

The following terms and conditions shall apply to all work undertaken by the Domestic Energy Assessor (the “Services”) – BookMyEPC and shall supersede and override all other warranties, representations and terms and conditions whether express or implied, oral or written, including the Client’s standard terms.

1. Definitions

“Domestic Energy Assessor” or the “Company” is the Domestic Energy Assessor trading under these conditions that are set out by the Company, BookMyEPC.

“Client” is the party at whose request or on whose behalf the Domestic Energy Assessor undertakes surveying services.

“Report” means any report, advice or statement supplied by the Domestic Energy Assessor in connection with instructions received from the Client.

“Disbursements” means the cost of all reasonable photography, reproduction of drawings, diagrams, sketches and printing, duplicating and, where applicable, electronic transmission fees, and all reasonable and appropriate expenses including travel, refreshments and hotel accommodation where an overnight stay is necessary.

“Fees” means the fees charged by the Domestic Energy Assessor to the Client and including any value added tax where applicable and any Disbursements.

“Service Area” means the Metropolitan Borough of South Tyneside as defined by the Ordinance Survey Election Map.

2. Scope

The Domestic Energy Assessor shall provide Services solely in accordance with these terms and conditions. Where appropriate, the Client will set out in writing the Services which it requires the Domestic Energy Assessor to provide.

The Client shall be responsible for any and all access arrangements to the property where the Services are to be completed. The Client may arrange such access through a nominated third party (including but not limited to a licensee, tenant, agent or occupant), however, in doing so the Client shall remain responsible for the actions of the nominated third party and for any consequences of failed access as defined herein or otherwise.

When acting for underwriters or other clients, the Domestic Energy Assessor’s opinions will be offered strictly without prejudice to liability, unless specifically authorised otherwise by the client.

3. Fees

In normal circumstances, the Company will offer to perform an EPC assessment for a fixed price. The price quoted during the booking process is the price the customer will pay. The Company reserves the right to increase its prices at least once per annum to reflect increased costs, this will not affect existing bookings.

4. Payment Terms

(a) Payment is to be made during the online booking process unless ‘pay later’ is selected. If a customer books via phone or person or selects ‘pay later’, payment is due within 7 days of the EPC assessment, unless alternative terms have been agreed by both parties prior to the appointment. If this is a commercial customer any delay in payment shall entitle the Domestic Energy Assessor to interest on a daily basis at 8% above the Base Lending Rate set by the Bank of England prevailing at the time of default and charge compensation under the allowed amounts set by English Law. For a non-commercial customer, this late payment interest will not attract the Bank of England Lending Rate aspect. Further delays in payment may require legal action via a small claims court and debt recovery, which will incur extra costs to the customer.

(b) If the Domestic Energy Assessor is unable to access the property due to the failure of the Client to provide access arrangements either directly or through a nominated representative at the time the Services are to be performed, the Client shall pay to the Domestic Energy Assessor liquidated damages as a genuine pre-estimate of the Domestic Energy Assessor’s losses due to such default (the “Failed Appointment Charge”). Where the Services are to be performed in the Service Area the Failed Appointment Charge will be 50% of the Fees, where the Services are to be performed outside of the Service Area the Failed Appointment Charge will be 100% of the Fees.

(c) The Domestic Energy Assessor may at any time, without notice to the Client, set off any liability of the Client to the Domestic Energy Assessor against any liability of the Domestic Energy Assessor to the Client, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under these terms. Any exercise by the Domestic Energy Assessor of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

5. Disputed invoices

If any part of an invoice is genuinely in dispute, the Client shall pay the undisputed part thereof. The Parties shall endeavour to resolve the disputed portion, without delay.

6. Obligations and Responsibilities**(a) Domestic Energy Assessor**

The Domestic Energy Assessor shall use reasonable care and skill in the performance of the services in accordance with good surveying practice.

(b) Reporting

The Domestic Energy Assessor shall submit interim advices, site situation reports and a final report to the Client during and following completion of the agreed services describing the Domestic Energy Assessor's findings, assessments and inspection purporting to the purpose of the Client's instruction, unless otherwise expressly instructed by the Client not to do so.

