

South West Water Limited T/A Source for Searches Terms & Conditions for Commercial CON29DW Enquiry

1 Introduction

- 1.1 These Terms set out the terms which will apply in respect of any Orders You place with us for a (i) Report (as defined in clause 2.1 below)
- 1.2 These Terms may need to be amended from time to time and have a publication date which will be updated when any changes are made. Every time You wish to place an Order, please check these Terms to ensure You understand the terms which apply at that time, as they may have changed since any earlier order You may have placed.
- 1.3 If You do not accept these Terms You must not place any Orders with us.
- 1.4 If You are trading as a business, it is also Your responsibility to ensure that prior to placing an Order on behalf of a Client, that You make Your Client aware of the Terms, and that they accept them

2 Interpretations & Definitions

- 2.1 In addition to any defined terms, the following words shall have the following meanings:
 - a 'Commercial Property' means the address(es) or location(s) of a commercial property provided by You when You place an Order.
 - b 'Report' means the report known as the "Commercial CON29DW" prepared by us providing drainage and water information in relation to a Commercial Property.
 - c 'Client' means the person, company or body (including where required, their mortgage lender) for whom You have agreed to supply one or more Reports in the normal course of Your business.
 - d 'Map' means any Ordnance Survey map (and any data contained therein) provided as part of the Services.
 - e 'Order' means any request for a Report made by You to us.
 - f 'Terms' means these terms and conditions for Commercial CON29DW enquiries and General Terms means any general commercial terms in effect between You and Us.
 - g 'You' and 'Your' means the person, firm or company requesting the provision of property-related and company search information and reports from us.
 - h 'We', 'Our' and 'Us' means South West Water Limited T/A Source for Searches, being a company registered in England and Wales with company number 02366685, and whose registered office address is at South West Water Limited T/A Source for Searches, Peninsula House, Rydon Lane, Exeter, EX2 7HR, and whose principal place of trading is at South West Water Limited, Peninsula House, Rydon Lane, Exeter, EX2 7HR
 - i 'Website' means www.sourceforsearches.co.uk
 - j 'Services' means the provision of a Report.

3 Placing Orders and our Agreement

- 3.1 Your Order constitutes an offer by You to purchase Report(s) from Us.
- 3.2 When You place an Order, You will receive an e-mail from us acknowledging that we have received Your Order but this does not mean we have accepted Your Order.
- 3.3 We may choose not to accept Your Order, but on the rare occasion that this may occur, we will aim to notify You within 5 working days. For the avoidance of doubt, no contract will exist between Us until we have expressly accepted Your Order.

4 Cancellation rights

- 4.1 Where You are an individual consumer (and not acting for purposes wholly or mainly relating to Your trade, business, craft or profession), You have specific legal rights relating to cancellation of any Order You may place. You may cancel Your Order at any time within 14 days after the day on which the contract is entered into ("Cancellation Period")
- 4.2 To exercise the right to cancel, You must tell us of Your decision to cancel this contract by a clear statement.
- 4.3 Where You are ordering a Report as a consumer, due to Your cancellation rights, we will not process Your Order or provide the Report to You before the end of the Cancellation Period unless You provide Your express consent and You acknowledge that You will lose the right to cancel the contract under regulation 28(1) of the Consumer Contracts (Information, Cancellation, and Additional Charges) Regulation 2013.
- 4.4 In addition to these rights, where we are able to, we will cancel any Order in accordance with our cancellation policy, which can be found on our Website.
- 4.5 The Cancellation Period does not apply to Your Order if You are placing the Order wholly or mainly for purposes relating to Your trade, business, craft or profession.
- 4.6 If You cancel Your Order other than in accordance with this clause You may be liable for fees as detailed in our cancellation policy at: www.sourceforsearches.co.uk

5 The Report

- 5.1 We will prepare the Report using the Commercial Property details You provide at the time You place Your Order. The Report You receive will rely on the accuracy, completeness and legibility of the address and/or plans You supply with Your Order.
- 5.2 The Report is produced only for use in relation to Commercial Properties, development or land which require the provision of drainage and water information and cannot be used for residential properties, development of land or any property to be developed as a single, residential, domestic property. Where You require a report for a residential property, You can order a different report from us, and different terms shall apply.
- 5.3 The Report provides information as to the indicative location and connection status of existing services and other information relating to drainage and water enquiries and should not be relied on for any other purpose (including the potential and/or suitability for any other connections to be made to existing services).
- 5.4 As You may expect, the information contained in the Report can change on a regular basis so we cannot be responsible to You or if You are trading as a business to Your Client for any change in the information contained in the Report after the date on which the Report was produced (as shown in the Report).
- 5.5 The Report does not give details about the actual state or condition of the Commercial Property nor should it be used or taken to indicate or exclude actual suitability or unsuitability of the Commercial Property for any particular purpose, or be 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.
- 5.6 We will send the Report to the address You have provided in Your Order, including email address for online Orders.
- 5.7 You agree only to use the Report for the purpose for which it is supplied in accordance with these Terms.
- 5.8 Where we accept Your Order:
 - a. we will provide the Services with reasonable skill and care; and
 - b. Your Order will be fulfilled within a reasonable period.
- 5.9 In providing the Report, we will comply with all laws and regulations which apply to the provision of the Report including ensuring that we have all the necessary licences and permissions, including intellectual property rights to provide the Report.

