

## Groundsure Standard Terms and Conditions

### 1. Definitions

In these Conditions, the following words have the following meanings:

**Consultancy Services:** a report, including a verbal report, prepared by Groundsure for the Client and any other consultancy services that Groundsure may agree to provide to a Client.

**Client:** the party placing an Order.

**Conditions:** these conditions.

**Contract:** the contract between Groundsure and the Client which shall incorporate these Conditions and the Order.

**End User:** the person or entity for whose benefit the Client orders the Product. If the Client orders a Product for its own benefit, all references in these Conditions to the End User shall be deemed to be references to the Client.

**Fees:** the sums due for the Product.

**Groundsure:** Groundsure Limited, a company registered in England and Wales, registered number 03421028, registered office c/o Ascential Group Limited, The Prow, 1 Wilder Walk, London W1B 5AP.

**Groundsure Insights Products:** a report containing data, mapping or other imagery prepared by Groundsure under these Conditions and identified as an Insights report on the Website.

**Groundsure Insights Data:** data, mapping or other imagery prepared by Groundsure under these Conditions and identified as Insights data on the Website.

**Groundsure Searches Products:** a report containing data, mapping or other imagery prepared by Groundsure under these Conditions and identified as a searches report on the Website

**IP Rights:** any patent, copyright, design right, trade mark, moral right and know-how whether registered or not, or registrable and including applications for the same or any other rights of a similar nature anywhere in the world.

**Order:** an electronic, written or other order submitted by the Client for a Product, and in the case of Consultancy Services, agreed by Groundsure.

**Product:** Consultancy Services, Groundsure Insights Products, Groundsure Insights Data and/or Groundsure Searches Products.

**Reseller:** a reseller of the Products who is authorised by Groundsure to do so.

**Site:** the area of land in respect of which Groundsure provides the Product.

**Terminal:** a server, laptop, PC, tablet, workstation, portable computer, personal digital assistant, mobile phone or other electronic means of access to (including viewing) the Groundsure Insights Data, and which is internal or personal to the Client or an End User or both.

**Third Party Conditions:** conditions of and restrictions on use of Third Party Data in the Products set out here [link]; and conditions of and restrictions on use of Ordnance Survey data in Groundsure Insights Data set out here [link];

**Third Party Data:** data which belongs to a Third Party Provider and is used by Groundsure in the Products.

**Third Party Provider:** any third party who provides data to Groundsure, including but not limited to a third party that is the subject of Third Party Conditions.

**Website:** the Groundsure website.

### 2. Formation of Contract

2.1 The terms of the Contract govern the supply of Products to the exclusion of all other terms and conditions of business, including any that the Client may provide, and any terms implied by law, custom or practice to the maximum extent permitted by law. These Conditions shall apply whether the Client purchase the Products directly from Groundsure or through a Reseller.

2.2 Quotations or proposals are valid for 30 days only.

2.3 Groundsure may vary these Conditions from time to time and Groundsure will post such amended Conditions on the Website. Any changes to the Conditions shall not affect any Orders received before such changes are posted save where a Third Party Provider requires such change to take place immediately.

2.4 If there is any inconsistency between the terms of an Order and these Conditions, these Conditions shall prevail.

### 3. Orders

3.1 Groundsure Searches Products, Groundsure Insights Data and Groundsure Insights Products may be ordered from Groundsure by any means including email and through the Website, or through a Reseller. Consultancy Services may only be ordered directly with Groundsure and may not be ordered through the Website.

3.2 The Client shall not share or transfer its login credentials for the Website.

3.3 During the Order process on the Website the Client may select an additional delivery email for the Products. The Client is responsible for ensuring that the recipient of the additional email shall keep the terms of the Product confidential, save for disclosure to the End User and the parties named in Condition 6.2.

3.4 An Order is accepted when the Client is sent an email order confirmation.

3.5 If a Groundsure Insights Data Order is limited to a specified number of Terminals, the Client shall not permit any Terminal to access the Data in excess of one (one) Terminal unless otherwise agreed with Groundsure. The Client shall monitor the access to Groundsure Insights Data through its Terminals to ensure compliance with this Condition 3.5 and have in place a reasonable mechanism or process that ensures that the number of Terminals accessing the Groundsure Insights Data can be promptly identified.

