

## Groundsure Terms & Conditions – from 1st April 2023

These Conditions apply to the provision of all Products supplied by Groundsure to a Customer.

### 1. Definitions

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

<b>Conditions</b>	these terms and conditions.
<b>Consumer</b>	has the meaning given to it in the Consumer Rights Act 2015 as an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession.
<b>Contract</b>	has the meaning given in Condition 2.2.
<b>Contract Start Date</b>	in respect of a Contract, the date on which that Contract is formed, in accordance with Condition 2.2.
<b>Customer</b>	the party purchasing a Product, either directly from Groundsure or via a Reseller.
<b>End User</b>	a person or entity to whom the Customer may supply a Product.
<b>Extended Period</b>	shall have the meaning given to it in Condition 11.3.
<b>Fees</b>	the sums due and payable by the Customer in consideration of Groundsure's supply of a Product, as specified in the relevant Order or as otherwise agreed between the parties in accordance with these Conditions.
<b>Groundsure</b>	Groundsure Limited, a company registered in England and Wales, registered number 03421028, registered office is at Nile House, Brighton BN1 1HW.
<b>Groundsure Consultancy &amp; Geology Services</b>	Groundsure's advisory services to Customers that may include bespoke reporting (verbal, written or otherwise) including the Ground Investigation Works which shall be governed by the Ground Investigation Terms & Conditions.
<b>Groundsure Data</b>	data, mapping and other imagery, together with certain Third Party Data, prepared and aggregated by Groundsure under these Conditions, and identified as "Data" on the Website.
<b>Groundsure Insights Products</b>	a report containing data, mapping and other imagery, together with certain Third Party Data, prepared and aggregated by Groundsure under these Conditions and identified as an "Insights Product" on the Website.
<b>Ground Investigation Works</b>	a physical ground investigation conducted by Groundsure (or its subcontractor) or conducted by the Customer (and directed by Groundsure) as agreed between the parties on a site specific basis.

<b>Ground Investigation Terms and Conditions</b>	the additional terms which apply to the provision of any Ground Investigation Works.
<b>Groundsure Searches Products</b>	a report containing data, mapping and other imagery, together with certain Third Party Data, prepared, aggregated and analysed by Groundsure under these Conditions, and identified as a "Searches Product" on the Website.
<b>Initial Period</b>	the period set out in the Order commencing on the Contract Start Date.
<b>IP Rights</b>	any patent, copyright, design right, trade mark, moral right, know-how and any other intellectual or industrial property rights, whether registered or not or capable of registration and including applications for the same or any other rights of a similar nature anywhere in the world.
<b>Order</b>	has the meaning given in Condition 2.2.
<b>Privacy Policy</b>	Groundsure's Privacy Policy located <a href="#">here</a> .
<b>Products</b>	Groundsure Consultancy & Geology Services, Groundsure Insights Products, Groundsure Data and Groundsure Searches Products, each a Product.
<b>Related Third Party</b>	(i) the End User's professional advisers; (ii) any person providing funding to the End User in relation to the Site (whether directly or as part of a lending syndicate); (iii) the first purchaser or first tenant of the Site; and (iv) the professional advisers and lenders of the first purchaser or tenant of the Site.
<b>Reseller</b>	an entity which is appointed as an authorised distributor of Products pursuant to a written agreement with Groundsure.
<b>Reseller Platform</b>	the platform operated by a Reseller which communicates with the Website through the application programming interface connected with the Reseller Platform.
<b>Site</b>	the area of land to which a Product relates.
<b>Terminal</b>	a server, laptop, PC, tablet, workstation, portable computer, personal digital assistant, mobile phone or other electronic means of access to (including viewing) the Groundsure Data, and which is internal or personal to the Customer or to an End User.
<b>Third Party Conditions</b>	conditions of and restrictions on the use of Third Party Data and Third Party Products, which in the case of Products are set out <a href="#">here</a> ; and in the case of Ordnance Survey data in Groundsure Data are set out <a href="#">here</a> .
<b>Third Party Data</b>	data which belong to, or are provided by, a Third Party Provider and are used by Groundsure in the Products.

<b>Third Party Products</b>	reports and any other products provided by Groundsure to the Customer under the Third Party Conditions of a Third Party Provider as defined <a href="#">here</a> .
<b>Third Party Provider</b>	any third party who provides data to Groundsure, including but not limited to a third party that is the subject of Third Party Conditions.
<b>Website</b>	the domain associated with the URL <a href="http://www.groundsure.com">www.groundsure.com</a> .

