



Finlay Associates Limited

TERMS AND CONDITIONS

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Finlay Associates Limited

1. Definitions and Interpretation

1.1 In these Conditions the following words shall have the meaning:

Charges means our financial charges for providing the Services, which will be notified to You when You submit your Order.

Client means each of the following (i) a person who appoints an advisor to perform Services in connection with the property to which a Report relates (ii) a person who is acquiring (or is considering acquiring) an interest in or charge over the property to which a Report relates (iii) where a Report is taken into account in a valuation of the property to which it relates, a person who has or acquires an interest in the property and places reliance on that valuation; and (iv) any person who acts in a profession or advisory capacity for any of the above.

Confirmation Order means the point at which the agreement becomes binding on both parties when we confirm acceptance of your order whether by written facsimile or electronic means whichever occurs first

Data Provider means a third party provider of data used in a Search Report

Intellectual Property Rights means any enforceable intellectual property right without limitation copyright database right, trademark, patent, trade secret or design right.

Order means your request for us to provide the services which you place by communicating or sending it to us by electronic or other acceptable means

Property means the property address or location of the buildings land fixtures and all chattels for which you require a report

Finlay means the party from whom you order the services.

Report/Search Report means any report /document that you have asked us to deliver to you as detailed in the order form whether originated from Finlay Associates Limited or a combination of affiliated franchised businesses.

Required Information means all information required to submit an order to us which shall enable us to provide the services to you.

Third Party means any person that is not within the definition of client us/we/our or you/your

Third Party Report means any report or document that we procure from a third party on your behalf for the purpose of providing the services to you.

Services means our completion and /or delivery of reports /documents to you.

Us/We/Our means Finlay Associates Limited or any other associate business.

You/Your means the person, firm or company who instructs us to provide the services either on their own behalf or as an agent of another person.

1.2 Headings used in these conditions are for convenience only and shall not affect the interpretation of the main provisions.



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2. Your Privacy and Security

2.1 Your personal details are held on a secure database in accordance with relevant Data Protection legislation and these details are used solely for the provision of the services. We shall not pass confidential customer information to other organisations unless You (or Your agent) specifically authorise Finlay to do so during the ordering process or at any other time.

2.2 Your order will be retained by us in an electronic format and is available for inspection upon reasonable notice for a period of 6 years from the date of confirmation of order.

2.3 Finlay will use personal information which we hold about you to provide our Services to you, for credit control and market research purposes and to inform you about our Services and products. Legal developments and training sessions or events which we believe may be of interest to you.

2.4 Except in the situations listed above or as required or allowed by any other regulations, we will not pass, disclose, rent or sell your personal information (other than any personal information which is already publicly available and which is incorporated into our search products) to any Third party without Your prior consent.

3 The Services

3.1 We will not be obliged to accept any Order. No contract for Services will come into force until Confirmation of Order.

3.2 We will:

(a) Pass orders to locate the property you want to search against and recommend relevant property Search Reports which may be carried out against the property should you ask us to;

(b) Pass orders onto the relevant Data Providers

(c) Forward the Search report to you electronically or otherwise as you may request.

3.3 Each Order if accepted by us will constitute a separate and severable contract.

3.4 We will use our reasonable endeavours to ensure that the information contained within any Report is accurate at the date of its publication. You accept, however, the information on which any Report is based may be subject to change from the date of its publication and We cannot be held liable for failing to include in or omit from the report, any information which becomes available after the date of publication or provision of the Services. In supplying Reports we will comply with the Search Code.

3.5 Your Order will not be accepted by Us unless You have confirmed that you have read and agreed to be bound by these terms and conditions.

3.6 Upon receiving and accepting Your Order We shall provide a Confirmation of Order. Once this is issued We shall commence work on your order. If the Order is submitted online, by post or via telephone the Confirmation of Order shall be communicated in a durable medium.

3.7 Any indication that We may give as to the time in which We will perform the Services will be a good faith estimate only. We will use all reasonable endeavours to deliver the Reports within the timescale that We have estimated. Due to variations in availability of the



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conditions You agree that in such a case that time of delivery of Reports is not of the essence and that delivery may take place as reasonably soon as is possible after the information for the Reports shall be made available to Us.

3.8 Subject to anything else contained within these Conditions , all other warranties, conditions, terms , undertakings, obligations, whether express or implied are expressly excluded.

