

ARTL TERMS AND CONDITIONS

1. Definitions and interpretation

1.1 Definitions

ARTL system means the computer system managed and controlled by RoS to enable creation of electronic documents and the electronic generation and communication of an application for registration of a dealing affecting an interest in land registered in the Land Register of Scotland and automated registration in respect of that interest.

ARTL system account means an account issued by RoS to a Licensee which may be used by that Licensee and its Users to access and participate in the ARTL system.

Contact Details means a person's business address, fax number and email address to which notices and other communications may be sent under these terms and conditions.

Licensee means the grantee of a licence to use the ARTL system as described in clause 3.1 hereof.

Practice Administrator means a person appointed by a Licensee to be a main contact for RoS in respect of administrative matters relating to ARTL.

RoS means the Keeper of the Registers of Scotland.

These terms and conditions means (excepting in clause 3.1 and 3.2), the terms and conditions set out in this document, any additional conditions imposed under clause 3.1 and, where the context allows, and the e-Payment terms and conditions. In clause 3.1 and 3.2 these terms and conditions means the terms and conditions set out in this document and, where the context allows, the e-Payment terms and conditions.

Website means the RoS website, incorporating the ARTL system website, located at www.ros.gov.uk or such other location as RoS may from time to time notify to Licensees.

User means an individual who is authorised by a Licensee to use the ARTL system in accordance with clause 3.2 hereof.

1.2 Except where otherwise provided: (a) these terms and conditions are to be interpreted in accordance with the Interpretation Act 1978; and (b) definitions of words and phrases given in the Land Registration (Scotland) Act 1979, the Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006 and the Land Registration (Scotland) Rules 2006 apply.

1.3 Unless the contrary intention appears, a reference in these terms and conditions to: (a) any document means the current published version and includes any variation or replacement of it; and (b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them severally.

2. General

2.1 These terms and conditions govern use of the ARTL system, have contractual effect between RoS and each Licensee and between Licensees and are governed by the law of Scotland. Each Licensee and User agree to submit to the exclusive jurisdiction of the courts of Scotland.

2.2 If any provision of these terms and conditions is unlawful, void or unenforceable then it is deemed severable and shall not affect the validity or enforceability of the remaining provisions.

2.3 No informal representation can amend, vary, modify, waive or negate these terms and conditions or any additional conditions imposed on a Licensee in any respect.

2.4 RoS reserves the right to alter these terms and conditions and will publish the current version on the website. Excepting any urgent alteration necessary to protect the security, integrity or stability of the ARTL system, RoS will give Licensees thirty days' notice of any proposed alterations. Use of the ARTL system constitutes an acceptance of the terms and conditions then subsisting.

3. Participation in the ARTL system

3.1 A Licensee may use the ARTL system only in accordance with these terms and conditions and any additional conditions imposed on the Licensee. RoS may by notice to that Licensee impose any additional conditions on that Licensee which RoS acting reasonably considers appropriate to protect the security, integrity or stability of the ARTL system.

3.2 A Licensee may authorise one or more Users to use the ARTL system on its behalf, such authorisation being subject to these terms and conditions and any additional conditions specifically applicable to that Licensee. The Licensee must notify RoS of the Contact Details of Users authorised by it and of any change in those Contact Details. Where a Licensee so authorises a User, the Licensee is bound by and liable for the acts and omissions of, and any breaches of such terms and conditions by, the User as if they were the acts, omissions or breaches of the Licensee.

3.3 A Licensee must appoint one or more Practice Administrators and notify RoS of the name and Contact Details of each person so appointed and of any change to their Contact Details. A Licensee is bound by and liable for the acts and omissions of, and any breaches of these terms and conditions by, a Practice Administrator appointed by that Licensee as if they were acts, omissions or breaches of the Licensee.

3.4 A Licensee must immediately withdraw authority and access to the ARTL system from any User authorised by the Licensee who is suspected of or has been involved in improper use of the ARTL system, breach of these terms and conditions, or whose circumstances have changed such that the User is no longer authorised to act on behalf of the Licensee.

3.5 A Licensee may surrender its licence by giving notice to RoS. Such surrender is effective from the time when RoS receives notice, or such later time as may be given in the notice.

