

# Terms and conditions for the provision of ground stability reports

## Definitions

In these Terms the following words have the following meanings:

“**BGS**” means the British Geological Survey of Kingsley Dunham Centre, Keyworth, Nottingham, NG12 5GG, a component organisation of the Natural Environment Research Council;

“**CA**” means the Coal Authority of 200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG;

“**Customer**” means the person, firm or company placing the Order, either on its own behalf as User or as agent for a User;

“**Guidance**” means the relevant current version of the Guidance Notes and User Guide for the Report, available on request and displayed on the Website;

“**Order**” means any request for a Report made by the Customer;

“**Property**” means the address or location specified by the Customer in the Order;

“**Report**” means a ground stability report (in printed, electronic or any other form) which combines information on coal mining, brine subsidence claims and natural ground movement which has been prepared by CA in respect of the Property using data from, amongst others, the Suppliers and to which these Terms apply;

“**Supplier(s)**” means all or any of CA and/or BGS;

“**these Terms**” means these terms and conditions, incorporating the Guidance (if and to the extent of any conflict between these Terms and the Guidance, the provisions of these Terms will prevail);

“**User(s)**” means the person or persons so described in Clause 15; and

“**Website**” means CA’s website for the provision of the Reports service (currently [www.groundstability.com](http://www.groundstability.com)).

## Terms

1. These Terms apply to the provision of Reports by CA to the Customer and/or the User.
2. The Customer and the User agree that the placing of an Order indicates their acceptance of these Terms.
3. These Terms shall apply to the exclusion of all other terms and conditions.
4. CA reserves the right to change these Terms from time to time with immediate effect and without prior notice. Any changes to these Terms will be displayed on the Website. Placement of Orders after any such variation will be deemed to be an acceptance of these Terms as amended in respect of Reports which are provided in response to Orders placed after the variation is made.
5. Where the Customer is acting as an agent for a User, the Customer will provide a copy of the Report and these Terms to the User.

## Limitations of the report

### General

6. The Report is prepared with due skill and care, but has a number of limitations which are set out in these Terms which the Customer and the User acknowledge and accept when relying on it.

### Sources of Information

7. The Report has been prepared by CA using information held by CA, together with information supplied to it by BGS. The Report is based on, and is limited to:

- a) the specific features identified in the Report, as more particularly described in the Guidance; and
- b) each Supplier’s interpretation of the records it holds relating to the particular features for which the Report states that the Supplier is responsible (and, in the case of information from BGS, as provided to CA) at the time the Report is prepared.

The Customer and the User therefore acknowledge and agree that the records used to prepare the Report do not represent an exhaustive or comprehensive list of all records that may exist or may be available for the Property (see further Clause 8). The Customer and the User also acknowledge that no physical inspection of the Property has or will be carried out in the preparation of the Report.

8. Without prejudice to the generality of Clause 7:

- a) information from CA is based on records in its possession relating to coal mining activity. There may be information held by others on historical coal mining, and information on other types mining, which is not searched as part of the Report;
- b) information from BGS relates solely to the following six natural ground stability hazards: shrinkable clay; running sand; compressible deposits;

collapsible deposits; landslide activity; and soluble rocks. It does not cover any other geological hazards, or man-made hazards (such as contaminated land). BGS may hold data on other geological hazards and features that may affect the Property which are not searched as part of the Report and consequently the Report should not be taken as a guarantee that there are no other geological hazards or other issues affecting the Property; and