4. Charges

4.1 Unless expressly indicated otherwise, the Charges will include VAT at the applicable rate.

4.2 Unless indicated otherwise the Charges also include all delivery and communication costs.

4.3 You shall be liable for payment for the Services at the agreed timescales with Us at the rates notified. We reserve the right to charge interest on outstanding sums at 1.75% monthly and to recoup our costs associated with recovery of the same.

5. Obligations

5.1 You will provide us with the Required Information in Your Order. You warrant that the information supplied by You is complete , correct and up to date, and that We may proceed to provide the Services that You have ordered.

5.2 You will notify us immediately You become aware of any inaccuracy contained within the Order whether supplied by You, any Third party or any other person. We will attempt to alter the Services to reflect the new information but there will be further reasonable charges depending on the progress of the Services at that point and the nature of the changes to the information.

5.3 If ordering online You will provide an electronic mailing address. If ordering by other means or if You are not capable of communicating by email You shall communicate by first class post or facsimile machine. In all communication You will provide a return address. In providing this address You agree that communications between Us and You will be through these means.

5.4 If there is any conflict between a provision of any Third Party reports relating to Your permitted use of the reports and the corresponding provisions of these conditions, then these conditions will prevail.

6. Cancellation

6.1. If You cancel Your Order after it has been confirmed and work has begun to provide the Services in accordance with Clause 3.5 any refund of monies already paid will be at Our discretion and You will remain liable to pay any charges that have been reasonable incurred.

6.2 If Your Order is submitted in any other acceptable manner and You wish to cancel or reschedule

an Order, You agree to give Us written notice as soon as is reasonably practicable . If



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work on the Services has commenced there will be reasonable charges to You depending on the progress of the Services at that point.

6.3 Where appropriate these Terms and Conditions constitute notice pursuant to the Consumer Protection (Distance Selling) Regulations 2000 as amended and the Electronic Commerce (EC Directive) Regulations 2002.

7 Intellectual Property rights and Proprietorship

7.1 Any and all Intellectual Property Rights arising from performance of the Services shall vest in Us and remain Our property. We disclaim all proprietary rights including without limitation, Intellectual Property Rights in Third Party Reports.

7.2 You will not acquire nor will You attempt to register any Intellectual Property in any Reports whether on Your own behalf or on behalf of any Client or other Third Party. You further agree not to use the Reports in whole or part other than is expressly permitted by these conditions.

7.3 Title to the Finlay products and Services which are the subject of Your Order shall remain the property of Finlay and shall not pass to You or any Third Party until the Charges notified to You have been paid to us in full.

8 Limitation of Liability

8.1 We have in place Professional Indemnity Insurance of £5million in respect of each and every claim in respect of its work in preparing collating and providing a Report. The name and address of the primary insurer is Royal and Sun Alliance, 17 York Street, Manchester, M2 3RS.

8.2 It is your responsibility where the value of the property exceeds the amount set out in 8.1 to inform us before or upon receipt of our service/report so that we may arrange additional or alternative insurance cover to take into account the increased value otherwise any claim against us will be limited to the amount set out in clause 8.1.

8.3 We cannot accept liability for any negligent or incorrect entry in the registers in which We search. We have in place an Information Accuracy Indemnity Policy of £2million in respect of each claim in respect of its work in preparing collating and providing a Report when relying upon council records. The name and address of the primary insurer is Stewart Title Limited of 8 Henrietta Street, London WC2E 8PS.

8.4 We shall not accept any responsibility or liability for any inaccuracy or error in the report that is based on incomplete or inaccurate information supplied by You.

8.5 An Finlay Report may contain information supplied by a Third party such as a Solicitor , Environmental and Contaminated land reporter Chancel Searcher, Local Authority , Water Authority, H M Land Registry and /or a Domestic Energy Assessor . We may also supply (as intermediary) a Report that has been wholly created by Third Parties . These Third Parties are required by their regulatory bodies to have appropriate Professional Indemnity Insurance or to be covered by statutory compensation arrangements. We shall not accept



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liability for any loss or consequence of the act or omission of a Third party except that We shall, at Your request and expense, provide reasonable assistance in any claim brought by You or a Client or yours against a Third Party data provider concerning the supply by that Third Party or an incorrect or incomplete Report and shall, where possible assign to You (or a Client at Your direction) at Your cost the benefit of any warranty, guarantee or indemnity given to Us by such Third Party data provider or of which We have the benefit . Where a Third Party is the supplier of the product or service the Third Party/s own terms and conditions shall apply.