3.6 The Client agrees that Ordnance Survey content is protected by Crown copyright. The Client shall not copy in whole or in part by any means any map prints or run-on copies containing content belonging to Ordnance Survey (other than that contained within Ordnance Survey's OS Street Map) without first being in possession of a valid paper map copying licence from Ordnance Survey.

3.7 If the Client exceeds the permitted number of Terminals under Condition 3.5 or prints content in breach of Condition 3.6, the Client shall pay to Groundsure such costs and expenses as Groundsure incurs from Third Party Providers as a result.

3.8 Groundsure shall be entitled to make available to Ordnance Survey the Client's name, address and telephone number, and Ordnance Survey shall be permitted to use such details to contact the Client for the purposes of monitoring their dealings with Ordnance Survey data, and enforcing Ordnance Survey's rights against the Client.

### 4. Products

4.1 Groundsure shall use reasonable endeavours to meet any timetable for delivery of the Products, but time shall not be of the essence.

4.2 Groundsure is an executive member of the Council of Property Search Organisations and shall comply with the Property Codes Compliance Board Search Code. If the Client makes a complaint and Groundsure is unable to resolve it to the Client's satisfaction, the Client may refer the complaint to The Property Ombudsman scheme (web site [www.tpos.co.uk](http://www.tpos.co.uk), email: [admin@tpos.co.uk](mailto:admin@tpos.co.uk)). Groundsure will co-operate fully with the Ombudsman during an investigation and comply with the Ombudsman's final decision.

4.3 At the request of the Client, Groundsure shall use reasonable endeavours to recommend insurance in connection with any risk identified in the Product, but makes no warranty that such insurance shall be available from insurers and/or that it will be offered on reasonable terms. Any insurance purchased by the Client shall be subject to the terms of the policy issued by insurers. Groundsure does not act as an agent or broker for any insurance providers. The Client should take independent advice to ensure that the insurance policy requested or offered is suitable for its requirements.

4.4 The Client shall comply with all Third Party Conditions applicable to any Third Party Data in the Product and the Client acknowledges that a Third Party Provider shall be entitled to enforce the provisions of the Contract, including any Third Party Conditions, against the Client.

4.5 The Client acknowledges that Groundsure does not warrant the accuracy or completeness of Third Party Data or that the Third Party Providers are the only sources that could be consulted to prepare the Product.

### 5. The Client's obligations

5.1 The Client shall comply with the terms of the Contract and use reasonable endeavours to bring the terms of the Contract to the attention of the End User.

5.2 Notwithstanding any recommendation or otherwise of Groundsure, the Client shall be solely responsible for ensuring that the Product is appropriate and suitable for its and/or the End User's needs.

5.3 The Client shall supply to Groundsure or the Reseller, as the case may be, accurate and complete information relating to the Site.

5.4 Within 2 working days of receipt of the Product, and in any event before circulation to any third party, the Client shall review the Product to ensure that the Product has been prepared for the correct location and description of the Site, and shall notify Groundsure of any errors in relation to the Site. Groundsure shall promptly amend such errors at no cost to the Client save where the error arises as a result of any information provided by the Client under Condition 5.3.

5.5 The Client shall promptly provide to Groundsure full details of any claim or complaint received by the Client concerning a Product (a "Claim"). The Client shall not incur any third party costs in relation to a Claim nor make any admission in respect of a Claim on behalf of Groundsure without the prior written consent of Groundsure. At the request of Groundsure, the Client shall give to Groundsure or its nominee the exclusive control of such Claim.

## **6. Reliance**

6.1 The Products are intended for use by professional advisers who are experienced and skilled in the use and interpretation of environmental data and/or risk assessment opinions.

6.2 The following may rely on the Groundsure Searches Products and the Groundsure Insight Products: (i) the Client; (ii) the End User; (iii) the End User's professional advisers; (iv) any person providing funding to the End User in relation to the Site (whether directly or as part of a lending syndicate); (v) the first purchaser or first tenant of the Site; and (vi) the professional advisers and lenders of the first purchaser or tenant of the Site.

6.3 Only the Client, the End User and any parties expressly named in the Order are entitled to rely on the Consultancy Services.

6.4 Only the Client is entitled to rely on a Groundsure Insights Data, provided that the Client shall not be entitled to rely on Groundsure Insights Data 12 months after the date such Groundsure Insights Data is received.

