

## SCHEDULE 2

rule 5

### TERMS WHICH MUST BE INCLUDED IN A FULL NETWORK ACCESS AGREEMENT

#### Address for service

1.—(1) An address for service, being a postal address, box number at a document exchange, or electronic address, for the registrar and for the Subscriber and provision for the number of addresses, changes of the address and the adding of addresses.

(2) Provision as to the document exchange box numbers and electronic addresses that may be used as an address for service.

#### Serious breach

2. Provision that a serious breach of the agreement includes but is not limited to—

- (a) an act or failure to act which, in the opinion of the registrar, damages or threatens the security or integrity of the land registry network, information on that network, the register, or other information kept by the registrar in electronic form, or
- (b) the Subscriber giving a materially incorrect certificate to the registrar in connection with a contract, disposition or application which has been or is being made using the land registry network.

#### Default notice

3.—(1) Provision that, in respect of any breach (including a serious breach) by the Subscriber, the registrar may give to the Subscriber a default notice specifying a minimum period of ten business days in which the Subscriber is to—

- (a) in the case of a breach that can be remedied, remedy the breach, or take specified steps to avoid a further breach, or do both, and
- (b) in the case of a breach that is incapable of being remedied, take specified steps to avoid a further breach.

(2) Either—

- (a) provision that an extension by the registrar of the period specified in the default notice may be granted before that period has expired, or
- (b) provision that an extension by the registrar of the period specified in the default notice may be granted provided that the registrar has not terminated the agreement under rule 6(1)(a) or given notice of termination under rule 6(1)(b), even if the period specified in the default notice has expired.

#### Automatic termination

4. Provision for automatic termination of the agreement—

- (a) where the Subscriber is an individual, on his death or on his being adjudged bankrupt under the provisions of the Insolvency Act 1986(1),
- (b) where the Subscriber is a partnership other than a limited liability partnership, on dissolution of the partnership, except where the dissolution is caused by a person ceasing to be a member of the partnership and the other partners continue, or the sole remaining partner continues, to carry on the business, whether or not with a new partner,

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(1) 1986 c.45.

- (c) where the Subscriber is neither an individual nor a partnership within sub-paragraph (b), on dissolution of the Subscriber, and
- (d) in every case where there has been no use of the land registry network pursuant to the agreement for a period specified in the agreement (being not less than one year) ending on the date of the termination.

### **Suspension of the land registry network**

5. Provision allowing the registrar to suspend the provision of the land registry network where he is satisfied that this may be necessary.

### **Suspension of access**

6.—(1) Provision, subject to sub-paragraphs (2) and (3), allowing the registrar to suspend access to the land registry network by a Subscriber if any fees or charges incurred by the Subscriber under the agreement remain unpaid.

(2) Provision that, if access is so suspended, then, subject to sub-paragraph (3), the registrar must end the suspension, terminate the agreement under rule 6(1)(a) or give the Subscriber notice of termination under rule 6(1)(b)—

- (a) on or before the expiry of ten business days after the day on which access is suspended, or
- (b) if earlier, before the expiry of five business days after the day he receives a written request from the Subscriber so to do.

(3) Provision that, if the registrar and the Subscriber so agree, the suspension of access may be extended to a specified date, on or before which the registrar must end the suspension, terminate the agreement under rule 6(1)(a) or give the Subscriber notice of termination under rule 6(1)(b).

(4) Provision that where, in accordance with sub-paragraph (2) or (3), the registrar gives the Subscriber notice of termination under rule 6(1)(b), the suspension of access will continue, if any fees or charges incurred by the Subscriber under the agreement remain unpaid, until the expiry or withdrawal of the notice of termination, and for any period during which termination of the agreement is suspended under rule 10.

(5) In this paragraph, any reference to fees and charges includes any value added tax payable.

7.—(1) Subject to sub-paragraph (2), provision allowing the registrar to suspend access to the land registry network by a User where—

- (a) the registrar is satisfied that this may be necessary to protect the land registry network, persons using the land registry network, applicants to the land registry or the land registry, or
- (b) the User has not used the land registry network for a period specified in the agreement (being not less than one year) ending on the date of the suspension of access.

(2) Provision that, where access to the land registry network by a User has been suspended in either of the circumstances set out in sub-paragraph (1), and the Subscriber requests the registrar in writing to end the suspension, terminate the agreement under rule 6(1)(a) or give the Subscriber notice of termination under rule 6(1)(b), the registrar must do one of those things before the expiry of five business days after the day the request is received by the registrar.

### **Updating the agreement**

8. Provision allowing for the terms of the agreement, except to the extent that they are prescribed by these rules, to be changed by the registrar after he has publicised the changes in such manner as the agreement, from time to time, provides.

### **Electronic signatures**

9. An obligation on the Subscriber requiring the use of a specified type or form of electronic signature with any document effecting a disposition or being a contract which is made using the land registry network.

### **Retention of documents**

10.—(1) An obligation on the Subscriber, subject to sub-paragraph (2), to retain original documents or sufficient copies of such documents for a period specified in the agreement (being not more than six years), where the documents were relied on in giving the registrar a certificate.