## 2. Formation of Contract

- 2.1 Where the Products are to be used by a Customer acting in its professional capacity on behalf of a Consumer, in entering into this Contract the Customer acknowledges that the Products are intended for use in the course of the provision of their own professional advice.
- 2.2 Where a Customer wishes to procure a Product from Groundsure, it will submit an order in accordance with the procedures established by Groundsure from time to time (an **Order**). Groundsure's express acceptance of the Order or, if Groundsure does not expressly accept the Order, its supply of the relevant Product to the Customer shall constitute an acceptance of the Order and creates a binding contract consisting of these Conditions and the Order (a **Contract**).
- 2.3 Where the Customer purchases the Ground Investigation Works as part of its Order, the additional Ground Investigation Terms and Conditions shall also apply and shall form a part of the Conditions.
- 2.4 These Conditions shall apply to and shall govern the provision of all Products by Groundsure to the Customer to the exclusion of any other terms and conditions that the Customer seeks to impose or incorporate, or may be implied by trade, custom, practice or in the course of dealing. No other terms and conditions (including, without limitation, the Customer's own terms, any pre-printed terms on the back of a Customer purchase order, or those implied), will apply to a Contract.
- 2.5 These Conditions will apply to and govern Groundsure's relationship with a Customer regardless of whether the Customer purchases the Products directly from Groundsure or through a Reseller.
- 2.6 Groundsure may vary these Conditions from time to time and Groundsure will post such amended Conditions on the Website. Any changes to the Conditions will not affect any Orders received before such changes are posted.
- 2.7 During the Order process the Customer may nominate an alternate recipient for the Products by providing an alternate delivery email address for the Products. The Customer will be liable for such recipient's acts and omissions in relation to the Products as if they were the Customer's own acts and omissions. The Customer is responsible for ensuring that it and any such recipient keeps the Product confidential, save where disclosure is expressly authorised under these Conditions.
- 2.8 If and to the extent there is any inconsistency between the terms of an Order and these Conditions, then these Conditions will prevail, except to the extent that the terms of an Order expressly state the Customer and Groundsure's intention to supersede specific terms in these Conditions.

### 3. Customer Obligations

- 3.1 Notwithstanding any recommendation or otherwise of Groundsure, the Customer will be solely responsible for ensuring that the Product is appropriate and suitable for its and (if applicable) the End User's needs.
- 3.2 Where the Customer is a business and supplies the Product to an End User, the Customer shall ensure that each End User complies with and is bound by the Conditions and shall ensure that Groundsure may in its own right enforce such terms and conditions against the End User pursuant to the Contracts (Rights of Third Parties) Act 1999. The Customer shall be responsible for each End User's compliance with the Conditions and the Customer shall be liable for all breaches of the Conditions by the End Users as if they were breaches by the Customer.
- 3.3 Where the Customer is a Consumer, the Customer agrees that the Products shall not be used for commercial or re-sale purposes.
- 3.4 The Customer will supply accurate and complete information relating to the Site.
- 3.5 Within 2 working days of receipt of the Product, and in any event before circulation to any third party, the Customer 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 Customer save where the error arises as a result of any information provided by the Customer under Condition 3.4.
- 3.6 If the Customer has any complaint or claim concerning a Product (a **Claim**), the Customer will promptly provide Groundsure with full details of such Claim and the parties will use reasonable endeavours to resolve the Claim. If Groundsure is unable to resolve a Claim to the Customer's reasonable satisfaction, the Customer may refer the complaint to The Property Ombudsman scheme (website: [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. If the Customer receives or becomes aware of any Claim from an End User, the Customer will (i) consider and consult with Groundsure in respect of such Claim; (ii) take reasonable account of Groundsure's representations in respect of such Claim; (iii) so far as practicable, not make any settlement in respect of such Claim on terms which may have an unreasonable adverse impact on Groundsure's reputation; and (iv) not make any admission in respect of such Claim without the prior written consent of Groundsure. If the Customer is unable to resolve any Claim from an End User, the Customer shall direct the End User to refer the complaint to The Property Ombudsman scheme (website: [www.tpos.co.uk/](http://www.tpos.co.uk/), email: [admin@tpos.co.uk](mailto:admin@tpos.co.uk)).
- 3.7 The Customer will not share or transfer its login credentials for the Website.
- 3.8 The Customer acknowledges that Ordnance Survey content is protected by Crown copyright. The Customer will 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.

### 4. Third Party Products

- 4.1 When identified in an Order, Groundsure may resell to the Customer Third Party Products. Third Party Products are governed solely by the Third Party Conditions between the Customer and the Third Party Provider. Groundsure does not make any commitments or claims regarding the performance of any Third Party Products, and specifically disclaims any liability regarding the Third Party Products, to the maximum extent permitted by law.

