

Request for access to homenav v4



YES please register us for homenav access and use

Name of Organisation				(Agent)
Address				Postcode

BRANCHES TO HAVE ACCESS TO/USE OF HOMENAV (continue on separate sheet if necessary)

Branch Name	Full Postal Address (inc postcode)	Tel.	Email

If you would like each staff member to have an individual log on please copy this page and complete the user details and security question and answer for each individual user at each branch.

USER DETAILS

Branch Name			
User Name	Title:	First Name:	Last Name:
Email Address			
Telephone	Direct Dial:	Mobile:	

SECURITY

Security question	1. Pet's name <input type="checkbox"/>	2. Town of birth <input type="checkbox"/>	3. Mother's maiden name <input type="checkbox"/>
Security answer			

COMMISSION

If you choose to use us for HIPs please advise if you wish to add commission. Default is £0, maximum is £200 + VAT. £

Please pay commission into the account detailed on the direct Debit Mandate.
 Please pay commission to:

Bank name:	Account name:
Account no:	Sort code:
	VAT no:

Please read the attached LMS homenav Terms of Business carefully and complete the information below (please tick)

1	I have read and accept the LMS homenav Terms of Business	<input type="checkbox"/>
2	I confirm that I am authorised to enter into this Agreement on behalf of the Agent and branches above	<input type="checkbox"/>
3	I am happy to receive information about other products and services available from LMS or LMS commercial partners by post / email / phone / text message (delete as applicable) unless I have indicated otherwise DO NOT send details about LMS products and services <input type="checkbox"/> DO NOT send details about products and services from LMS commercial partners <input type="checkbox"/>	<input type="checkbox"/>

Name (please print)			Position	
Contact details	Telephone (office):	Mobile:		
	Email:	Fax:		
Signature			Date	

homenav Access - Terms of Business



SECTION A - INTRODUCTION

- About us.** Legal Marketing Services Limited (LMS) is a leading provider of services to estate agents. LMS is a company incorporated in England and Wales under company number 03002073 and has its registered office address at LMS House, Lloyd Drive, Cheshire Oaks Business Park, Ellesmere Port, Cheshire CH65 9HQ. Our VAT Number is 787 4586 79.
- Contracting parties.** The Agent acknowledges, accepts and confirms that it is contracting for itself and for each of the branches specified on the request (as may be amended by agreement with LMS) and that it:
 - has authority to sign these Terms on behalf of itself and such branches; and
 - it is responsible for ensuring such branches comply with these Terms as if they were the Agent

SECTION B - REGISTRATION FOR HOMENAV AND PROVISION OF LINKS

- Registration.** If LMS agrees to register the Agent for homonav, it will:
 - notify the Agent of its unique URL for each participating branch of that Agent (**LMS Link**) and their respective unique user names and passwords; and
 - provide a copy of the LMS homonav logo to the Agent (**Official Logo**) for use in accordance with these Terms.
- Suspension or termination of registration.** LMS will be entitled to suspend an Agent's registration and access to and use of homonav if the Agent or any of its branches is in breach of any agreement with LMS or if LMS believes that continued use and access would be prejudicial to LMS' interests.

