

CON29DW Commercial Drainage & Water Enquiry Terms and Conditions (1)

The Customer and the Client are asked to note these terms and conditions, which govern the basis on which the CON29DW Commercial Drainage & Water Enquiry is supplied.

Definitions

"Apparatus" means the public assets shown on the Company's map keys relevant to the Report.

"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 the company who produces the Report, being Thames Water Utilities Limited, a company registered in England and Wales with company number 02366661 and whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire, RG1 8DB.

"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 from the Company.

"Property" means the address or location supplied by the Customer in the Order.

"Report" means the drainage and/or water report prepared by the Company in respect of the Property, including any maps provided as part of such reports.

1. Agreement

1.1 The Company agrees to supply the Report to the Customer and the Client subject to these terms and conditions in this Agreement. The scope and limitations of the Report are described in clause 2 of this Agreement. Where the Customer is acting as an agent for the Client then the Customer shall be responsible for bringing these terms and conditions to the attention of the Client.

1.2 The Customer and the Client agree that the placing of an Order for a Report and the subsequent provision of a copy of the Report to the Client indicates their acceptance of these terms and conditions.

2. The Report

Whilst the Company will use reasonable care and skill in producing the Report, it is provided to the Customer and the Client 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 or the Client for any change in the information contained in the Report after the date on which the Report was produced.

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 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, completeness and legibility of the address and other information supplied by the Customer or Client when placing the Order.

2.4 The Report provides information as to the indicative location and connection of existing services and other information in relation to drainage and water enquiries and should not be relied on for any other purpose.

2.5 The Report is produced only for use in relation to transactions which require the provision of drainage and water information.

2.6 The Customer shall only use the Report for the purpose set out above in clause 2.5, for which it is supplied in accordance with these terms and conditions.

2.7 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 Apparatus shown on any maps.

3. Disclaimers

3.1 Without prejudice to any other terms and conditions set out herein, the Company accepts responsibility for any inaccuracy in the location of Apparatus, or missing Apparatus contained in the maps within the Report only where such inaccuracies or errors arise as a direct result of the negligence of the Company and the existence of which the Company should reasonably have been aware.

4. Liability

4.1 The Company shall not be liable to the Customer or Client in contract, tort, negligence, breach of statutory duty, misrepresentation or

otherwise for any inaccuracies, mistakes or omissions in the Report unless any such liability arises as a direct consequence of the Company's negligence and the existence of which the Company should reasonably have been aware.

4.2 Where the Customer sells this report to a Client (other than in the case of a bona fide legal adviser recharging the cost of the Report as a disbursement) the Company shall not in any circumstances (whether for breach of contract, negligence or any other tort, under statute or statutory duty or otherwise at all) be liable for any loss or damage whatsoever and the Customer shall indemnify the Company in respect of any claim by the Client.

4.3 Notwithstanding clause 4.1 above, the Company does not exclude liability for (a) death or personal injury arising from its negligence, (b) fraud or fraudulent misrepresentation, and (c) any other liability which cannot be excluded or limited by law.

4.4 Subject to clause 4.3 above, the Company's total liability to the Customer or Client, whether for breach of contract, tort, negligence, breach of statutory duty, misrepresentation or otherwise, arising under or in connection with these terms and conditions and/or the provision of a Report shall be limited to £10 million in aggregate.

5. Copyright and Confidentiality

5.1 The Customer and the Client acknowledge that the Report is confidential and is intended for the personal use of the Client. The copyright and any other intellectual property rights in the Report shall remain the property of the Company and/or its licensors. No intellectual or other property rights are transferred or licensed to the Customer or the Client except to the extent expressly provided in these terms and conditions.

5.2 The Customer or Client is entitled to make copies of the Report for their own internal purposes 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.

5.3 The Customer and the Client 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.

5.4 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.

5.5 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 outside the context of the Report.

5.6 The Customer and the Client 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 clauses 5.1 to 5.5 inclusive.

6. Payment

6.1 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 otherwise agreed in writing between the parties, the Company must receive full payment for the Report in advance of the Report being produced. Where the parties agree that payment is not required in advance, the Customer must pay for the Report in full within 14 days of the date of the invoice, unless otherwise agreed in writing between the parties.

