

LIVE INSULATION T&C'S

M&S ENERGY HOME INSULATION TERMS AND CONDITIONS - FOR ASSESSMENTS AND FOR INSTALLATIONS OF HOME INSULATION AT YOUR PROPERTY

1. DEFINITIONS

1.1 Some words have specific meanings in these Conditions.

Assessment: our assessment as to the suitability or otherwise of your Property for installation of Home Insulation;

Assessment Form: the Home Insulation suitability and assessment form prepared by us in accordance with our Contract for the Assessment;

Booking Confirmation Letter: the written confirmation from us to you to confirm the date for the Assessment;

Conditions: the terms and conditions set out in this document;

Contract: the contract that is formed between us a) in relation to an Assessment following your signature of the Customer Declaration Form; and b) in relation to an Installation following your signature of the Assessment Form. This contract incorporates these Conditions, together with (for Assessments) the Customer Declaration Form and (for Installations) the Assessment Form and any separate quote you are given for extra works connected with the Installation;

Customer Declaration Form: the declaration form sent to you, (or the copy form provided by our assessor), which must be signed by you (at section 1 of the form) should you wish to continue with the Assessment;

Customer, you: the person named on the Customer Declaration Form or the Assessment Form;

Home Insulation: the home insulation available through M&S (including, but not limited to, cavity wall insulation and loft insulation);

Equipment: any equipment, including tools, systems, cabling or facilities, provided by us or our subcontractors when we carry out Assessments and Installations;

Installation: the installation of the Home Insulation by us under our Contract as set out in the Assessment Form, together with any extra work which we agree to carry out in connection with the Installation;

M&S, us, we: Marks & Spencer plc a company incorporated in England and Wales and registered with company number 214436, whose registered office is at Waterside House, 35 North Wharf Road, London W2 1NW;

Order Confirmation Letter: the written confirmation from us to you to confirm the date for any Installation we agree to carry out;

VAT: value added tax chargeable in the UK for the time being and any similar additional tax; and

your Property: the premises at which the Assessment or the Installation will be provided set out in the Customer Declaration Form or Assessment Form.

2. BACKGROUND

2.1 Where you want M&S to install Home Insulation at your Property we will first send an assessor to your Property to carry out an Assessment and prepare an Assessment Form. The Assessment Form will set out details of the Home Insulation we could install and the costs involved.

2.2 If you want M&S to install Home Insulation as set out in the Assessment Form, we will then book a time with you for the Installation and send an installer to your Property to carry out this work.

2.3 These Conditions apply both to Assessments we carry out on your Property and also to any Installation we agree to perform.

3. THE CONTRACT BETWEEN US

3.1 When our assessor visits your Property, they will ask you to sign our Customer Declaration Form to confirm that you accept these Conditions. Please give the signed Customer Declaration Form to the assessor. A Contract between you and M&S will come into being for the Assessment when you sign the Customer Declaration Form and hand it to our assessor. Please note that we cannot carry out any Assessment until you have done this.

3.2 After the Assessment is complete we will give you an Assessment Form. If you want to go ahead with an Installation you can sign the Assessment Form to confirm that you accept the quotation and the conditions set out in the Assessment form and that you accept these Conditions. You can either sign up with the assessor on the spot or you can sign later and return the Assessment Form to M&S. A Contract between you and M&S will come into being for the Installation when you return the signed Assessment Form either to our assessor (when you sign up on the spot) or to the address we give you. Again, you should note that we cannot proceed with any Installation until we have received your signed copy of the Assessment Form.

3.3 Please note that any quotation we give you for an Installation is only valid for 28 days from completion of the Assessment. If you want to proceed with an Installation more than 28 days afterwards, then we will need to update your quote.

3.4 You should make sure you keep a copy of the Customer Declaration, the Booking Confirmation Letter, the Order Confirmation Letter, the Assessment Form, any quote for extra works and these Conditions for your records.

4. ARRANGING AN APPOINTMENT FOR AN ASSESSMENT OR FOR THE INSTALLATION

4.1 When you contact us to arrange an Assessment or where you want us to carry out an Installation, we will agree a date with you for the Assessment or Installation to take place (provided you are able to supply us with all information we need to be able to make the booking).

4.2 Where you have asked us to carry out an Assessment we will give you a Booking Confirmation Letter setting out the date we agreed for the Assessment to take place.

4.3 Where we have agreed to carry out an Installation, we will give you an Order Confirmation Letter setting out the date we agreed for the Installation, together with confirmation of the details of the Home Insulation and the cost to you.