- c) information from BGS is prepared using the BGS GeoSure database which is based on 1:10,000 scale geological mapping reduced to 1:50,000 scale. The Customer and the User therefore acknowledge that BGS may be able to provide a more specific and detailed interpretation relating to the geological conditions and ground stability at the Property than that which is included in the Report. A more detailed interpretation is available via the BGS GeoReports service on BGS’s website [www.bgs.ac.uk](http://www.bgs.ac.uk).
9. The information from the Suppliers may be derived from records from a number of disparate sources which vary in age, quantity and quality. Such records may include material donated to the Suppliers by third parties, which may not have been subject to any verification or other quality control process.
  10. Raw data used to prepare the Reports may have been transcribed from analogue to digital format, or may have been acquired by means of automated measuring techniques. Although such processes are subjected, where possible, to quality control to ensure reliability, some raw data may have been processed without human intervention and may in consequence contain undetected errors.
  11. The records available to the Suppliers are constantly being updated. The Suppliers cannot be responsible to the Customer or Users for any changes in the information on which the Report is based which occur after the date on which the Report is prepared. Where this Report is for a residential property, insurance is included to cover loss in property value caused and arising from these circumstances. The Report includes a policy and key facts summary which outlines the significant features, benefits and limitations of the cover provided. The full terms, conditions and exclusions are shown in the policy document.

## Maps

12. The Customer and the User must take all reasonable steps to check that the details in the Order are correct and that the Report provided by CA has been prepared for the correct location and property type, and that the boundaries of the Property as shown in the Report’s plan correspond with those of the Property. Any discrepancies between the Order and the Report must be notified to the CA within 28 days after the issue date of the Report and CA will, in the case of error by CA, issue a revised Report free of charge; otherwise a new Report should be ordered with payment of the appropriate fee.
13. The Property has been located using Ordnance Survey (“OS”) mapping. The Suppliers do not warrant that the OS information is complete or accurate and accept no liability for the plotted position of the Property as shown on OS maps. Further, the relative position between surface features and coal mining and other geological features may differ between OS maps and the Suppliers’ maps used to prepare the Report, depending upon when the Suppliers’ maps were prepared.
14. The plan or plans accompanying the Report must not be enlarged otherwise the accuracy will be affected.

## Reliance on the report

### Who may rely on the Report

15. Only the following persons (“Users”) may rely on the Report:
  - a) the owner of the Property at the time the Report is prepared;
  - b) any purchaser of the whole of the Property from the owner described in a above; and
  - c) any person who provides funding to the persons in a or b above which is secured on the whole of the Property.

Such reliance will be subject to the provisions of Clauses 17 and 24 to 28 (inclusive).

### Extent of Reliance

16. The Report has been prepared for use by the Users only and the Report should not be relied upon by any other third party.

17. Customers or Users may not act in reliance upon the Report (either by purchasing the Property, providing funding secured on the Property or carrying out any works on or affecting the Property) more than ninety (90) days after its date of issue.
18. The Report gives an indication of whether ground movement *could* occur at the Property. This does not necessarily mean that the Property is or will be affected by ground instability. Such an assessment can only be made by inspection of the Property by a qualified professional, such as a surveyor or engineer. The Report **DOES NOT** therefore:
  - a) include any information or warranty relating to the actual state, or the structural or other condition, of the Property;
  - b) determine the saleability or value, or the safety, of the Property;
  - c) indicate the suitability of the Property for any particular purpose (including, without limitation, its suitability for development (within the meaning of section 55 of the Town and Country Planning Act 1990 as amended) or any building, excavation or landscaping work); or
  - d) act as a substitute for any physical inspection, specialist interpretations and/or professional advice.
19. No representations, warranties or terms (whether express or implied by statute, common law, custom, trade usage, course of dealing or otherwise) are given in relation to the Report unless they are expressly set out in these Terms, save to the extent that such terms cannot be excluded by law.

#### Use of the report

20. The Customer and the User acknowledge that the Report is confidential and that it is intended for the purposes of the User only. Accordingly the Customer and the User agree that they are permitted to use and copy the Report for these purposes only.
21. The Customer and the User (or any person who is provided with a copy of the Report) will not:
  - a) remove, obliterate or alter any trade mark or any copyright or other proprietary notice which is contained in the Report;
  - b) reformat or otherwise change, add to or enhance the Report, or combine it with or incorporate it into any other information, data or materials; or
  - c) create any product which is derived directly or indirectly from the data contained in the Report; or
  - d) resell the Report (other than in the case of a bona fide legal adviser recharging the cost of the Report as a disbursement) unless this has been specifically authorised in writing by CA.
22. The copyright and all other intellectual property rights in the Report will remain the property of the Suppliers or other third parties (as appropriate). Neither the Customer nor the User will acquire any rights in respect of the Report other than as expressly provided in these Terms.