- 5.10 It is Your responsibility to ensure that Your Order, and the Report meet Your requirements if You are trading as a business the requirements of Your Client.
- 5.11 In providing You with this Report, we will comply with the Drainage & Water Searches Network (DWSN) Standards.

6 Disclaimers with regard to the Reports

- 6.1 The position and depth of apparatus shown on any maps attached to the Report are approximate, and are furnished as a general guide only, and no warranty as to its correctness is given or implied. The exact positions and depths should be obtained by excavation trial holes and the maps must not be relied on in the event of excavation or other works made in the vicinity of the Company's apparatus. Please be aware of specific disclaimers included in the Maps.

7 Intellectual Property Rights

- 7.1 The Report You receive is confidential and is intended for: (a) Your own internal or personal purposes and/or (b) where You are trading as a business, the personal use of Your Client. The Report shall not be used or copied (in whole or in part) for any other use whatsoever, whether for commercial gain or otherwise.
- 7.2 We grant You a non-exclusive and non-transferable licence:
 - a to make copies of the Reports (except the Map) for Your own internal purposes;
 - b to incorporate the Reports (other than the Map) into any written advice You provide in the normal course of Your business; and
 - c to disclose the Reports, where You are trading as a business, in the normal course of Your business to:
 - 1 Your Client; and/or
 - 2 if anyone who is acquiring or considering acquiring an interest in or charge over the property to which the Report relates, and their professional advisers.
- 7.3 You must not alter any part of the Report including altering, removing or obscuring any logos and/or branding which is contained in a Report.
- 7.4 All intellectual property rights, including trademarks, domain names and copyright in the Reports are owned by us and/or our licensors.
- 7.5 Any Maps contained in any Report are protected by Crown Copyright. The Maps must not be used for any purpose other than as part of the Report. Neither You nor anyone You provide the Report to may reproduce the Maps without paying for a separate licence from Ordnance Survey.
- 7.6 No intellectual or other property rights are transferred or licensed to You or where You are trading as a business to Your Client or any other person except to the extent set out in these terms.
- 7.7 You agree to compensate us against any losses, costs, claims, damages and/or expenses which we incur and/or suffer as a result of any breach of any intellectual property rights or obligations (set out in any of the Terms) by You, or where You are trading as a business to Your Client or any party to whom You provide a copy of the Report.

8 Additional Intellectual Property Right Provisions

- 8.1 The enquiries in the Report are protected by copyright by the Law Society of 113 Chancery Lane, London WC2A 1PL and must not be used for any purpose which is not expressly set out in these Terms.
- 8.2 The answers and information in the Report are protected by copyright by South West Water Limited T/A Source for Searches

9 Liability

- 9.1 This paragraph sets out the exclusions to and limitations on our liability to You and if You are trading as a business to Your Client.
- 9.2 We will not be liable to You (and/or if You are trading as a business to Your Client) in contract, tort, negligence, breach of statutory duty, misrepresentation or otherwise:
 - a if we do not accept Your Order;
 - b for any inaccuracies, mistakes or omissions in the Reports unless any such liability arises as a direct consequence of our negligence;
- 9.3 Notwithstanding the above, nothing affects any party's liability for (a) death or personal injury arising from its negligence, (b) liability for fraud or fraudulent misrepresentation and / or (c) any other liability which cannot be excluded or limited under applicable law.

10 Additional Provision relating to our Liability to You for the Report

- 10.1 Subject to clause 9.3, our total liability to You and/or if You are trading as a business to Your Client, whether for breach of contract, tort, negligence, breach of statutory duty, misrepresentation or otherwise, arising under or in connection with these Terms and/or the provision of a Report limited to 10 million pounds (£10,000,000) in aggregate.

11 Customer Complaints Procedure

- 11.1 South West Water T/A Source for Searches offer a robust complaints procedure which can be found on our Website or here: www.sourceforsearches.co.uk
- 11.2 If your complaint has gone through our complaints procedure and you are dissatisfied with the response or it has exceeded our response timescales, you may refer your complaint for consideration under The Property Ombudsman Scheme (TPOS). You can obtain further information by visiting www.tpos.co.uk or email admin@tpos.co.uk. The Ombudsman can award compensation up to a maximum of £25,000. In addition to the TPO redress scheme covering consumers, TPO will also provide redress for small businesses (including Charities and Trusts) that meet the following criteria:
 - a small business (or group of companies) with an annual turnover of less than £3 million;
 - a charity with an annual income of less than £3 million;
 - a Trust with a net asset value of less than £3 million.

12 General

- 12.1 These Terms (and any General Terms or other documents referred to herein) are the only terms and conditions that shall apply to any Order and the provision of a Report by us to You and shall constitute the entire agreement between You and us and supersede, replace and extinguish any previous arrangement, understanding or agreement between us relating to such Report.
- 12.2 Any dispute or claim arising out of or in connection with these terms and our subject matter or formation (including non-contractual disputes or claims) shall be governed by the laws of England and Wales. Any dispute (including any non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the courts of England and Wales.
- 12.3 If there is any conflict or inconsistency between the provisions of these Terms and any other General Terms, the provisions of these Terms shall prevail.
- 12.4 In the event of any conflict of inconsistency between any information on the Website describing the features of the Report and these Terms, then these Terms shall prevail.
- 12.5 Where You are acting wholly or mainly in the normal course of Your trade, business, craft or profession Your Client is entitled to the benefit of these Terms. Save as provided in this clause
- 12.6. 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.

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