4.2 The Customer will comply with all Third Party Conditions applicable to any Third Party Data in the Product and acknowledges that a Third Party Provider is entitled to enforce any Third Party Conditions directly against the Customer.

## 5. Fees

5.1 For Products ordered directly with Groundsure, the Fees shall be calculated and paid as set out in the Order, together with all applicable value added tax. For Products ordered through a Reseller, the Fee shall be calculated by the Reseller and paid as set out on the Reseller Platform.

5.2 Groundsure will issue electronic invoices for the provision of the Products on a monthly basis, save where Groundsure indicates to a Customer that all sums are due to Groundsure before an Order is accepted by Groundsure. Unless a different payment deadline has been agreed in the Order, the Customer shall pay Groundsure's Fees in full without deduction, counterclaim or set off within 30 days of the date of Groundsure's invoice.

5.3 If the Customer 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 on any overdue sums, accruing from the due date up to the date of actual payment at a rate of eight percent over the Bank of England base rate per year.

## 6. Warranties and Disclaimer

6.1 Groundsure will exercise reasonable skill and care in the preparation of the Product and the Product will comply with the description on the Website at the time of the Contract, and in these Conditions. 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 provided that if the Customer is a Consumer, such Customer's statutory rights are not affected by anything in this Agreement.

6.2 Groundsure will use reasonable endeavours to meet any delivery times set out in an Order, but time will not be of the essence.

6.3 The Groundsure Data, Groundsure Searches Products and Groundsure Insights Products may include an aggregation of Third Party Data presented by Groundsure for the Customer's convenience, as well as Groundsure's independently produced data, and the Customer acknowledges that Groundsure does not warrant: (i) the accuracy or completeness of Third Party Data; or (ii) that the Third Party Providers are the only sources that could be consulted to prepare the Product.

## 7. Reliance

7.1 The following may rely on the Groundsure Searches Products: (i) the Customer; (ii) the End User; and (iii) any Related Third Party.

7.2 Except as expressly set out by Groundsure in a Product as delivered to a Customer, only the Customer is entitled to rely on a Groundsure Insights Product or Groundsure Data, provided that no Groundsure Insights Product or Groundsure Data can be relied upon or used by the Customer more than 12 months after the date on which such Groundsure Insights Products or Groundsure Data, as applicable, were originally provided to the Customer.

7.3 Except as expressly set out by Groundsure in a Product as delivered to a Customer, only the Customer is entitled to rely on the Groundsure Consultancy and Geology Services.

7.4 Groundsure acknowledges that it has permission to use the Third Party Data in its Products.

- 7.5 Each of the entities entitled to rely on a Product as set out in this Condition 7 shall be entitled to enforce these Conditions as if they were named in the Contract (subject to the exclusions and limitations of liability set out in these Conditions) provided that (i) the Fee has been paid in full; (ii) the Customer is not in breach of any of these Conditions; and (iii) the relevant sections of these Conditions are brought to the attention of the entity seeking to rely on the Product and the Customer procures that such entity complies with them.
- 7.6 Except as agreed in writing as part of the Groundsure Consultancy and Geology Services, Groundsure makes no physical inspection of the Site. The Customer acknowledges that certain land uses or features and/or the condition of a Site may be apparent only from a physical inspection.
- 8. Confidentiality**
- 8.1 Save where and to the extent that disclosure is expressly permitted under the terms of the Contract, the Customer will 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 Groundsure in connection with the Contract is kept confidential. The Customer will not: (i) disclose such information to any third party other than in accordance with the terms of the Contract; or (ii) use such information for a purpose other than the exercise of its rights and obligations under the Contract.
- 8.2 Condition 8.1 will not restrict the Customer from disclosing information to the extent required by law or a court of competent jurisdiction.
- 8.3 Condition 8.1 will not apply to:
- 8.3.1. information which the Customer can prove was rightfully in its possession prior to disclosure; or
  - 8.3.2. information which is in the public domain (other than by a breach of the Contract or any other contract).
- 9. Liability**
- 9.1 Groundsure will not be liable for the following loss or damage whether in contract, tort (including negligence), breach of statutory duty or otherwise, howsoever caused and even if foreseeable by Groundsure:
- 9.1.1. 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 Customer or any Third Party Data;
  - 9.1.2. loss of profits;
  - 9.1.3. loss of business;
  - 9.1.4. loss or corruption of data or information;
  - 9.1.5. business interruption;
  - 9.1.6. loss or damage that arises as a result of the use of all or part of the Products other than in accordance with the Contract;
  - 9.1.7. loss or damage caused by a delay or loss of use of the Website;
  - 9.1.8. resulting from any advice, act or omission of the Customer, the Reseller or any other third party; or
  - 9.1.9. any kind of special, indirect or consequential loss.