4.4 We will try to carry out the Assessment or the Installation on the date we agree, but if we need to rearrange the Assessment or the Installation due to unforeseen circumstances beyond our control we will tell you as soon as we can and we will try to arrange an alternative date with you. If we cannot agree an alternative date within a reasonable time then you may cancel the Assessment or Installation and we will refund any money that you have paid.

4.5 If you need to change the date for the Assessment or the Installation you must call us as soon as you are able to and we will try to arrange an alternative date with you.

4.6 We will use reasonable efforts to carry out an Assessment at your Property within 7 working days of your request (so long as you have provided us with all of the information required by us to carry out the assessment) and to carry out an Installation within 8 weeks of receipt of your signed Assessment Form (as long as you are able to arrange a time to give us access to your Property). In the Highlands of Scotland these timescales will be each be extended by 10 working days due to the remoteness of certain areas.

- 4.7 If, due to our delay, we cannot carry out the Assessment or Installation within the timescales set out at paragraph 4.6 of these Conditions, then you may cancel any Assessment or Installation and we will refund any money that you have paid.
- 4.8 We will try to arrange a date for an Assessment or Installation when you first call us. If we cannot do so, or if you write to us with your request, we will try to call you and, if we can't get hold of you, we will contact you by post asking you to call us. If we don't hear back from you, we reserve the right to close your file until you contact us, however we may follow up with you at a later stage to see if you are still interested.

5. THE ASSESSMENT

- 5.1 We will carry out an Assessment at your Property in accordance with the Contract. Please note that we may take photographs of your Property during the Assessment, where we need to keep a visual record of the work that is required.
- 5.2 Following completion of the Assessment we will give you an Assessment Form setting out the details of the Home Insulation we could install at your Property and how much this would cost. Please note that it may not always be possible for us to install Home Insulation at your Property and we will tell you if this is the case and explain what the problem is.
- 5.3 In some cases there may be extra works that are needed before the Installation takes place (including, without limitation, removing boarding, erecting scaffolding and clearing out your loft). We will tell you about any such works and, if you want us to do them, we will give you a quote for carrying them out.
- 5.4 In some cases it may not be possible for us to complete the Assessment on our first visit. If this is the case then we will arrange a time to come back to your Property to complete the Assessment.
- 5.5 If, for any reason, we are unable to access the loft space then we must estimate the size of your loft from the rooms below. Where we estimate the size, we will carry out the Installation at the price we quoted, except where there is any significant extra cost or anything that stops us from doing the works which we could not see during the Assessment. If extra works are required, we will stop the Installation and discuss and agree the costs of the extra works before we proceed.
- 5.6 Where we carry out an Assessment for cavity wall insulation, we will need to drill test holes in your walls. Please note that these holes will be filled by us with silicon only.

6. THE INSTALLATION

- 6.1 We will carry out the Installation in accordance with the Contract. Please note that we use a range of materials in our Installations throughout the country and some of these materials may not be available in your area.
- 6.2 If you arrange to carry out any extra works yourself (or through any other contractor), then you agree to do so before the date for any Installation and you will ensure that the works are carried out in a professional manner, are safe and are in accordance with any relevant professional standards. We will not be liable for any delays or damage that are caused by any extra works you arrange yourself.
- 6.3 If we are installing cavity wall insulation we will need to make a number of holes in the walls of your Property. We will fill these holes with the closest match we can make to your existing walls, but we cannot guarantee that we will exactly match your walls or that the holes will not be visible.
- 6.4 Ventilation is sometimes necessary to prevent condensation in your roof. Where the Assessment identifies that any ventilation is required, you must agree to have this ventilation installed alongside the Home Insulation, otherwise we will not be able to carry out the Installation.

- 6.5 In order to help us maintain our standards of work we monitor a selection of the Installations at our Customers' properties. Where your Property is selected for monitoring, you agree to give our technical monitor access to your Property on a date we agree with you (on at least 48 hours notice) so that the monitoring can take place.
- 6.6 When we have completed the Installation to your satisfaction you must sign the grant voucher we give you to enable us to claim funding. If you are not happy with the Installation please contact your CJA as soon as possible. Please note that signature of the grant voucher will not affect any of your rights under the Contract – in particular it will not affect your rights in respect of any defect in the work we have done or any damage to your Property.

7. PRICE AND PAYMENT

- 7.1 There is no charge for an Assessment – we agree to provide the Assessment for your Property in consideration of you agreeing to your obligations under these Conditions.
- 7.2 The price of any Installation will consist of:
- (a) the charges as set out in the Assessment Form plus the costs of any extra works that we have quoted for; and
 - (b) any other amounts that we subsequently agree with you in writing for further work or for any change to the scope of the Installation.
- 7.3 You must pay all the costs and charges we have quoted for the Installation to us before we start to carry out the Installation. We will take this money from the card details you give to us. We need to do this as we engage specialist contractors to carry out the work for you and we need to make sure they are paid on time. However, we will not pay our contractors until you have signed off on the work as being completed (see paragraph 6.6 above).
- 7.4 If we subsequently agree extra fees for any additional works or any change to the scope of the Installation you must pay these extra fees promptly following our agreement.
- 7.5 You agree that we may claim any available grants from energy companies connected with the Home Insulation we install at your Property. The price we quote to you already takes these grants into account. You will not apply to any energy company for grants in your own name in respect of any Installation.

