in any event, within twelve years of the date of the Service.

You acknowledge that:

- Subject to clause 6.0 below You shall have no claim or recourse against any Third Party Content supplier nor any of our other Suppliers. You will not in any way hold us responsible for any selection or retention of, or the acts of omissions of Third Party Content suppliers or other Suppliers (including those with whom We have contracted to operate various aspects or parts of the Service) in connection with the Services (for the avoidance of doubt emapsite is not a Third Party Content supplier). emapsite does not promise that the supply of the Services will be uninterrupted or error free or provide any particular facilities or functions, or that the Content will always be complete, accurate, precise, free from defects of any other kind, computer viruses, software locks or other similar code although emapsite will use reasonable efforts to correct any inaccuracies within a reasonable period of them becoming known to us;
 - emapsite's only obligation is to exercise reasonable skill and care in providing environmental property risk information to persons acting in a professional or commercial capacity who are skilled in the use of property and environmental information and You hereby acknowledge that You are such a person;
 - no physical inspection of the Property Site reported on is carried out as part of any Services offered by emapsite and emapsite 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 nor should it be relied upon for determining saleability or value or used as a substitute for any physical investigation or inspection. emapsite recommends that You inspect and take other advice in relation to the Property Site and not rely exclusively on the Services.
 - Subject to clause 6.0 below, emapsite shall not be responsible for error or corruption in the Services resulting from inaccuracy or omission in primary or secondary information and data, inaccurate processing of information and data by third parties, computer malfunction or corruption of data whilst in the course of conversion, geo-coding, processing by computer or electronic means, or in the course of transmission by telephone or other communication link, or printing.
 - emapsite will not be held liable in any way if a Report on residential property is used for commercial property or more than the one residential property for which it was ordered.
 - the Services have not been prepared to meet Your or anyone else's individual requirements; that You assume the entire risk as to the suitability of the Services and waive any claim of detrimental reliance upon the same; and You confirm You are solely responsible for the selection or omission of any specific part of the Content;
 - emapsite offer no warranty for the performance of any linked internet service not operated by emapsite;
 - You will on using the Services make a reasonable inspection of any results to satisfy Yourself that there are no defects or failures. In the event that there is a material defect You will notify us in writing of such defect within seven days of its discovery;
- Any support or assistance provided to You in connection with these Terms is at Your risk;

All liability for any insurance products purchased by You rests solely with the insurer. emapsite does not endorse any particular product or insurer and no information contained within the Services should be deemed to imply otherwise.

You acknowledge that if You Order any such insurance emapsite will deem such as Your consent to forward a copy of the Report to the insurers. Where such policy is purchased, all liability remains with the insurers and You are entirely responsible for ensuring that the insurance policy offered is suitable for Your needs and should seek independent advice. emapsite does not guarantee that an insurance policy will be available on a Property Site. All decisions with regard to the offer of insurance policies for any premises will be made solely at the discretion of the insurers and emapsite accepts no liability in this regard. The provision of a Report does not constitute any indication by emapsite that insurance will be available on the property.

Professional opinions contained in Reports are provided to emapsite by third parties, and such third parties are solely liable for the opinion provided. For the avoidance of doubt, those parties providing assessments or professional opinions on emapsite products include Groundsure, and any issues with regard to the provision of such opinion should be taken up with the relevant third party.

If emapsite provides You with any additional service obtained from a third party, including but not limited to any interpretation or conclusion, risk assessment or environmental report or search carried out in relation to a Report on Your Property Site, subject to clause 6.o below emapsite will not be liable in any way for any information contained therein or any issues arising out of the provision of those additional services to You. emapsite will be deemed to have acted as an agent in these circumstances and the supply of these additional services will be governed by the terms and conditions of those Third Parties.

In any event no person may rely on a Service more than 12 months after its original date.

If You wish to vary any limitation of liability as set out in these Terms, You must request such variation prior to ordering the Service. emapsite shall use its reasonable endeavours to agree such variation but shall not be obliged to do so.