- 9.2 Subject to Conditions 9.1 and 9.3, Groundsure's aggregate liability to the Customer arising out of or in connection with a Contract whether in contract, tort (including negligence), for any damages, losses or expenses will be limited to:
- 9.2.1. £10,000,000 (GBP ten million) for all liabilities that arise out of or in connection with any Groundsure Searches Products, Groundsure Insight Products or Groundsure Data;
  - 9.2.2. £1,000,000 (GBP one million) or such alternative amount agreed in writing between the Customer and Groundsure and set out expressly in the Contract for liabilities that arise out of or in connection with any Groundsure Consultancy & Geology Services (excluding any liabilities that arise out of or in connection with any Ground Investigation Works which shall be governed by the Ground Investigation Terms and Conditions); or
  - 9.2.3. in all other cases, 100% of the Fees paid by the Customer in relation to the event giving rise to liability for any other liabilities arising out of or in connection with this Contract.
- 9.3 Nothing in the Contract limits or excludes the liability of Groundsure for breach of its obligations under section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982, or for death or personal injury caused by its negligence, for fraud or fraudulent misrepresentation; or for any other liability which cannot be validly limited or excluded at law.

## 10. **Term and Termination**

- 10.1 The rights and obligations of the parties under a Contract will come into effect on the Contract Start Date.
- 10.2 Where the Customer is a Consumer, the Customer has the right to cancel this Agreement within fourteen days after the day on which the Contract with Groundsure is entered into, unless in the meantime, the Customer requests Groundsure to provide the Product within the cancellation period and acknowledges that, in the case of digital content, its right to cancel will be lost once Groundsure has begun to provide the Product and, in the case of a service, its right to cancel will be lost once Groundsure has fully provided the Product. By submitting an Order to Groundsure the Customer confirms that it requests and agrees to Groundsure commencing the Order within the cancellation period and acknowledges that the processing by Groundsure of the Order constitutes commencement by Groundsure of performance (and delivery of digital content, if applicable) and accordingly the Customer may lose its right to cancel the Contract as set out above.
- 10.3 Where the Customer is a Consumer, if you think there is something wrong with your Product, you must get in touch with Groundsure using the Website or via email. We honour our legal duty to provide the Customer with products that are as described to you on the Website and that meet all the requirements imposed by law. If the Product is digital content, the Consumer Rights Act 2015 says digital content must be as described, fit for purpose and of satisfactory quality. If your digital content is faulty, you are entitled to a repair or a replacement. If the fault can't be fixed, or if it hasn't been fixed within a reasonable time and without significant inconvenience, the Customer can get some or all of its money back for the Product in question.
- 10.4 Subject to early termination in accordance with its terms, a Contract will continue in full force and effect:
- 10.4.1. in respect of a Contract for Groundsure Data, for the Initial Period, when it shall terminate automatically without notice unless, no later than one (1) month before the end of the Initial Period (or any Extended Period agreed under this clause), the parties agree in writing that the term of the Contract

shall be extended for a period equivalent to the Initial Period on expiry of the Initial Period (the "**Extended Period**"). Unless it is further extended under this clause or terminated earlier in accordance with Condition 10.5, the Contract shall terminate automatically without notice at the end of an Extended Term; and

- 10.4.2. in respect of a Contract for any other Product, until the later of (i) Groundsure's receipt of the Fee and (ii) delivery of or completion of the provision of the Products procured thereunder.
- 10.5 Groundsure will be entitled to suspend or terminate the provision of the Product or to terminate the Contract if: (i) the Customer has not provided the information or assistance required to prepare the Product within a reasonable timeframe; (ii) the Customer fails to pay any sum due to Groundsure within 30 days of the due date; or (iii) the Customer commits a material breach of any term of the Contract which is incapable of remedy or, if remediable, is not remedied within five days of notice of the breach.
- 10.6 Upon suspension or termination of the provision of a Product or the Contract the Customer will immediately pay to Groundsure all and any Fees due to Groundsure.
- 10.7 Termination of a Contract will not affect the coming into force or continuance in force of any provision of the Contract which is expressly or by implication intended to come into force or continue in force following termination.

