

TERMS & CONDITIONS

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Standard Terms and Conditions of Contract

1 Services

In accordance with the Proposal for Provision of Services (the "Proposal") which includes the service fees (the "Service Fees") and these Terms of Contract, Survey North Ltd will provide the Services using reasonable skill, care and diligence for the Service Fees stated in the Proposal (the "Project"). The Client's instruction to proceed with the Services constitutes acceptance of the Proposal and formation of the Contract upon these Terms of Contract. In the event of any conflict between these Terms of Contract and any other documents, the provisions of these Terms of Contract shall prevail.

2 Client Responsibilities

Performance of Services is subject to:

- timely provision of adequate and accurate information by the Client and those third parties over whom Survey North Ltd have no control; and
- performance by the Client and those third parties over whom Survey North Ltd have no control, of all functions upon which the Services or any part thereof are dependent; and
- provision of access to such sites and locations as and when may be necessary in order for Survey North Ltd to undertake the Services and shall procure such access and certification from any consultant, contractor or sub-contractor as is reasonably requested by Survey North Ltd i.e. vendor information, key pick up information (estate agents), key safe codes, key access within the property to all windows, doors, garages and outhouses, and
- obtaining by the Client of all permissions from and payment by the Client of all fees to third parties necessary to enable the Services to be undertaken.

Where the Client is unable to meet the above requirements or fails to act accordingly and where such actions affect the performance of Survey North Ltd, increases the involvement/workload of Survey North Ltd or materially affects the relationship and ability to fulfil the appointed responsibilities in accordance with the Contract and the Royal Institution of Chartered Surveyors (or any successor organisation) guidelines, then Survey North Ltd reserve the right to terminate the Contract with immediate effect or otherwise amend the Contract including the Service Fees to cover any and all changes.

3 Location

The Services will be provided from a Survey North Ltd office unless otherwise agreed.

4 Contract Management (large surveying contracts)

Each party will nominate a named individual who will be responsible for managing all issues relative to the performance of the Contract. When it is necessary for either party to change its named individual, prior notice in writing shall be given.

Where multiple Clients or contacts are involved, this must be adequately managed by the above-named person to control communication in a clear and concise manner and Survey North Ltd will not have any responsibility for any inaccuracies or deficiencies in the performance of their service as a result of failings in communication from the Client.

5 Staff

Where individual staff are named in the Proposal, Survey North Ltd will use all reasonable efforts to ensure that the named individual(s) are used. However, this is not guaranteed. Where changes in staff are necessary, reasonable notice of the changes will be given.

If the Client has any issues at any time with any staff member or the resourcing of an instruction, this must be brought to the attention of one of the Directors of Survey North Ltd.

6 Sub-Contractors

Survey North Ltd reserves the right to employ agents and sub-contractors when providing any part of the Services.

7 Variations of Service

Survey North Ltd will bring to the attention of the Client any additional services required of Survey North Ltd which are considered to be outside the Services described in the Proposal.

Unless and until agreed to the contrary, additional services will be charged at hourly rates stated in the Proposal or, at rates analogous thereto. If there are no hourly rates stated in the Proposal or if there are no rates upon which charges can be based, then rates which are fair and reasonable will be charged.

With the exception of actions or failure to act having an impact on safety or compliance with legislation, additional services will only be undertaken with the Client's agreement, confirmed in writing. Where issues of safety or compliance with legislation are involved, Survey North Ltd will notify the Client of necessary variations at the earliest opportunity.

8 Confidentiality

The Client shall not without the prior written approval of Survey North Ltd disclose to any person (other than his legal and insurance advisors and auditors) or otherwise make use of any confidential information relating to Survey North Ltd including but not limited to the contents of this Contract and the Proposal.

The Client must make Survey North Ltd aware at the time of this Contract any confidentiality matters or specific matters which would need to be kept confidential.

Survey North Ltd will comply with the Client's requirements for confidentiality and secrecy to the extent to which they are made known. The Client shall be liable for any and all costs incurred by Survey North Ltd to keep such information confidential.

Survey North Ltd, will not be responsible to keep any information confidential under this Contract where the Client has failed to appropriately advise Survey North Ltd that such information is confidential. For the avoidance of doubt, the obligations of confidentiality shall not include any information: 1) that Survey North Ltd already has in its possession and at its free disposal prior to disclosure of such information; 2) that was developed by Survey North Ltd without any reference to Client; 3) which is or becomes generally available to the public through no default and/or omission of Survey North Ltd; and 4) to the extent that Survey North Ltd is required to disclose such information by law and/or regulatory authority.