8. CIGA GUARANTEE

- 8.1 You will be provided with a 25-year CIGA (Cavity Insulation Guarantee Agency) guarantee for any cavity wall insulation following completion of the Installation.

9. OUR RIGHTS TO CANCEL

- 9.1 We may cancel any Contract between you and M&S or withdraw any quotation we give you by writing to you at any time where:
- (a) the funding we receive from third parties is decreased or withdrawn;
 - (b) you fail to do any of the things you need to do under the Contract between us and this prevents us from carrying out an Installation or Assessment, or makes the Installation or Assessment materially more difficult to perform;
 - (c) we discover anything that we could not have seen during the Assessment that prevents us from carrying out the Installation.
- 9.2 When we write to you to cancel the Contract between us or to withdraw a quote, we will set out the reasons for the cancellation in our letter and we will refund the fees to you (less any fees relating to work which you have had the benefit of – for instance if we have been able to insulate some of your loft space).

10. OUR CONTACT CENTRE

- 10.1 We have a contact centre available to take your calls and e-mails and the hours when it is open will be published on our website.

- 10.2 We will try to answer your call or e-mail as soon as we can, however please bear in mind that responses may be slower in busy periods.
- 10.3 We also have a special out-of-hours line for use in emergencies where there is a problem with your Property as a result of the work we do. Please only use this line in a genuine emergency. If you need to report an emergency while our contact centre is open, please use the normal number.

11. THINGS YOU WILL NEED TO DO

- 11.1 You agree to:
- (a) co-operate with us when we are providing any Assessment or Installation;
 - (b) give us (and anyone representing us) access to your Property on the dates we have agreed for the Assessment and the Installation, together with any extra dates we require to finish any work we do (and we will agree any extra dates with you at the relevant time). We will tell you what times of day we need access when you are making your booking;
 - (c) make sure that we have access to supplies of water and electricity where we need these for any Assessment or Installation;
 - (d) give us any relevant information about you and your Property that we ask for (including, but not limited to, proof of benefits and proof of age) and to make sure we get this information as soon as possible;
 - (e) ensure that any information you give us is accurate and complete;
 - (f) make sure that you prepare your Property (at your own cost) for any Installation or Assessment in accordance with the instructions we give you. This may include, without limitation, removing any hazardous materials, clearing access ways, clearing the loft, moving or protecting your possessions to keep them safe and clearing outside areas where we need to work. You also agree to follow any instructions we give you in respect of your Property to make sure we can carry out an Installation or Assessment; and
 - (g) obtain any consent that is required from any landlord of your Property and, if you own the Property with anyone else, to ensure that all your co-owners have consented to the Installation.

12. PROBLEMS WITH THE WORK WE DO AND DAMAGE TO YOUR PROPERTY

- 12.1 We will use reasonable care and skill when we carry out Assessments and Installations.
- 12.2 However in the event that any damage is caused to your Property or there is any defect in the work we do as part of the Assessment or Installation:
- (a) You must tell us about any damage or defect as soon as possible.
 - (b) You must give us a reasonable opportunity to repair any damage caused to your Property or defect in the work we have done.
 - (c) We will try to repair any damage or defect:
 - (i) within 24 hours if the damage or defect affects the health and safety of anyone who lives in your Property;
 - (ii) within 24 hours if the damage or defect has a significant impact on any vulnerable people living in your Property (for instance children or anyone who is elderly or disabled);
 - (iii) within 10 days in all other circumstances.
- 12.3 We will use reasonable efforts to minimise the amount of dust and other debris that is caused during any Assessment or Installation. We will advise you about the areas which are likely to be affected by dust and debris and you are responsible for ensuring that any possessions are suitably protected or moved from those areas.

13. LIABILITY

- 13.1 There are certain liabilities that we are not permitted to exclude by law and nothing in these Conditions limits

our liability for personal injury or death caused by our negligence or for fraud.