SECTION C - RIGHTS TO USE AND ACCESS HOMENAV LINKS AND MATERIALS

- Incorporation of the LMS Link.** The Agent acknowledges and accepts that it is solely responsible for the incorporation of the LMS Link and Official Logo on its website(s) and materials (including those of its branches) and that any assistance given by LMS is at LMS' sole discretion and without liability.
- Incorporation of Agent logo.** The Agent is entitled to request that LMS incorporates the Agent's official logo on that Agent's version of homonav (and that of its branches) and LMS will not unreasonably decline to do so. If LMS agrees to incorporate such logo, the Agent shall provide it to LMS in the format and by the channel directed by LMS and warrants that at the time of supply, its incorporation by LMS will not infringe the rights of any person. LMS will be entitled to remove the Agent's logo at any time if LMS believes that its continued incorporation is prejudicial to LMS' interests.
- Licence restrictions.** The licence for use of each LMS Link and the Official Logo provided by LMS is restricted to the following terms:
 - the Official Logo and the LMS Link (and all information obtained through it) is and remains the property of LMS and all rights in and goodwill accruing in them shall be for the sole benefit of LMS;
 - neither the Official Logo nor the LMS Link can be sold, pledged, mortgaged, transferred, licensed, published, distributed or changed in any way unless the Agent is expressly required or authorised to do so by LMS;
 - LMS will be entitled to modify or remove the URL supporting the LMS Link at any time without notice or to require the Agent to change the LMS Link or to delete it at any time;
 - LMS will be entitled to change or withdraw the Official Logo at any time by giving notice to the Agent in which case, the Agent will cease to use the changed / withdrawn logo on its website(s) (including those of its branches) and in any of its materials;
 - the use of the Official Logo and/or the LMS Link must not infer or suggest any official association between the Agent or its branches and LMS or that LMS endorses any of their products, service or activities; and
 - the use of the Official Logo and/or the LMS Link must not do anything that may cause damage to LMS' reputation or brands
- Amending content.** Each branch will be entitled to amend its website content that relates to its use of homonav under these Terms through an LMS provided administration link (**Admin Link**) provided that it does not incorporate any content that is illegal, unlawful, offensive or otherwise inappropriate or which infringes the rights of any person and by exercising this right, the Agent warrants that the content as amended is permitted under this clause.

Third parties. The Agent acknowledges and accepts that the homonav may contain content and/or links to websites operated by third parties and that such third content and/or link and/or website:

 - is included at LMS' sole discretion; and
 - is under the control of the third party and not LMS and LMS will have no liability in respect of any of them.
- Charges for viewing items on homonav.** In the event that LMS makes a charge for viewing items on homonav, LMS will be entitled to all revenue generated.

SECTION D - UPLOADING PROPERTY LISTING OUTLINES

- Acceptable listings.** The Agent may provide property listing outlines for residential properties in the format and by the channel directed by LMS and request that LMS adds it to homonav where:
 - LMS has produced and provided a completed LMS HIP and LMS holds an indication of consent from the seller to include it on homonav
 - The Agent has submitted an acceptable request
 - The Agent has submitted an acceptable request to LMS to upload a HIP from a provider other than LMS

The Agent warrants that at the time of supply to LMS, the Agent has obtained the consent of the seller and all other persons whose consent may be needed to include the listing outline on homonav and to the use of such in accordance with these Terms and that such inclusion and use will not infringe the rights of any person.

- 12. Uploading of property listing outlines.** LMS will use reasonable endeavours to upload each listing that it has accepted for upload within 48 hours of receipt and acceptance (excluding weekend and bank holidays).
- 13. Maintenance of listings.** The Agent is solely responsible for maintaining the property listing outline and may do so using the Admin Link.
- 14. Listing fees.** The Agent will pay to LMS a listing fee (**Listing Fee**) (as may be changed by LMS on 3 months written notice to the Agent) for each property listing outline included on homonav at that Agent's request received by LMS on or after the date of this agreement.

Listing Fee (exclusive of VAT)			
	Where the property has (or will have) an LMS HIP (A)	Where the Seller has instructed (or will instruct) an LMS panel law firm to act in the conveyancing of the property (B)	Where (A) or (B) do not apply
Where the Agent has contracted with LMS to order 11 or less LMS HIPs in any 12 month period	Free	Free	£10
Where the Agent has contracted with LMS to order 12 or more LMS HIPs in any 12 month period	Free	Free	Free
Where the Agent has not contracted with LMS to order a total number of HIPs in any 12 month period (spot registered agents)	Free	Free	£10

The amounts due under this provision will normally be invoiced within 7 days of the end of the month in which the listing outline is uploaded to homonav and will normally be collected by direct debit within a further 7 days. The Agent will sign the direct debit mandate catering for this. The Agent acknowledges that it will have no right of set-off against any monies owed under this provision. In the event that a listing is removed from homonav by the Agent and reinstated within 12 months of it having been removed, LMS will not charge a further listing fee.