#### Events beyond the suppliers control

23. A Supplier will not be liable to the Customer or the User for any delay or failure in performance of its obligations which result from circumstances beyond its reasonable control (including, without limitation, fire, explosion, flood, tempest, unusually adverse weather conditions, war, hostilities, riot, acts of terrorism, failure or shortage of power supplies, telecommunications or processing failure or computer malfunction) or the acts or omissions of any person for which a Supplier is not legally responsible.

#### Liability

24. The Report has been prepared for the Property on the basis of information on the Property's location and type provided by the Customer and/or the User, and consequently the Suppliers exclude all liability which may arise from any errors or omissions in the information so provided or from any failure to check for discrepancies pursuant to Clause 12.

25. The Report has been prepared specifically for the Property, and on the basis of the property type specified in the Order. Under no circumstances will the Suppliers be liable if a Report is relied on for any other property, or if a Report on a residential property is used for a non-residential or commercial property or for the development of the Property, and vice versa.
26. Except in the circumstances described in Clause 28 the total liability of the Suppliers to the Customer and the User arising from an error in the Report caused by negligence, breach of contract or in any other way will be limited to:
  - a) the reasonable costs of carrying out necessary remedial work on the Property reasonably promptly; or
  - b) the difference between the true market value of the Property and the market value of the Property on the basis of the Report at the time of reliance on the Report in accordance with these Terms.
27. Except in the circumstances described in Clause 28 or to the extent that a Supplier is found to be liable for the losses described in Clause 26 (a) or (b) arising from an error in the Report, the Supplier will not be liable to the Customer or the User for: loss of business, goodwill, profits or savings, loss of use or opportunity, lost or wasted staff time or for any indirect or consequential loss (whether arising from negligence, breach of contract or in any other way) even if the Customer or User was advised of or knew of the likelihood of that loss or type of loss arising.
28. Nothing in these Terms excludes or limits the liability of the Suppliers for death or personal injury caused by their negligence, or for fraud.

#### General

29. The headings in these Terms are for ease of reference only and do not affect their interpretation or construction.
30. Use of the singular includes the plural and vice versa, and use of any gender includes the other genders.
31. The benefit of these Terms cannot be assigned or transferred by the Customer or the User without the Suppliers' prior written consent. The Suppliers may assign any or all of their rights and obligations under these Terms without prior notice.
32. These Terms (together with the Order and the Guidance) represent the entire agreement relating to the supply of the Report and the relationship which that supply creates between the Suppliers and Customers and Users. No prior statement, representation or arrangement of any nature (whether written or oral) will add to, vary or waive terms of this agreement and the Customer and the User acknowledge that they have not relied on any statement or representation made by or on behalf of CA or any other Supplier in agreeing to enter into this agreement. Nothing in this Clause 32 will operate to limit or exclude liability for fraud.
33. The illegality or invalidity of any part of these Terms will not affect the legality or validity of the remainder of these Terms.
34. Except to the extent that these Terms confer benefits on the Suppliers and the Users, no third party is entitled to the benefit of these Terms under the Contracts (Rights of Third Parties) Act 1999.
35. To ensure compliance with Home Information Pack and Purchaser Information Pack regulations, should the enquirer or user of the search believe there to be any personal or financial connection between the Coal Authority and the British Geological Survey as provider of this ground stability report, and any other person involved in the sale of the subject property, they should make this known to us.
36. These Terms are governed by English law. The English courts (where the Property is situated in England or Wales) and the Scottish courts (where the Property is situated in Scotland) have exclusive jurisdiction to deal with any dispute which may arise out of or in connection with them.

**THESE TERMS ARE AVAILABLE IN LARGER PRINT FOR THOSE WITH IMPAIRED VISION OR AT [WWW.GROUNDSTABILITY.COM](http://WWW.GROUNDSTABILITY.COM)**