(2) The agreement may exclude the obligation in sub-paragraph (1) in the case of documents of a kind specified in it.

### **System and security requirements**

11. Provision for the system and security requirements for access to and use of the land registry network.

### **Liability of persons other than the registrar and the Subscriber**

12.—(1) Provision that, subject to sub-paragraph (2), excludes—

- (a) all agents of the registrar and all members of the land registry other than the registrar from liability to the Subscriber and third parties, and
- (b) any User from liability to the registrar, except a User who is—
  - (i) the Subscriber, or
  - (ii) where the Subscriber is a partnership other than a limited liability partnership, a member of that partnership,

for loss or damage arising out of or in connection with the agreement and the use of the land registry network.

(2) The provision referred to in sub-paragraph (1) must not exclude or limit liability for—

- (a) death or personal injury resulting from negligence, or
- (b) acts or omissions done in bad faith.

### **Liability of the registrar**

13. Statements to the effect that—

- (a) the registrar has not, by entering into the agreement and making the land registry network available, assumed any duty of care or contractual obligation to any third party,
- (b) the registrar's liability to pay indemnity under Schedule 8 to the Act is unaffected,
- (c) no liability is created which is excluded by paragraph 4 of Schedule 7 to the Act, and
- (d) the registrar is not liable for inaccurate information supplied through the land registry network, except to the extent provided by Schedule 8 to the Act.

14.—(1) Provision that, subject to paragraph 16, excludes the registrar from liability for any loss resulting from—

- (a) the exercise of any right, remedy or discretion which the registrar is entitled to exercise under statutory authority, the general law or the terms of the agreement,

- (b) any failure by the Subscriber to comply with the agreement or with any legal or professional obligation except to the extent that the failure is itself caused by a breach of the agreement or breach of duty by the registrar,
- (c) loss or corruption of data or records held on the Subscriber's System,
- (d) any damage caused to the Subscriber's System by any failure on the part of the Subscriber to provide and maintain effective up-to-date measures against computer viruses, or to use the most up-to-date software and components of the land registry network issued by the registrar, and
- (e) the unauthorised alteration or modification of the whole or any part of the land registry network or the unauthorised combination of the land registry network with any other material or software by the Subscriber or any third party, including in particular but without limitation, any loss or damage of whatsoever nature caused by the introduction of a computer virus, worm or software to similar effect into the land registry network.

(2) In this paragraph, "the Subscriber's System" means the Subscriber's computing resources, computer hardware, software, and other information technology infrastructure.

**15.** Provision that, subject to paragraph 16, limits any liability which is not excluded so that the registrar is liable only—

- (a) for any costs or expenses arising directly from any tortious act or breach of the agreement by the registrar,
- (b) provided the total of these costs or expenses arising directly from a particular act or breach exceeds a minimum sum specified in, or calculated in accordance with, the agreement, and
- (c) in so far as that total does not exceed a maximum sum specified in, or calculated in accordance with, the agreement.

**16.** The provisions referred to in paragraphs 14 and 15 must not exclude or limit liability for—

- (a) death or personal injury resulting from negligence, or
- (b) acts or omissions done in bad faith

### **Liability of the Subscriber**

**17.** Provision as to the extent to which the Subscriber will be liable to the registrar for loss and damage arising out of or in connection with the agreement and the use of the land registry network, which must include, in particular, the following—

- (a) provision that, subject to the exemptions from liability set out in sub-paragraphs (b) and (c), the Subscriber shall be liable for loss and damage suffered by the registrar, and liable to indemnify the registrar in respect of any liability to a third party incurred by the registrar, arising directly from—
  - (i) the intentional, reckless or negligent misuse of the land registry network by the Subscriber,
  - (ii) breach of the agreement by the Subscriber,
  - (iii) negligent acts, errors or omissions by the Subscriber, or
  - (iv) failure by the Subscriber to establish his client's true identity,except to the extent that the registrar has contributed to his own or the third party's loss,
- (b) provision that, if the Subscriber has taken the steps specified in the agreement to satisfy himself as to the identity of his client, the Subscriber will not be liable to the registrar for any loss or damage arising in consequence of any failure by the Subscriber to establish the client's true identity, and

- (c) a statement to the effect that, where the Subscriber has enabled a third party to access a network transaction under a read-only network access agreement or a signature network access agreement, the Subscriber will not be liable for any loss or damage suffered by the registrar or any third party resulting from such access, save to the extent that such loss or damage is attributable to negligence or breach of the agreement by the Subscriber.

#### **Change of the Subscriber's circumstances**

**18.** Provision that the Subscriber must as soon as practicable inform the registrar in writing of any circumstances which have caused the Subscriber to cease to be a person with whom the registrar would be obliged to enter into a full network access agreement.

#### **Interpretation**

**19.** In this Schedule, "User" means a person nominated by a Subscriber, in accordance with the terms of a network access agreement, to use the land registry network on that Subscriber's behalf.