7. Cancellations or Alterations

As a consumer

7.1 Where the Customer is an individual consumer (and not acting for purposes wholly or mainly relating to his or her trade, business, craft or profession), the Customer has specific legal rights relating to cancellation of any Order the Customer may place. The Customer may cancel his or her Order at any time within 14 days after the day on which the Order is entered into ("**Cancellation Period**").

7.2 To exercise the right to cancel, the Customer must inform the Company in writing of his or her decision to cancel the Order.

7.3 Where the Customer is ordering a Report as a consumer, due to the Customer's cancellation rights, the Company will not process the Order or provide the Report to the Customer before the end of the Cancellation Period unless the Customer provides his or her express consent and acknowledges that he or she will lose the right to cancel the contract under regulation 29(1) of the Consumer Contracts (Information, Cancellation, and Additional Charges) Regulations 2013.

7.4 Notwithstanding above clauses 7.1 to 7.3 (cancellation rights), should the Customer wish to cancel the Order beyond the Cancellation Period and/ or despite its consent to waive the Cancellation Period, the

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Company may still consider a Customer's cancellation request of any Order and any such cancellation shall be in accordance with its cancellation policy, which can be found on the Company's [website](#).

As a business

7.5 The Cancellation Period does not apply to the Customer's Order if the Customer is placing the Order wholly or mainly for purposes relating to their trade, business, craft or profession.

7.6 If the Customer cancels the Order other than in accordance with this clause the Customer may be liable for fees as detailed in the Company's cancellation policy which can be found on the Company's [website](#).

8. **Complaints**

8.1 The Company's complaints procedure is available on the Company's website.

8.2 The Company should acknowledge a complaint within 5 working days from receipt.

8.3 If the Customer follows the Company's complaints procedure but is dissatisfied with the response, the Customer may refer the complaint for consideration under The Property Ombudsman Scheme (TPOs) who can award compensation up to £25,000. Further information can be obtained by visiting www.tpos.co.uk or by sending an email to admin@tpos.co.uk.

8.4 In addition to TPO redress scheme covering consumers, TPO will also provide redress to 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.

9. **General**

9.1 We are a member of the Drainage and Water Searches Network (DWSN), a membership organisation for companies who are responsible for compiling full and complete responses to the Law Society's CON29DW Residential and CON29DW Commercial products. For more information please visit www.con29dw.co.uk. The DWSN Standards are: -

- Promotion of best practice and quality.
- Maintain adequate insurance.
- Display the appropriate logos to signify high standards.
- Respond to complaints in a timely fashion and provide an appropriate escalation procedure.
- Comply with all applicable UK legislation, regulations and industry standards.
- Act in a professional and honest manner and provide a service with due care and skill.

9.2 These terms and conditions are the only terms and conditions that shall apply to any Order and the provision of a Report by the Company to the Customer and shall constitute the entire agreement between the Customer and the Company and supersede, replace and extinguish any previous arrangement, understanding or agreement between the parties relating to such Report.

9.3 In the event of any conflict of inconsistency between any information on the Company's website describing the features of the Report and these terms and conditions, then these terms and conditions shall prevail.

9.4 Where the Customer is acting wholly or mainly in the normal course of his or her trade, business, craft or profession, the Client is entitled to the benefit of these terms and conditions. Save as provided in this clause 9.4, it is not intended that any other person who is not a party to these terms and conditions has any right to enforce any term or these terms and conditions under the Contracts (Rights of Third Parties) Act 1999.

9.5 If any provision of these terms and conditions is or becomes invalid or unenforceable, it will be taken to be removed from the rest of these terms and conditions to the extent that it is invalid or unenforceable. No other provision of these terms and conditions shall be affected.

9.6 These terms and conditions shall be governed by English law and all parties submit to the exclusive jurisdiction of the English courts.

9.7 Nothing in these terms and conditions shall in any way restrict the Customer or Client's statutory or any other rights of access to the information contained in the Report.

These Terms & Conditions are available in larger print for those with impaired vision.

[Thames Water Utilities Ltd](#), Property Searches, PO Box 3189, Slough SL1 4W
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