(c) Confidentiality

The Domestic Energy Assessor undertakes not to disclose any information provided in confidence by the Client to any third party and will not permit access to such information by any third party unless the Client expressly grants permission save where required to do so by an order of a competent court of law.

(d) Intellectual Property

The right of ownership in respect to any intellectual property resulting from the performance of the work created by the Domestic Energy Assessor remains the property of the Domestic Energy Assessor. The Client shall be entitled to disclose the report or document to a third party for whose benefit the instruction/contract was specifically commissioned.

The Domestic Energy Assessor shall promptly notify the client of any matter, including conflict of interest, or lack of suitable qualifications and experience, which would render it undesirable for the Domestic Energy Assessor to continue its involvement with the appointment. The Client shall be responsible for payment of the Domestic Energy Assessor's fees up to the date of notification.

(e) Client

The client shall promptly settle the Domestic Energy Assessor's invoice in accordance with Payment Terms above.

7. Liability

(a) The Domestic Energy Assessor shall be under no liability whatsoever to the Client for any loss, damage, delay or expense, whether direct or indirect arising howsoever caused unless same is proved to have resulted solely from the gross negligence or wilful default of the Domestic Energy Assessor or any of its employees or agents or sub-contractors resulting in direct damage to tangible property where the company's liability shall be limited in accordance with paragraph (c) below.

(b) The company's total liability for professional negligence shall not exceed the fee paid for the work.

(c) The Company accepts liability for direct damage to tangible property or death or injury to persons to the extent caused by the proven negligent acts or omissions of the Company and its employers and Consultants, provided that the Company's liability for the same or for any other loss unless provided for elsewhere in these terms shall be limited to the coverage and indemnity limits provided under the Company's insurance policies (which are available for inspection on request), unless otherwise covered by statute.

(d) If the Company or any of its employees, agents and sub-contracts shall act or fail to act in any manner which results in an actionable wrong, the Client shall, subject to Clauses 8b) and 8c) above indemnify the Company against all claims, damages, costs and expenses made or incurred by a third party arising from any such act or lack of act by the Company.

8. Force Majeure

Neither the Domestic Energy Assessor nor the Client shall, except as otherwise provided in these Conditions, be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from act of God, act of war or terrorism, seizure under legal process, quarantine restrictions, strikes, boycotts, lockouts, riots, civil commotions and arrest or restraint of princes, rulers or people.

9. Insurance

The Domestic Energy Assessor shall effect and maintain, at no cost to the Client, Professional Liability Insurance for such loss and damage for which the Domestic Energy Assessor may be held liable to the Client under these terms and conditions.

10. Domestic Energy Assessor Right to sub-contract

The Domestic Energy Assessor shall have the right to sub-contract any of the services provided under the conditions, subject to the Client's right to discuss such an appointment and object on reasonable grounds if necessary. In the event of such a sub-contract, the Domestic Energy Assessor shall remain fully liable for the due performance of its obligations under these conditions. This is not a normal process and will only ever be used if our assessors become unable to work due to sickness or death, and may be arranged at the discretion of Book My EPC.

11. Time Bar

Any claims against the Domestic Energy Assessor shall be deemed to be waived and absolutely time barred upon the expiry of one year from the submission date of the report to the Client.

12. Document retention

The Company shall retain all data, correspondence, documents and records that have a bearing on the services provided to the Client for a period of 15 years after completion of the service. The client will be given the right to have their own disclosed documentation

returned by the Company or destroyed upon completion of the service.

13. Severability

If any provision of these terms is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability shall not affect the other provisions of these terms and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties agree to attempt to substitute, for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision.

14. Governing Law

This Agreement shall be governed by and construed in accordance with English Law and the Client submits to the exclusive jurisdiction of the English Courts or Arbitration in England. Nothing herein shall prevent the Company from enforcing in any country an award made by the above exclusive jurisdiction.