At the request of Survey North Ltd, made at any time during the course of the Contract, and upon the termination of this Contract for whatever reason, the Client will deliver up to Survey North Ltd or if requested by Survey North Ltd destroy any and all materials containing confidential information (in whatever medium) which is in the Client's possession, power or control.

9 Copyright

The intellectual property rights in all documents (including electronic representations) produced by Survey North Ltd ("Documents") shall vest or remain vested in Survey North Ltd. The Client shall have a revocable, non-exclusive, terminable, royalty-free licence to use the Documents for the purpose for which they were prepared and Survey North Ltd shall not be liable for the use of any of the Documents for any purpose other than for which they were prepared.

10 Payment

- Where new instructions are undertaken, or where not otherwise confirmed, payment is to be made prior to the survey being undertaken and release of any reports/ documentation.
 - In respect of every invoice, the Final Date for Payment shall be two (2) days before the Survey Date, unless otherwise agreed;
 - The Client shall pay to the Company any reasonable expenses (including those charged by any debt collection agency) together with all legal and court costs
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incurred in the collection of any overdue account; Preferred payment is by BACS or other automated payments to Tide Bank PLC, Sort Code 04-06-05, Account Number 22343248 , and remitted to Survey North Ltd, 34 Hipsburn Drive, Sunderland SR3 1UA, or by such other methods as may be agreed in writing by the Company.

11 Complaints

Survey North Ltd treats all complaints seriously and prefer to deal with them at source and between the individuals concerned.

In the event of a complaint against Survey North Ltd, which has not been capable of resolution at source, the Client should write/email to Michael Harney, Managing Director outlining clearly the points of the complaint and supporting information and with reference to the original appointment and Client Brief. Survey North Ltd have a Complaints Handling Procedure in accordance with the requirements under RICS Regulation.

Please contact Michael Harney at info@surveynorth.co.uk for a copy.

12 Insurance

Survey North Ltd will, provided it is available at commercially reasonable rates, maintain professional indemnity insurance at levels that would be reasonably expected from a consultant carrying out similar services and in accordance with their service fees, subject to any limitations, exceptions and/or exclusions from cover as are commonly included in professional indemnity insurance policies.

13 Health & Safety

Survey North Ltd shall act in accordance with the provisions of the Client Health and Safety Policy (where applicable) and where provided and/or as directed by any representative of the Client while on site performing the Services.

The Client is responsible for ensuring the site/property is safe for access, and for making all necessary arrangements to ensure all surveyors and any employed sub-consultants/ sub-contractors are safe. This extends to providing Survey North Ltd with clear, accurate and up to date information with respect to the presence of asbestos within a property or land. Survey North Ltd operate a strict policy of not allowing surveyors to enter property or land where there may be a risk of asbestos or other potentially harmful materials present. Each responsible surveyor will request the provision of information such as an Asbestos Management Report or Refurbishment and Demolition Survey, and air clearance certification where applicable prior to entering a premises. Without these being made available and providing confirmation that it is safe to access the premises, then Survey North Ltd reserves the right to not enter the premises and the client will be responsible for all fee's and costs incurred.

The Client must carry sufficient insurance cover for undertaking the agreed services at all times.

We will not undertake any act or service which contravenes all applicable Health & Safety legislation or outside of safe working practices. Where access cannot be obtained safely or where the service cannot be fully provided, the Client will be responsible for providing safe access at their cost or agreeing to such services with Surveyor North Ltd to be invoiced as a disbursement. Survey North Ltd will not be accountable or liable for any loss of time as a result of inadequate access or safety concerns whilst undertaking the agreed services.

14 Termination

The Contract may be terminated by either party at any time by giving not less than 48 hours (2) days written or verbal notice.

The Contract may be terminated by either party without notice in the event of a material or persistent breach of the Contract by the other party or in the event that the other party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator appointed or calls a meeting of its creditors, or ceases, for any other reason to carry on business, or in either party's reasonable opinion any of these events appear likely to occur.

Further, Survey North Ltd reserve the right to terminate the Contract if the Client has failed to perform their duties in accordance with Section 2 or whereby Survey North Ltd in their reasonable opinion can no longer satisfactorily perform their duties. Any outstanding Service Fees and disbursement to the point of termination of the contract will be returned and will be deemed to be payable in accordance with the agreed payment terms.