## 11. **Use and restrictions on use of the Products**

- 11.1 No IP Rights in the Products (including in any Third Party Data) are assigned to the Customer, End User or any Related Third Party under the Contract. As between the Customer and Groundsure, Groundsure owns the IP Rights in the Products. The Customer acknowledges that the Third Party Data is owned by the Third Party Provider and is subject to the Third Party Conditions.
- 11.2 Subject to receipt of all applicable Fees and the other terms of the Contract, Groundsure grants to the Customer a non-exclusive, non-transferable right for the Initial Period (and any applicable Extended Period) to access, download and use the Products in their complete forms on five (5) Terminals only (or such other number as is agreed in writing between the parties) for the Customer's own professional use (with the right to sub-licence such right to: (i) the End User; and (ii) any Related Third Party but without any right to: (i) use the Product or any part of it for its own marketing or publicity purposes; or (ii) reverse engineer, separate or otherwise tamper with the Product so that the Product can be extracted and used for any purpose outside of the scope of this Contract.
- 11.3 The Customer shall (and shall procure that the End User and the Related Third Parties shall):
- 11.3.1. ensure that acknowledgments of IP Rights ownership are included in a conspicuous position in all copies of the Products that the Customer sub-licences in accordance with Condition 11.2;
- 11.3.2. not remove, suppress or modify any of Groundsure's or the Third Party Providers' (as the case may be) intellectual property protection notices from the Products (including without limitation copyright notices or trade marks);
- 11.3.3. 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); and
- 11.3.4. not use the Product or any part of it except as permitted under the Contract or as otherwise agreed in writing between the parties.



## 12. Compliance

- 12.1 Groundsure will only use personal information obtained from the Customer in accordance with the [Privacy Policy](#). The Customer has clear rights under current data protection law which allows it to control how Groundsure uses its personal information. Please see the [Privacy Policy](#) for further information on how Groundsure uses the Customer's personal information.
- 12.2 If the Customer is a business, and if it provides Groundsure with any personal information regarding an End User and/or a legal owner of a Site, the Customer:
- 12.2.1. agrees that it has all necessary notices and consents in place to enable it to share such personal information with Groundsure in compliance with applicable data protection laws and the Customer will show Groundsure such notices and consents at Groundsure's request; and
- 12.2.2. shall ensure that any such data subjects are provided with a copy of the [Privacy Policy](#).
- 12.3 The Customer and Groundsure will each comply with its obligations under the Bribery Act 2010 and their own anti-bribery policies. Each party will promptly report to the other any request or demand for any undue financial or other advantage of any kind it receives in connection with the performance of the Contract.
- 12.4 In performing its obligations under the Contract, each party will comply with all applicable laws, statutes and regulations from time to time in force.

## 13. General

- 13.1 No amendment or variation to the Contract will be valid unless signed by an authorised representative of the parties.
- 13.2 No failure or delay on the part of Groundsure to exercise any right, power or provision under the Contract will operate as a waiver.
- 13.3 None of the provisions of the Contract shall be enforceable by any party who is not a party to it, either under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 13.4 Groundsure will not be in breach of a Contract or otherwise liable to the Customer for any failure or delay in providing a Product which is caused by reasons beyond Groundsure's reasonable control.
- 13.5 Any notice given under a Contract must be in writing and delivered by hand or sent by email or first class post to: (i) in the case of Groundsure: Nile House, Brighton BN1 1HW or [info@groundsure.com](mailto:info@groundsure.com); (ii) and in the case of the Customer, the address as set out in the Contract or the email address used by the Customer to set up an account with Groundsure on the Website. Deemed delivery will be the day of delivery if delivered by hand, or email (unless that day is not a working day, then, deemed delivery will be the next working day) and on the second working day after the day of posting if sent by first class post.
- 13.6 Each of the provisions of the Contract is severable and distinct from the others. If one or more provisions is deemed unenforceable, the enforceability of the remaining provisions will not be affected.
- 13.7 The Customer may not assign or otherwise transfer any of its rights or obligations under the Contract. Groundsure may assign or otherwise transfer this Contract or any part of it to any person, firm or company provided that such assignment shall not materially affect the Customer's rights under the Contract.
- 13.8 This Contract is the parties' entire agreement regarding its subject matter and supersedes and cancels all previous agreements and communications (written or oral) relating to its subject matter. Each party acknowledges that (a) upon entering

into a Contract, it does not rely, and has not relied, upon any representation (whether negligent or innocent), statement or warranty made or agreed to by any person (whether a party to the Contract or not); and (b) the only remedy available in respect of any misrepresentation or untrue statement made to it will be a claim for damages for breach of contract under the Contract.

- 13.9 The Contract will be governed by and construed in accordance with English law and any proceedings arising out of or connected with the Contract, whether contractual or non-contractual, will be subject to the exclusive jurisdiction of the English courts.