- 13.2 You also have certain rights as a consumer including, without limitation, those set out in the Unfair Contract Terms Act 1977, the Unfair Terms in Consumer Contracts Regulations 1999 and the Consumer Protection from Unfair Trading Regulations 2008, together with legal rights relating to faulty or misdescribed goods. For further information about your legal rights in the UK, contact your local authority Trading Standards Department or Citizen's Advice Bureau. Nothing in the Contract will affect these legal rights and, in particular, we will carry out the services under the Contract with reasonable care and skill and any goods we supply to you will be of satisfactory quality.
- 13.3 You are responsible for following the advice we give you to keep your possessions safe and we do not have any liability for damage to your possessions caused by any failure to follow this advice.
- 13.4 Except as set out in paragraphs 13.1, 13.2 and 13.3 of these Conditions, our total liability to you (whether in contract, tort, negligence or on any other basis), for any loss or damage arising from or in connection with any Contract shall be limited to £100,000.
- 13.5 We will not be liable to you if we are prevented or delayed from complying with our obligations under any Contract by anything you or anyone acting on your behalf does or fails to do.
- 13.6 We are not responsible for losses that are not a natural, foreseeable consequence of any breach of the Contract. In any event we will not be liable for any losses related to any business of yours including (without limitation) lost data, lost profits, lost revenues or business interruption.

14. CHANGES

- 14.1 We may, from time to time, change any Assessment or Installation you ask us to carry out in order to comply with any change in laws or to comply with any applicable safety or statutory requirements. If we do this, we will write to you giving you the reasons for the change. If any such changes materially affect the nature or scope of our services, or the charges we make, you may cancel the Contract by writing to us and we will refund any fees you have already paid.

15. CIRCUMSTANCES BEYOND OUR CONTROL

- 15.1 We will not be liable to you for any breach of the Contract or where there is any delay in performing our obligations due to any cause that is beyond our reasonable control. Without limitation, examples of causes beyond our reasonable control include explosions, floods, tempests, fires or accidents; wars or threats of war, sabotage, insurrection, civil disturbance; any new laws or regulations that are introduced; any trade embargo; strikes or other industrial action; difficulties in obtaining materials, labour, fuel, parts or machinery; power failure or breakdown in machinery.

16. DATA PROTECTION

- 16.1 M&S is a registered data controller under the Data Protection Act and is committed to treating all information you provide in accordance with its legal obligations.
- 16.2 The personal information you provide to us, including your contact details, information regarding your Property, and payment card details, will be used by us to:
- (a) undertake an Assessment and, with your agreement, the Installation;
 - (b) process payment for the above services; and
 - (c) with your agreement, to contact you about our services and products.
- 16.3 If you wish to change your marketing preferences at any time, or have any other queries regarding data

protection please contact us on 0845 302 1234 or email us at chairman@marksandspencer.com.

16.4 Further information on how we use your data can be found at the detailed home insulation data protection policy available at www.marksandspencer.com.

17. OTHER IMPORTANT PROVISIONS

17.1 M&S intends to rely upon the written provisions set out in these Conditions and in the Customer Declaration Form and the Assessment Form. If you require any changes, please make sure you ask for these to be put in writing. In that way, we can avoid any problems surrounding what M&S and you are expected to do.

17.2 We reserve the right to amend these Conditions or any products or services we supply where we need to do so because of a change in any law or regulation, a change in the funding that is available for these services or a change in the technology that is used for Home Insulation. If we make any change that has a material impact on the Installation, then you may cancel the Contract by writing to us and we will refund any fees you have paid.

17.3 You may not assign or sub-contract any of your rights or obligations under the Contract to any third party, provided that you may transfer the benefit of any warranty or guarantee under the Contract to any purchaser of your Property.

17.4 We may at any time sub-contract or delegate in any manner any or all of our obligations under the Contract to any third party or agent at our discretion, but we will remain responsible to you for performance of the Contract.

17.5 Both you and M&S are acting on their own behalf and not for the benefit of another person.

17.6 If either you or M&S does not enforce any right or remedy under these Conditions or grants any extension of time this will not affect the ability of either of us exercise any right or remedy under the Contract at a later date.

17.7 We may correct any typographical error or omission in any documentation we supply to you without any liability on our part provided that, if the correction has a material impact on the services we provide or the price then we will inform you as soon as possible and offer you the option to cancel our Contract and to have any fees you have paid refunded to you.

17.8 If any of these Conditions are found to be illegal, invalid or unenforceable by any court, the rest of these Conditions shall remain in full force and effect.

17.9 Only you and M&S are entitled to enforce any Contract. No third party shall be entitled to enforce any provision of a Contract, whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

17.10 The Contract is governed by the laws of England where your Property is located in England or Wales and by Scottish law where your Property is located in Scotland.

17.11 We will try and solve any disagreements quickly and efficiently. If you are not happy with the way we deal with any disagreement and you want to take court proceedings, you must do this within the United Kingdom.