In the event of termination by Survey North Ltd which is not as a result of the Client's breach of Contract, Survey North Ltd shall not be entitled to payment of Service or any other fees incurred.

15 Disputes

Where Part II of the Housing Grants, Construction and Regeneration Act 1996 applies either party may refer any dispute or difference arising under this Agreement to adjudication. The adjudication procedures will be as set out in the Scheme for Construction Contracts made under that Act. Unless the parties agree otherwise in writing the adjudicator nominating body will be the Royal Institution of Chartered Surveyors or any successor organisation.

16 Limitation of Liability

16.1 Notwithstanding anything to the contrary in this Contract, the liability of Survey North Ltd under or in connection with this Contract whether in contract or in tort, in negligence, for breach of statutory duty or otherwise (other than in respect of personal injury or death) shall not exceed in aggregate the sum of the professional indemnity insurance cover that Survey North Ltd holds.

NOTE: Survey North Ltd inspects and reports on the condition of all aspects of a property ON THE DAY OF INSPECTION. Consequently Survey North will not be liable for any defects that are apparent due to inclement weather after the survey has taken place and could not be assessed on the day of the inspection. Weather conditions WILL be recorded within the report. Our surveyors are unable to fully assess elements of the property both externally and internally which are visually obscured in any way, including but not limited to; furniture, carpets, personal items, vegetation etc. These restrictions WILL be recorded within the report.

16.2 Further and notwithstanding anything to the contrary contained in this Contract and without prejudice to any provision in this Contract whereby liability is excluded or limited to a lesser amount, the liability of Survey North Ltd, if any, for any loss or damage (“the loss or damage”) in respect of any claim or claims shall not exceed such sum as it would be just and equitable for Survey North Ltd to pay having regard to the extent of Survey North Ltd’s responsibility for the loss or damage.

16.3 Survey North Ltd shall not be responsible for the supervision of any contractor or subcontractor and/or for ensuring the performance or adequate standard of workmanship of any contractor or subcontractor. Survey North Ltd shall not be liable under or in connection with this contract for or as a result of any work and/or services provided by and/or any act or omission of any third party (including without limitation any contractor, consultant or sub-contractor).

16.4 The Client agrees not to pursue any claims under or in connection with this contract (whether in contract, in tort (including negligence), for breach of statutory duty or otherwise) against any individuals engaged by Survey North Ltd or any individual directors or members of Survey North Ltd. The Client acknowledges that such individuals are entitled to enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999.

16.5 Survey North Ltd’s liability under or in connection with this contract shall be limited to the exercise of reasonable skill, care and diligence and Survey North Ltd shall not be liable unless it has failed to exercise such skill, care and diligence.

16.6 No action or proceedings under or in respect of this contract whether in contract, in tort, in negligence, for breach of statutory duty or otherwise shall be commenced after the expiry of six years from the date of completion of Services or the termination of this contract if earlier.

17 Service of Notices or other documents

All notices or other documents required by this Contract shall be in writing and served upon the addresses notified by the parties or in the absence of such address, then the registered address, where applicable, or the last known principal business address.

18 Rights of Third Parties

No rights of this Contract shall be extended to third parties and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply.

19 Governing Law

The Contract is governed by and construed in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.

20 Data Protection & GDPR

Survey North Ltd hold client information applicable to each instruction on our secure server. Each surveyor acting on behalf of the Client will store relevant contact details on their mobile devices and computer for communication purposes. We do not share any Client or personal information unless otherwise agreed. Should you as the Client, require any additional security measures or amendments to the way storage of documents and data are stored, you should contact the surveyor responsible for dealing with the instruction to carry out your request. If you require any further information with respect to our Data Protection Policy including GDPR, then please contact us.

21 Miscellaneous

The Company reserves the right to alter or vary these terms and conditions in any respect at its absolute discretion upon notifying the Client of the relevant alterations and of the date upon which such alterations take place which will not be less than 5 days from the date of notification.

The Client and the Company confirm that no improper payments or transfers of value have been made in relation to this agreement.

Neither Party may assign or transfer all or part of this Agreement without the written consent of the other.

Survey North Ltd may take photographs of the site and/or property for use in any publicity or advertising or refer to the site and/or property or you in any publicity or advertising.

These written Terms and Conditions set out the whole of the agreement between the Company and the Client with respect to the Service: all prior agreements, representations, statements, negotiations and undertakings are hereby superseded other than fraudulent misrepresentation.