8.6 Subject to any other provisions in these Conditions We will not be liable to You for any loss damages costs or expenses caused directly or indirectly by a delay in Delivery (even if caused by Our negligence)

8.7 We shall not be liable to You for any loss caused by an failure by You or your client to have in place all necessary means of receiving the Services the maintenance of internet access email facilities and security measures.

8.8 We acknowledge that You may make reports available to Clients in the normal course of your business and agree that where You do so then any such Client shall have the benefit to enforce Your rights under this Agreement as if the client were a party to this Agreement.

8.9 We shall not be liable for any loss of damage sustained by You or any other Third Party directly whether in contract, tort or otherwise making use of a relying on a Report unless and then only to the extent that such loss and damage shall be the direct consequence of the fraudulent or negligent act or omission of Us and/or breach of these terms and conditions by Us.

8.10 Nothing in these Terms shall exclude or limit Our liability for death or personal injury due to Our negligence or any liability due to Our fraud or any other liabilities which it is not permitted to exclude as a matter of law.

8.11 Without prejudice to the foregoing, our liability in connection with or in relation to this Agreement to you and any Third party for each claim or (where there is a set of related claims) each set of related claims (whether in contract, tort or otherwise), for any breach of obligation default act omission negligence or statement of or on behalf of us, our employees, servants , agents, sub-contractors or data providers, shall not exceed for each such claim or (where there is a set of related claims) each set of related claims the sum if five million pounds or such higher amount expressly agreed in writing between the parties in advance of commissioning the relevant Order.

8.12 We will not be liable in contract, tort, negligence and statutory duty or otherwise, for any loss or damage whatsoever caused by any act or omission of a Third Party Data Provider or inaccuracies in or omissions from any responses provided by a Third Party Data Provider

8.13 The information and data used to generate Search Alerts is derived from publicly available records and other third party sources and We do not warrant the accuracy or completeness of such information or data; We do not claim that these sources represent an exhaustive or comprehensive list of all sources that might be consulted.



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9. Force Majeure

9.1 We will not be liable for any failure to perform the Services due to any event beyond Our reasonable control. However, if Our performance of the Services is delayed due to any event beyond our reasonable control, We will notify You promptly.

10. Assignment

10.1 You may assign charge of transfer any of Your obligations under the Conditions without Our prior consent.

10.2 We may assign and/or sub-contract any contract for Services at any time giving notice to You.

11. General

11.1 These conditions constitute the entire agreement between You and Us in respect of the Services and supersede and earlier arrangements understandings, promises or agreements made between You and Us in respect of the Services.

11.2 You acknowledge that in instructing us to provide the Services You do not do so on the basis of any representation, warranty or provision not expressly contained within these Conditions.

11.3 If at any time, any one or more of these Conditions are held to be unenforceable illegal or otherwise invalid in any respect such enforceability, illegality or invalidity shall not affect the remaining Conditions, which shall remain in full force and effect.

11.4 Any failure by Us to enforce a breach of these Conditions by You will not be deemed to be a waiver of any subsequent breach of these Conditions that You may make.

11.5 Nothing in these Conditions shall create or be deemed to create a partnership or joint venture between us or you or the relationship of principal and agent or employer and employee.

11.6 These Conditions will be governed by English and Welsh Law.



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12. Complaints

Complaints Procedure

If you have a complaint, we will handle it speedily and fairly. We will:

- Acknowledge a complaint within 5 working days of receipt
- Normally deal with a complaint fully and in writing within 20 days of receipt.
- Keep you informed by letter, telephone or e-mail, as you prefer, if we need more time.
- Provide a final written response at the latest within 40 days of receipt
- Liaise, at your request, with anyone acting formally on your behalf.

Independent dispute resolution

If you make a complaint and we are unable to resolve it to your satisfaction you may refer the complaint to The Property Ombudsman scheme (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

Complaints should be sent to:

Customer Services
Finlay Associates Limited
4 The Deans
Bridge Road
Bagshot
GU19 5AT