

## **NHBC Data Licence Terms**

### **1. Definitions and Interpretation**

1.1. The definitions and rules of interpretation in this clause apply in this Licence.

**Engagement Email:** the engagement email for Services as sent to the Licensee on 28 July 2022 (attached at Annex 1) by the Licensor such email incorporating the terms and conditions of this Licence.

**Licensee:** means the person or firm who purchases Services from the Licensor as further detailed in the Engagement Email.

**Licensor:** National House-Building Council incorporated and registered in England and Wales with company number 00320784 whose registered office is at NHBC House, Davy Avenue, Knowlhill, Milton Keynes, Buckinghamshire MK5 8FP.

**Licence:** this licence agreement between the Licensor and the Licensee relating to the NHBC Data and any data associated with, or connected to, the NHBC Data.

**Licence Fee:** the fee payable by the Licensee to the Licensor for the Licence as further detailed in the Engagement Email.

**NHBC Data:** has the meaning given to it in the Engagement Email.

**Permitted Use:** the permitted use of the NHBC Data as further detailed in the Engagement Email.

**Services:** the provision of the NHBC Data provided by the Licensor and made available to the Licensee.

**Time Period:** the period for which the NHBC Data will be provided to the Licensee as further detailed in the Engagement Email, commencing on the Delivery Date.

**Working Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

### **2. Delivery of the Services**

2.1. Delivery of the Services shall be the provision of the NHBC Data to the Licensee by email (or such other method as the Licensor may use from time to time).

2.2. The date upon which the NHBC Data is first provided to the Licensee is as soon as is reasonably practicable following acceptance of the Engagement Email by the Licensee (**Delivery Date**).

2.3. Risk in the NHBC Data will pass to the Licensee on the Delivery Date.

### **3. Licence**

3.1. In consideration of payment by the Licensee to the Licensor of the Licence Fee, the Licensor hereby grants to the Licensee a non-exclusive non-transferable licence to use the NHBC Data for the Permitted Purpose only. All copyright, database rights and any other intellectual property rights relating to the NHBC Data shall remain the exclusive property of the Licensor or its licensors.

3.2. The Licensee shall not use or permit the NHBC Data to be used for any other purpose or disclose it to any third party other than the Permitted Purpose. The Licensee shall take reasonable measures to prevent its employees from disclosing or misusing the NHBC Data at all times. The Licensee shall not reproduce the NHBC Data or allow it to be reproduced in any form (other than for the Permitted Purpose).

#### **4. The Licensor's Warranties**

- 4.1. The Licensor warrants that it has the right to licence the receipt and use of NHBC Data as specified in this Licence.
- 4.2. Except as expressly stated in this Licence, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.
- 4.3. Without limiting the effect of clause 4.2, the Licensor does not warrant that:
  - (a) the supply of the NHBC Data will be free from interruption;
  - (b) the Services will run on any information technology system or systems owned or operated by the Licensee from which NHBC Data is received in accordance with this Licence;
  - (c) the NHBC Data is accurate, complete, reliable, secure, useful, fit for purpose or timely; or
  - (d) the NHBC Data has been tested for use by the Licensee or any third party or that the NHBC Data will be suitable for, or be capable of, being used by the Licensee or any third party.

#### **5. Licence Fee**

The Licensee shall pay in full to the Licensor the Licence Fee within 30 days of the date of the Licensor's invoice. The Licence Fee is stated exclusive of value-added tax and all other taxes, duties, imposts and levies for which the Licensee shall be additionally liable. The Licensor reserves the right to charge the Licensee interest in respect of late payment of the Licence Fee (after as well as before judgment) at the rate of 4% per annum above the base rate from time to time of the Bank of England.

#### **6. Limitation of Liability**

- 6.1. Neither party excludes or limits liability to the other party for:
  - (a) fraud or fraudulent misrepresentation;
  - (b) death or personal injury caused by negligence;
  - (c) a breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - (d) any matter in respect of which it would be unlawful for the parties to exclude liability.
- 6.2. Subject to clause 6.1, the Licensor shall not in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:
  - (a) any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
  - (b) any loss or corruption (whether direct or indirect) of data or information;
  - (c) loss (whether direct or indirect) of anticipated savings; or
  - (d) any loss or liability (whether direct or indirect) under or in relation to any other contract.
- 6.3. Subject to clause 6.1, the Licensor's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Licence or any collateral contract shall in all circumstances be limited to [REDACTED] for the 12-month period immediately before the date on which the cause of action first arose.
- 6.4. Any dates quoted for delivery of the Services are approximate only, and the time of delivery is not of the essence. The Licensor shall not be liable for any delay in delivery of the Services

that is caused by an event within the scope of clause 10 or the Licensee's failure to provide the Licensor with adequate delivery instructions or any other instructions that are relevant to the supply of the Services.