6.5 Each of the parties entitled to rely on the Product as set out in this Condition 6 shall be entitled to enforce these Conditions as if they were named in the Contract, provided that (i) the Fee has been paid in full; (ii) the party relying on the Product accepts Conditions 8 and 10 and accepts that Groundsure shall be entitled to take action against the party for breach of these Conditions; and (iii) the party relying on the Product is not in breach of any of these Conditions.

6.6 Except where Groundsure expressly agrees otherwise, Groundsure makes no physical inspection of the Site. The Client acknowledges that certain land uses or features and/or the condition of a Site may be apparent only from a physical inspection.

## **7. Fees**

7.1 For Products ordered directly with Groundsure, the Fees shall be calculated and paid as set out in (i) the Order process for Orders received through the Website; and (ii) the quote provided by Groundsure for all other Orders, together with all applicable value added tax. Disbursements shall also be due and payable in respect of any Consultancy Services. For products ordered through a Reseller, the Fee shall be agreed with the Reseller.

7.2 If the Client has an account with Groundsure, the Client shall pay all invoices in full without deduction, counterclaim or set off within 30 days of the date of the invoice. If the Client does not have an account with Groundsure, all sums are due to Groundsure before the Order can be accepted.

7.3 If the Client fails to pay an invoice by the due date, Groundsure shall be entitled to refuse to accept and/or process any further Orders and to charge interest and compensation on any overdue sums, accruing from the due date up to the date of actual payment in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

## **8. Use of the Products**

8.1 No IP Rights in the Products (including in any Third Party Data) are assigned to the Client or an End User under the Contract. The Client acknowledges that the Third Party Data is owned by the Third Party Provider and is subject to the Third Party Conditions.

8.2 Subject to receipt of all Fees, and the terms of the Contract, Groundsure grants to the Client a non-exclusive, non-transferable right to access, download and use the Products for its internal purposes and to grant a sub-licence of such right to the End User and any party wishing to rely on the Product under Condition 6.

8.3 The Client shall:

(i) not remove, suppress or modify any proprietary marking from the Product;

(ii) be entitled to use the Product in respect of the Site only; and the Product may not be used or relied on in respect of adjacent or nearby sites;

(iii) except to provide advice to any party entitled to rely on the Product under Condition 6, not create any product which is derived directly or indirectly from the Product nor combine the Product into any other information data or service, not reformat, modify, amend or add to the Product nor sell the Product; and

(iv) not use the Product or any part of it except as permitted under the Contract.

## **9. Confidentiality**

9.1 The Client and Groundsure shall treat in confidence and use appropriate and adequate technical and security measures (including any that a Third Party Provider might require) to ensure that all information received from the other party in connection with the Contract is kept confidential. Each party shall not (i) disclose such information to any third party other than in accordance with the terms of the Contract; and (ii) use such information for a purpose other than the exercise of its rights and obligations under the Contract.

9.2 Condition 9.1 shall not restrict a party from disclosing information to the extent required by law or a court of competent jurisdiction.

9.3 Condition 9.1 shall not apply to (i) information which a party can prove was rightfully in its possession prior to disclosure; and (ii) information which is in the public domain (other than by a breach of the Contract or any other contract).

## **10. Liability**

10.1 Subject to Condition 10.3, Groundsure shall exercise reasonable skill and care in the preparation of the Product and the Product shall comply with the description on the Website. All other warranties, conditions and other terms implied by statute or common law are excluded from the Contract, to the fullest extent permitted by law.

10.2 Subject to Conditions 5, 10.3 and 10.6, Groundsure shall be liable to the Client for any loss or damage caused by Groundsure's negligence in mapping the Client's plan of the Site on to Groundsure's system.

10.3 Subject to Condition 10.6, Groundsure shall not be liable for: (i) loss of profits; (ii) loss of business; (iii) loss or corruption of data or information; (iv) business interruption; (v) any kind of special, indirect, consequential loss or pure economic loss; (vi) loss or damage that arises as a result of the use of all or part of the Products in breach of the Contract; (vii) loss or damage arising as a result of any error, omission or inaccuracy in the Products where such error, omission or inaccuracy is caused by any data provided by the Client, any Third Party Data or any reasonable interpretation of the data provided by the Client or the Third Party Data; (viii) loss or damage caused by a delay or loss of use of the Website; and/or (ix) any advice, act or omission of the Client, the Reseller or any other third party, including funders, solicitors and the parties entitled to rely on the Product. The parties agree that the provisions of this Condition 10.3 are severable.