- 15. Removal of listing outlines.** LMS shall be entitled to remove any property listing outline at any time if LMS believes it is prejudicial to LMS or a third party to allow the outline property listing to remain.
- 16. Use of property listing outlines.** LMS will be entitled to use the content of any property listing outline for its own commercial purposes including selling it and making it available to other organisations for their commercial purposes. LMS agrees not to provide such content directly to other organisations for them to promote estate agency services without the consent of the Agent although the Agent acknowledges and accepts that other agents may have access to homonav and may use such data to compile their own database and LMS has no control or liability in this regard.

SECTION E - UPLOADING LMS HIPs

- 17. LMS right to upload.** LMS will be entitled to upload a LMS HIP onto homonav for each property for which it has received a LMS HIP order unless it has received an indication of objection from the seller and will remove the LMS HIP if it subsequently receives an indication of objection.
- 18. Photographs.** LMS may obtain a photograph of a property where the Energy Performance Certificate for the property is completed by a LMS Domestic Energy Assessor or a LMS Home Inspector. LMS will be entitled to include such photograph on homonav.
- 19. Updated LMS HIPs.** Where LMS has updated a LMS HIP, it will include the updated version on homonav.
- 20. Effect of removing a listing outline.** In the event that a property listing outline is removed from homonav, LMS will be entitled to remove the LMS HIP for the property from the service.

SECTION F - UPLOADING NON-LMS HIPs

- 21. HIP upload.** The Agent will be entitled to request that LMS incorporates HIPs prepared by organisations other than LMS on homonav and LMS will usually agree to such inclusion for up to 6 months provided that:
- the Agent has received the consent of the seller and all other persons whose consent may be needed (including the owner(s) of the intellectual property right in the HIP) to include it on homonav and by making the request for inclusion, the Agent warrants that it has obtained such consent;
 - LMS has not received an indication of objection from the seller and will remove the LMS HIP if it subsequently receives an indication of objection;
 - there is a property listing outline on homonav for the relevant property;
 - the Agent provides the HIP as a single PDF file or on a USB key, CD or DVD or such other format and channel as may be directed by LMS at the relevant time and in all cases without a requirement for an access key, password (or similar opening device) or any decryption requirements. The Agent agrees that where such HIP is provided in tangible media, property in such media shall transfer absolutely to LMS on supply to LMS and acknowledges that it will not be returned to the Agent or any other person;
 - the Agent warrants that the content of the HIP is not illegal, unlawful, offensive or otherwise inappropriate; and
 - the Agent indemnifies LMS against all claims and costs (including legal costs) arising out of any third party claim that the inclusion of the HIP on homonav infringes the intellectual property rights or any other rights of that third party and against any claim of inaccuracy of the HIP.

22. **Non-LMS Photographs.** The Agent will be entitled to request that LMS incorporate on homonav a photograph of a property for which there is a property listing outline provided by that Agent and LMS will usually agree to such inclusion provided that:
- the Agent has received the consent of the seller and all other persons whose consent may be needed (including the owner(s) of the intellectual property right in the photograph) to include it on homonav and by making the request for inclusion, the Agent warrants that it has obtained such consent;
 - LMS has not received an indication of objection from the seller and will remove the LMS HIP if it subsequently receives an indication of objection;
 - the Agent provides the photograph in the format and channel to be specified by LMS at the relevant time;
 - the Agent warrants that the content of the photograph is not illegal, unlawful, offensive or otherwise inappropriate; and
 - the Agent indemnifies LMS against all claims and costs (including legal costs) arising out of any third party claim that the inclusion of the photograph on Home Navigator infringes the intellectual property rights or any other rights of that third party.
23. **Updated HIPS.** Where a HIP prepared by an organisation other than LMS has been updated, the provisions in clause 21 will apply to the updated HIP.
24. **Effect of removing a listing outline.** In the event that a property listing outline is removed from homonav, LMS will remove the HIP and any photographs for the property from the service.