Time shall not be of the essence with respect to the provision of the Services.

Ordnance Survey have undertaken a positional accuracy improvement programme which may result in discrepancies between the positioning of features used in datasets in the Services and the updated Ordnance Survey mapping.

Subject to clause 6.o below, emapsite and its Suppliers exclude all and any liability incurred as a result of the implementation of such positional accuracy improvement programme.

Where emapsite provides its own risk assessment in connection with any Report, emapsite shall carry out such assessment with all reasonable skill and care but shall have no liability for any such risk assessment conclusion which is provided for information only, save where emapsite conducted the same negligently, in which case the provisions of clause 6 shall apply. Notwithstanding the provision of any such risk assessment conclusion you should carefully examine the remainder of the Report and should not take or refrain from taking any action based solely on the basis of the risk assessment. For the avoidance of doubt, the provisions of this clause 6n apply solely to risk assessments conducted by emapsite, and the provision of any other risk assessment by a third party shall be governed by such third party's terms in accordance with the provisions of clause 6i above.

emapsite obtains much of the information contained in its Report from third parties. emapsite will not accept any liability to You for any negligent or incorrect entry, or error or corruption in the Third Party Content supplied to emapsite, but emapsite's Suppliers may be liable for such negligent or incorrect entries, or errors or corruptions, subject to the terms and conditions on which they supply the Third Party Content to emapsite.

7. Events Beyond Our Control

You acknowledge that emapsite shall not be liable for any delay, interruption or failure in the provision of the Services which are caused or contributed to by any circumstance which is outside our reasonable control including but not limited to, lack of power, telecommunications failure or overload, computer malfunction, inaccurate processing of data, or delays in receiving, loading or checking data, corruption of data whilst in the course of conversion, geo-coding, processing by computer in the course of electronic communication, or printing.

8. Severability

If any provision of these Terms are 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 these Terms and never to have formed part of these Terms and the remaining provisions shall continue in full force and effect.

9. Governing Law

These terms shall be governed by and construed in accordance with English law and each party agrees irrevocably submit to the exclusive jurisdiction of the English courts. If any dispute arises out of or in connection with this agreement (a "Dispute") the parties undertake that, prior to the commencement of Court proceedings, they will seek to have the Dispute resolved amicably by use of an alternative dispute resolution procedure acceptable to both parties with the assistance of the Centre for Dispute Resolution (CEDR) if required, by written notice initiating that procedure. If the Dispute has not been resolved to the satisfaction of either party within 60 days of initiation of the procedure or if either party fails or refuses to participate in or withdraws from participating in the procedure then either party may refer the Dispute to the Court.

10. Complaints

emapsite may assign its rights and obligations under these Terms without prior notice or any limitation.

emapsite may authorise or allow our contractors and other third parties to provide to emapsite and/or to You services necessary or related to the Services and to perform emapsite's obligations and exercise emapsite's rights under these Terms, which may include collecting payment on emapsite's behalf.

No waiver on emapsite's part to exercise, and no delay in exercising, any right, power or provision hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or provision hereunder preclude the exercise of that or any other right, power or provision.

Unless otherwise stated in these Terms, all notices from You to emapsite must be in writing and sent to the emapsite registered office (or in the case of an Authorised Reseller, to its registered office address) and all notices from emapsite to You will be displayed on our Websites from time to time.

Any complaints in relation to the Services should, in the first instance, be in writing addressed to the Customer Service Support Manager at the emapsite registered office. emapsite or its agents will respond to any such complaints in writing as soon as practicably possible.

A person who is not a party to any contract made pursuant to these Terms shall have no right under the Contract (Right of Third Parties) Act 1999 to enforce any terms of such contract and emapsite shall not be liable to any such third party in respect of any Services supplied.

emapsite's Privacy Policy as displayed on the Website governs the use made of any information You supply to emapsite.

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