3.6 RoS may terminate a licence with immediate effect if RoS reasonably considers that the Licensee or any User authorised by that Licensee poses a threat to the security, integrity or stability of the ARTL system or to any registration transaction. RoS may terminate or restrict the authority of a User if RoS reasonably considers the User poses a threat to the security, integrity or stability of the ARTL system or to any registration transaction.

3.7 Surrender or termination of a licence does not affect any past, present or continuing liability (whether under these terms and conditions or otherwise) of the Licensee in respect of past ARTL transactions.

4. Registration Fees and Stamp Duty Land Tax (SDLT)

4.1 Payment of Registration Fees for Transactions submitted under the ARTL system must be made through the e-payment service operated by RoS by means of a variable direct debit. The terms and conditions (and all future revisions thereof) applicable to the e-payment service apply to the payment of Registration Fees within the ARTL system and are deemed to be incorporated within and form part of these terms and conditions mutatis mutandis.

4.2 RoS acts as agent for Her Majesty's Revenue and Customs (HMRC) for the purpose of collecting information from land transaction returns and payments of stamp duty land tax (SDLT) in ARTL transactions. Payment of any SDLT due in respect of a Transaction under the ARTL system shall be paid to RoS as agent for HMRC and shall be paid under and in terms of the e-payment terms and conditions.

4.3 Delivery of a land transaction return under the ARTL system shall be deemed to constitute delivery of the return to HMRC. Such delivery shall also be deemed to constitute confirmation by the Licensee that it is in funds at least to the extent of the tax due under the land transaction return in respect of the particular Transaction and an irrevocable undertaking to pay such tax to RoS as agent of HMRC under and in terms of the e-payment terms and conditions.

5. Licensees' and Users' rights and obligations

5.1 A Licensee may use its ARTL system account to access the ARTL system.

5.2 Licensees and Users may not assign, transfer or otherwise deal with their rights to use the ARTL system.

5.3 Each Licensee undertakes that it will (and where appropriate will ensure that any User authorised by it will): (a) not do or omit to do anything that will or may adversely affect the operation, security, integrity, stability or overall efficiency of the ARTL system; and (b) establish and maintain appropriate measures to safeguard the ARTL system from unauthorised access through the Licensee's ARTL system Account.

5.4 If a Licensee at any time (a) ceases to comply with these terms and conditions or (b) becomes aware that its ability to maintain its compliance with them is impaired or likely to become impaired, it must immediately notify RoS of this fact; and its right to use the ARTL system shall be suspended until such time as the Licensee can demonstrate to the reasonable satisfaction of RoS its ability to maintain compliance with these terms and conditions.

5.5 Use of the ARTL system is only permitted for the purposes of transactions in all respects lawfully carried out. The system may not be used for any purpose, which contravenes the provisions of the Computer Misuse Act 1990 or of any other legislation for the time being in force. Licensees and Users must immediately inform RoS about any activity that they reasonably suspect is not lawful or is likely to contravene said legislation.

6. Licensees' representations and warranties

6.1 Each Licensee represents and warrants to RoS and to other Licensees each time an electronic document or certification is authenticated by one of its Users that (a) it has taken reasonable steps to verify to the best of its knowledge and belief that all information in the electronic document or subject to the certification is true and correct; (b) the User has authority to authenticate any certification made on its behalf; and (c) proper steps have been taken to ensure that the User has authority to authenticate any electronic document which is so authenticated on behalf of its granter.

7. RoS' rights and obligations

7.1 RoS will use reasonable endeavours to provide the ARTL system at the times and to the service standards published in the ARTL External Service Level Agreement.

7.2 RoS may withdraw or modify the ARTL system. Except in case of urgent necessity to protect the security, integrity or stability of the ARTL system, RoS will give Licensees thirty days notice of any proposal to withdraw or materially modify the system.

7.3 RoS has the right to maintain an audit log of all use of the ARTL system.

8 Notices

8.1 Any notice by RoS to a Licensee, or by a Licensee to RoS is effective from the time it is received unless a later time is specified in the notice. Notices may be sent using the ARTL internal messaging system or by fax and a notice so sent is deemed to have been received at the time it was sent. A notice sent by first class post is deemed to have been received at 10 a.m. on the first business day following posting.