SECTION G - LIABILITY

25. **Disclaimer.** The only warranties and assurances given by LMS are those set out in these Terms and you should not rely on any other terms which are expressly excluded to the maximum extent permitted by law.
26. **Liability for documents not prepared by LMS.** We are not responsible for and have no liability for any documents not prepared by LMS. Any complaints or claims in respect of any information, product or service provided or which has not been prepared by LMS should be made directly to the third party concerned.
27. **Liability for our mistakes.** WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE (IN CONTRACT, NEGLIGENCE OR OTHERWISE) WHERE:
- a) THERE IS NO BREACH OF A LEGAL DUTY OF CARE OWED TO YOU BY US;
 - b) THE LOSS OR DAMAGE IS NOT A REASONABLY FORESEEABLE RESULT OF ANY SUCH BREACH; OR
 - c) ANY INCREASE IN LOSS OR DAMAGE RESULTS FROM A BREACH BY YOU OF THESE TERMS AND CONDITIONS.

NOTHING IN THESE TERMS AND CONDITIONS EXCLUDES OR LIMITS OUR LIABILITY FOR FRAUDULENT MISREPRESENTATION OR FOR DEATH OR PERSONAL INJURY CAUSED BY OUR NEGLIGENCE.

SECTION H - MISCELLANEOUS

28. **Care and attention.** LMS will use reasonable skill and care in carrying out its obligations under these Terms.
29. **Term.** These Terms will take effect on signature by the Agent and will continue in force for an initial period of 12 months after which they will continue for subsequent one year periods until terminated by either party by giving to the other 3 months written notice. LMS may terminate these Terms immediately on giving written notice to the Agent in the event that:
- a petition for the winding up of the Agent (whether voluntarily or not) is presented or planned; or
 - the Agent has an administrator, receiver or manager appointed over all or any part of its assets; or
 - a meeting of the Agent's creditors is called.
- LMS may terminate these Terms immediately without notice to the Agent in the event that any licence or service provided to LMS by a third party used to support, supply or promote homonav is revoked, withdrawn, cancelled, suspended or otherwise terminated.
30. **Effect of termination.** In the event that these Terms are terminated for any reason, LMS will be entitled to remove any property listing outlines included on homonav for the Agent, to terminate the Agent's registration, disable the password and user id's for the Agent and its branches and the Agent will remove the LMS Link from its website and destroy any materials containing the LMS Logo in its possession or control.
31. **Force majeure.** LMS will not be liable for any delay or failure to perform any of its obligations under these Terms to the extent and for the duration that such delay or failure is caused by circumstances beyond its reasonable control.
32. **Entire agreement.** These Terms are the only terms that apply to this access agreement any other terms or understandings made by or given to you by any other person are superseded by these Terms.
33. **Severance.** If any provision in these Terms is held to be void or unenforceable LMS will be entitled to choose whether to continue with these Terms with the void/unenforceable provision severed or to terminate these Terms.
34. **Waiver.** If either you or LMS delays in enforcing rights under these Terms or agrees not to enforce rights, it will not constitute a waiver of the right to do so and will not affect rights in relation to any subsequent breach of these Terms.
35. **Third party rights.** Nothing in these Terms is intended to nor shall it confer a benefit on any third party under the Contracts (Rights of Third Parties) Act 1999 and a person who is not a party to these Terms has no rights to enforce them.
36. **Assignment / transfer.** These Terms are personal to the Agent and cannot be assigned or transferred by the Agent without the express written consent of LMS. LMS may assign and/or transfer any of its rights and/or obligations to any other person.
37. **Governing law.** These Terms are subject to English law and each of us hereby submits to the non-exclusive jurisdiction of the English courts.