

Appendix 2 - DRAINAGE AND WATER ENQUIRY (COMMERCIAL) AGREEMENT

The Customer, the Client and the Purchaser are asked to note this Agreement which governs the basis on which this drainage and water report is supplied

Definitions

'Company' means United Utilities Water Limited who produce the Report; its registered office being at Haweswater House, Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, Warrington WA5 3LP, company number 2366678.

'Order' means any request completed by the Customer requesting the Report.

'Report' means the drainage and water report prepared by the Company in respect of the Property.

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

'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.

'Client' means the person, company or body who is the intended recipient of the Report with an actual or potential interest in the Property.

'Purchaser' means the actual or potential purchaser of the Property including their mortgage lender.

Agreement

1.1 The Company agrees to supply the Report to the Customer and the Client subject to 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 this Agreement to the attention of the Client and the Purchaser.

1.2 The Customer, the Client and the Purchaser agree that the placing of an Order for a Report and the subsequent provision of a copy of the Report to the Client and/ or the Purchaser indicates their acceptance of this Agreement.

The Report

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

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 a 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/or plans supplied by the Customer or Client or Purchaser.

2.4 The Report provides information as to the location and connection status of existing services and other information in relation to drainage and water enquiries and should not be relied on for any other purpose. The Report may contain opinions or general advice to the Customer, the Client and the Purchaser. The Company cannot ensure that any such opinion or general advice is accurate, complete or valid and therefore accepts no liability in relation thereto.

2.5 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.

Liability

3.1 The Company shall not be liable to the Client or the Purchaser for any failure defect or non-performance of its obligations arising from any failure to provide or delay in providing the Report to the extent that such failure or delay is due to an event or circumstance beyond the reasonable control of the Company including but not limited to any delay, failure of or defect in any machine, processing system or transmission link or any failure or default of a supplier or sub-contractor of the Company or any provider of any third party information except to the extent that such failure or delay is caused by the negligence of the Company.

3.2 Where a Report is requested for an address falling within a geographical area where two different companies separately provide Water and Sewerage Services, then it shall be deemed that liability for the information given by either company will remain with that company in respect of the accuracy of the information supplied.

A company supplying information which has been provided to it by another company for the purposes outlined in this agreement will therefore not be liable in any way for the accuracy of that information and will supply that information as an agent for the company from which the information was obtained.

3.2 The Report is produced for use in relation to individual commercial property transactions where the property is used solely for carrying on a trade or business, the property is intended to be developed for commercial gain or the property is not a single residential, domestic property. The Company's entire liability (except to the extent provided by clause 3.5) in respect of all causes of action arising by reason of or in connection with the Report (whether for breach of contract, negligence or any other tort, under statute or statutory duty or otherwise at all) shall be limited to £500,000.

In any event, the Company shall not have any liability in contract, negligence or any other tort or for breach of statutory duty or otherwise in respect of any loss of profit, loss of revenue, loss of opportunity or anticipated savings, or any indirect or consequential loss or damage that may be suffered by the Customer, the Client or the Purchaser howsoever arising. The plans attached to the report are provided pursuant to the Company's statutory duty to make such plans available for inspection (notwithstanding the provisions of this clause) and attention is drawn to the notice on the plan(s) attached to the report which applies to the plan and its contents.

3.4 Where the Customer sells this Report to a Client or Purchaser under its own name or as a reseller of the Company (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, restitution or otherwise at all) be liable to the Customer for any loss (whether direct, indirect or consequential loss (all three of which terms include without limitation, pure economic loss, loss of profit, loss of business, depletion of goodwill and like loss)) or damage whatsoever caused in respect of the Report or any use of the Report or reliance placed upon it and the Customer shall indemnify and keep indemnified the Company in respect of any claim by the Client or the Purchaser that the Company may incur or suffer.

3.5 Nothing in this Agreement shall exclude the Company's liability for death or personal injury arising from its negligence or for fraud.

Copyright and Confidentiality

4.1 The Customer, the Client and the Purchaser acknowledge that the Report is confidential and is intended for the personal use of the Client and the Purchaser. The copyright and any other intellectual property rights in the Report shall remain the property of the Company. No intellectual or other property rights are transferred or licensed to the Customer, the Client or the Purchaser except to the extent expressly provided herein.

4.2 The Customer or the Client or the Purchaser is entitled to make copies of the Report 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.

4.3 The Customer, The Client and the Purchaser agree (in respect of both the original and any copies made) to respect and not to alter any part of the Report including but not limited to the trademark, copyright notice or other property marking which appears on the Report.

4.4 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.

4.5 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.

4.6 The Customer, the Client and the Purchaser 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 the provisions of clauses 4.1 to 4.4 inclusive.

Payment

5.1 Unless otherwise stated all prices are inclusive of VAT. The Customer shall pay the price of the Report specified by the Company, without any set off, deduction or counterclaim.

5.2 Payment must be received in advance unless an account has been set up with the Company. In these cases, payment terms will be as agreed with the Company, but in any event any invoice must be paid within 30 days.

5.3 The Company reserves the right to increase fees on reasonable prior written notice at any time.

Appendix 2 continued - DRAINAGE AND WATER ENQUIRY (COMMERCIAL) AGREEMENT

Data Protection

6.1 We will process any personal data you provide to us in accordance with the Data Protection Act 1998. Any personal information you provide to us may be used for the purposes for which the information is provided and to assist with our debt recovery processes. We may also disclose it to other companies in the United Utilities group (being United Utilities Group PLC and its subsidiary companies) and their sub-contractors in connection with those purposes, but it will not be processed for other purposes or disclosed to other third parties without your express permission. We may also utilise any information we collect so that we are able to correctly administer, develop and improve the business and services we provide to our customers.

General

7.1 If any provision of this Agreement is or becomes invalid or unenforceable, it will be taken to be removed from the rest of this Agreement to the extent that it is invalid or unenforceable. No other provision of this Agreement shall be affected.

7.2 This Agreement shall be governed by English law and all parties submit to the exclusive jurisdiction of the English courts.

7.3 Nothing in this Agreement and conditions shall in any way restrict the Customer's the Client's or the Purchaser's statutory or any other rights of access to the information contained in the Report.

7.4 This Agreement and conditions may be enforced by the Customer, the Client and the Purchaser.

7.5 Before you agree to this Agreement, please note it is your responsibility to ensure your client/customer is aware of them and that any objections are raised accordingly.