## **7. Time Period**

This Licence shall commence on the Delivery Date and shall continue for the Time Period or until it is terminated in accordance with clause 9 below.

## **8. Confidentiality**

8.1. Each party undertakes that it shall not at any time disclose to any person any information that is either marked confidential or would reasonably be considered to be confidential information, concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 8.2.

8.2. Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Licence. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 8; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Licence.

## **9. Termination**

9.1. This Licence may be terminated with immediate effect by giving written notice to the other party if the:

- (a) Licensee fails to pay the Licence Fee within 14 days of the due date;
- (b) other party commits any material breach of any term of this Licence and (in the case of a breach capable of being remedied) fails to remedy the breach within 14 days of a request to remedy the same; or
- (c) other party ceases trading, goes into liquidation or is dissolved, struck off, insolvent or bankrupt or is unable to pay its debts as they mature or suffers the appointment of a receiver, administrative receiver or administrator of the whole or any part of its assets or suffers any similar appointment or process under the law of its place of incorporation or domicile.

9.2. Any provision of this Licence that expressly is intended to come into or continue in force on or after termination or expiry of this Licence shall remain in full force and effect.

9.3. Termination or expiry of this Licence shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Licence which existed at or before the date of termination or expiry.

9.4. On any termination or expiry of this Licence for any reason, the Licensee shall immediately pay any outstanding amounts owed to the Licensor under this Licence and shall ensure that there is no further use of the Services in any of the Licensee's products or applications from the date of termination or expiry.

9.5. On any termination or expiry of this Licensee (for any reason):

- (a) each party shall as soon as reasonably practicable return, delete or destroy (as directed in writing by the other party) all data, information, software, and other materials provided to it by the other party in connection with this Licence including all materials containing or based on the other party's confidential information; and
- (b) without limiting the effect of clause 9.5(a), the Licensee shall as soon as reasonably practicable ensure that all NHBC Data is deleted from the Licensees systems,

and any electronic data shall be considered deleted, for the purpose of this clause 9.5, where it has been put beyond use by the deleting party.

9.6. If a party is required by any law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy under clause 9.5, it shall notify the other party in writing of that retention, giving details of the documents or materials that it must retain. That party shall not be in breach of clause 9.5 with respect to the retained documents or materials.

## **10. Force Majeure**

Neither party shall be in breach of this Licence nor liable for delay in performing, or failure to perform, any of its obligations under this Licence if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 4 weeks the party not affected may terminate this Licence by giving 14 days' written notice to the affected party.

## **11. Assignment**

11.1. This Licence is personal to the Licensee and it shall not assign, transfer, mortgage, charge, sub-contract, declare a trust of or deal in any other manner with any of its rights and obligations under this Licence without the prior written consent of the Licensor (which is not to be unreasonably withheld or delayed).

11.2. The Licensee confirms it is acting on behalf of the Crown and not for the benefit of any other person.

11.3. The Licensor may at any time assign, transfer, mortgage, charge, sub-contract, declare a trust of or deal in any other manner with any of its rights and obligations under this Licence without the consent of the Licensee.

## **12. Waiver**

No failure or delay by a party to exercise any right or remedy provided under this Licence or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

## **13. Remedies**

Except as expressly provided in this Licence, the rights and remedies provided under this Licence are in addition to, and not exclusive of, any rights or remedies provided by law.

## **14. Notice**

14.1. Any notice given to a party under or in connection with this Licence shall be in writing and shall be delivered by email, hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

14.2. Any notice shall be deemed to have been received:

- (a) if delivered by email, at the time and date the email was sent;
- (b) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; or
- (c) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service.

14.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **15. Entire agreement**

15.1. This Licence constitutes the entire agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

15.2. Each party acknowledges that in entering into this Licence it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Licence.

15.3. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Licence.

## **16. Variation**

Except as expressly provided in this Licence, no variation of this Licence shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## **17. Severance**

17.1. If any provision or part-provision of this Licence is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Licence.

17.2. If any provision or part-provision of this Licence is deemed deleted under clause 17.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **18. No partnership or agency**

18.1. Nothing in this Licence is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

18.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## **19. Third-party rights**

A person who is not a party to this Licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.

## **20. Governing law and Jurisdiction**

20.1. This Licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

- 20.2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Licence or its subject matter or formation (including non-contractual disputes or claims).

## Annex 1

[REDACTED]

[REDACTED]

Licensee: Department for Levelling Up, Housing and Communities (DLUHC)

Thank you for your recent enquiry and interest expressed in licencing NHBC Data (as further described below).

I can confirm that we are able to licence the NHBC Data on the following basis:

Monthly updates of the following files, on or before the fourth working day of month.