10.4 Subject to the other provisions of this Condition: (i) Groundsure's total liability to the Client for all claims or series of claims relating to Groundsure Insights Data whether in contract, negligence or otherwise for any damages, losses or expenses shall be limited to the Fee paid for the Groundsure Insights Data; and (ii) Groundsure's total liability for all other Products to all (and not to each) of the parties seeking to rely on a Product, whether in contract, negligence or otherwise for any damages, losses or expenses shall be limited to £10 million.

10.5 The Client acknowledges and agrees that neither the Client, the End User nor any other party entitled to rely on the Product shall have any claim or recourse against any Third Party Provider under the Contract.

10.6 Nothing in the Contract limits or excludes the liability of Groundsure for: (i) breach of its obligations under section 12 of the Sale of Goods Act 1979 and/or section 2 of the Supply of Goods and Services Act 1982; (ii) death or personal injury resulting from negligence; or (iii) fraud or fraudulent misrepresentation.

## **11. Suspension or Termination**

11.1 The Contract shall commence on acceptance of an Order in accordance with Condition 3.4 and shall terminate on the later of receipt of the Fee and completion of the parties' obligations under Condition 5.4, provided that Groundsure Insights Data is a subscription product for a term of 1 (one) year.

11.2 Groundsure shall be entitled to suspend the provision of the Product or terminate the Contract if: (i) the Client has not provided the information or assistance required to prepare the Product; (ii) the Client fails to pay any sum due to Groundsure or the Reseller as the case may be, within 30 days of the due date; (iii) the Reseller fails to pay the relevant fee for the Products provided to the Client; or (iv) the Client or the End User breaches any term of the Contract which is incapable of remedy or if remediable, is not remedied within five days of notice of the breach.

11.3 If the Client is a consumer (and not a business), the Client expressly acknowledges and agrees that: (i) the services for the supply of the Product commence immediately upon Groundsure's acceptance of the Order; and (ii) the Product is supplied to the Client's specification(s) and therefore there is no right to cancel the Order following acceptance. If the Client is a consumer, then notwithstanding any other provisions of the Contract, none of the Client's consumer statutory rights are affected.

11.4 Upon suspension or termination of the Contract the Client shall pay to Groundsure all and any Fees due to Groundsure.

11.5 On termination of the Contract, the provisions of the following Conditions shall continue to apply: Conditions 4.4, 4.5, 5.4, 5.5, 6, 7, 8, 9, 10, 11.4, 11.5 and 12, provided that Conditions 6 and 8 shall not continue to apply for: (i) the Client, the End User or any party named in Condition 6 if the Contract is terminated because the Fee for the Product has not been paid by the Client, or the Reseller fails to pay the relevant fee for the Products provided to the Client; and (ii) any party if that party is in breach of Condition 8.

## **12. General**

12.1 No amendment or variation to the Contract shall be valid unless signed by an authorised representative of the parties.

12.2 No failure or delay on the part of Groundsure to exercise any right, power or provision under the Contract shall operate as a waiver.

12.3 Except as expressly provided in the Contract, no person other than Groundsure and the Client shall have any right under the Contract (Rights of Third Parties) Act 1999 to enforce any terms of the Contract.

12.4 Groundsure shall not be liable to the Client if the provision of the Product is delayed or prevented for reasons beyond Groundsure's control including any telecommunications, network or system failure.

12.5 Any notice shall be in writing and delivered by hand or sent by first class post or by email to the other party's address or email address. Deemed delivery shall be the day of delivery if delivered by hand, or email (unless that day is not a working day, then, deemed delivery shall be the next working day) and on the second working day after the day of posting if sent by first class post.

12.6 Each of the provisions of the Contract is severable and distinct from the others. If one or more provisions is becomes unenforceable, the enforceability of the remaining provisions shall not be affected.

12.7 The Client and Groundsure shall comply with its obligations under the Bribery Act 2010 and its own bribery policies. Each party shall promptly report to the other any request of demand for any undue financial or other advantage of any kind it receives in connection with the performance of the Contract.

12.8 The Client may not assign or otherwise transfer any of its rights or obligations under the Contract.

12.9 The Contract shall be governed by and construed in accordance with English law and any proceedings arising out of or connected with the Contract shall be subject to the exclusive jurisdiction of the English courts.