Plots started, completed and finalised since 2010

Field name	Description
PLOT_ID	Internal database primary key (a unique ID for the plot)
PLOT_NUMBER	Plot number
PRODUCT	Product code that plot is registered for
FABRICATION	Main structural fabrication type code of the property
FABRICATION_DESC	The description for the fabrication type code
FABRICATION_OTHER_TEXT	Free text description where the fabrication code is "OTHER"
MMC_CATEGORY	MMC code category code for the property, if applicable
PROPERTYADDRESS1	The postal address of the property (where known)
PROPERTYADDRESS2	
PROPERTYADDRESS3	
PROPERTYTOWN	
PROPERTYPOSTCODE	
POLICY_NO	NHBC policy number
FORM_TYPE	Construction type of the property, e.g. detached house
SECTOR_VALUE	If the plot is registered as Buildmark Choice, indicated to be registered as Buildmark Choice or linked to a Housing Association then the plot is "public", otherwise it's "private" sector.
START_DATE	Date the plot started (i.e. date of first inspection)
REGISTERED	Date the plot was registered for its product(s)
FINALLED	Date the plot was finalised for warranty
LEGAL_COMPLETION	Date of legal completion (DOLC)
PROPOSED_PRICE	Propose selling price
PURCHASE_PRICE	Actual purchase price
NO_OF_BEDS	Number of bedrooms in the plot
PROJECT_REFERENCE	NHBC site (SNIN) reference ID
INSSI_ID	NHBC inspection site ID
SITESTATUS	Current status of the Inspection Site
SEBNDTOPDA_DATE	Date the site was/is due to be sent to the Building Inspector's workload
ADDED_ON_PDA_YN	Is the plot a BI created NA (temporary) plot
SITE_POSTCODE	Site post code sector, e.g. MK5 8

## Block storey information for plots started, completed and finalised since 2010

Field name	Description
PLOT_ID	Internal database primary key (a unique ID for the plot). Use this ID to join to other NHBC data.
PROJ_ID	Internal database primary key (a unique ID for the site (SNIN))
PROJECT_REFERENCE	NHBC site (SNIN) reference ID
CS_BLK_ID	Internal database primary key for the continuous structure block defined by the developer during registration.
CS_BLK_NO_OF_STOREYS	Number of storeys for the continuous structure block given by the developer during registration.
BI_BLK_ID	Internal database primary key for the stair core block recorded by the NHBC Building Inspector while on site.
BI_BLK_NO_OF_STOREYS	Number of storeys for the stair core block recorded by the NHBC Building Inspector while on site.

## Sites data (SNINs) created since 1 January 1995

Field name	Description
Group Name	Developer group parent name
Member Name	Developer name
Project Reference	NHBC site (SNIN) reference ID
Cons Id	NHBC construction site ID
Description	Site address (as a single field)
Addr1	Site address
Addr2	
Addr3	
Town	
Postcode	
No Of Plots Planned	Count of plots on the SNIN
Creation Date	Date SNIN was created (keyed) in Fusion
Brownfield Site Yn	Is the site Brownfield, as declared on the SNIN

## All polygons drawn at construction site or site (SNIN) level

Field name	Description
OUR_REFERENCE	NHBC site (SNIN) reference ID
CONS_ID	NHBC construction site ID
WKT	Coordinates marking out the curtilage of the site. Format is "Well Known Text".

## Permitted Use:

- Internal use by DLUHC (or contractors working for DLUHC on DLUHC systems), HM Treasury, Prime Minister's Office 10 Downing Street, and The Home Office.
- The sharing of site or plot address data with the organisation listed as the developer in the NHBC Data.

Licence Fee: [REDACTED]

Time Period: Annual subscription (1 year)



Licence Terms and Acceptance of Engagement

You have advised that the NHBC Data is to be used for the Permitted Use only. To enable us to progress your request, please confirm our understanding of your instructions and your agreement to the attached licence terms (Licence Terms) by responding to this email. We are unable to proceed until we have received confirmation that the Licence Terms (and detail contained in this email) have been accepted by you.

You acknowledge and agree that any work already performed in connection with the NHBC Data before the date of this email will be governed by the Licence Terms.

Contact Details

Our contact details are below, please do get in contact if you require any further information.

We look forward to working with you.

[REDACTED]

NHBC, NHBC House, Davy Avenue, Knowlhill, Milton Keynes, MK5 8FP | [www.nhbc.co.uk](http://www.nhbc.co.uk)

For and on behalf of NHBC:		For and on behalf of DLUHC:	
Signature:	[REDACTED]	Signature:	[REDACTED]
Name:	[REDACTED]	Name:	[REDACTED]
Role:	[REDACTED]	Role:	[REDACTED]
Date:	25 August 2023	Date:	29 August 2023