

User agreement

Notice: Please read the following carefully. You are offered use of the Service based on the terms and conditions set out below which should be read in conjunction with our [Privacy Policy](#) and [Payment Terms](#). By using the Service you agree to be bound by these terms and conditions. If you do not agree to these terms and conditions you cannot use the Service.

Definitions

Company means – Be Energy Smart Ltd (registered company number: 7665491) whose registered office is at 31 Mansell Road, W3 7QH including where the context so allows, its shareholders, employees, affiliates, associated and contracted persons, companies or businesses supplying services to The Company.

Customer means - person, persons, companies or other organisations using the Services of the Company in order to be introduced to Installers and/or use the services of the introduced Installer or their Sub-Contractors.

E-mail means - electronic mail received or sent by the Company, created and sent by a member of the Company, or automatically created and sent on behalf of the Company.

Installer means - tradesmen, tradeswomen, trades companies or any other person, persons, company, or companies that use the Services of the Company in order to receive introductions to Customers and potential Customers, with the aim of providing goods and/or services to these Customers.

Job, Project or Work means - work carried out by Installers, for or on behalf of Customers.

Member means - Installer and/or Customer.

On Hold or Suspend(ed) means - the suspension of the Member's account with the Company as a result of which the Customers will not be able to submit details of new Jobs and Installers will not have access to new Job submissions.

Service means - the services and procedures provided/used by the Company to Members and includes, but is not exclusive to: information, products and services provided by telephone or mail, on the Website and by E-mail further details of which are contained within these Terms and Conditions and in other parts of the Website.

Sub-Contractor means - contractors, sub-contractors, and self-employed professionals, or any other person or company working for or on behalf of Installers.

System means - the software, hardware, batch programmes, and automated processes that are used by the Company in order to provide components of the Service.

Third Party or Third Parties means - person, persons, company or companies, websites or any other business or enterprise that is being referred to, in the context of these Terms and Conditions, as being other than the Company or a Member.

Website means - the web space, pages, and the contents and graphics contained in such space or pages which are under the editorial control of authorised members of the Company.

Your Information means - any information you provide to us or other users of the Website in relation to the Company's Service including information provided during completion of the energy assessment, registration, Job listings, the rating of Installers and any other communication processes arising as a result of your use of the Services or the Website.

1. General disclaimer - customers

- a. You acknowledge that it is your responsibility to select an Installer and to negotiate the terms of any work to be performed by the Installer you have selected and that the Company makes no warranty regarding any goods or services purchased or obtained through an introduction made via its Website or the Services or any transactions entered into through its Website.
- b. The Company relies on data provided by Members and Third Parties to determine which Installers are included in the database accessible via the Website and does not recommend or endorse any specific Installer.
- c. The Company does not guarantee to be able to find an Installer suitable for undertaking a Job whether by reason of geographical restrictions or otherwise.
- d. The Company provides no guarantee that an Installer to whom it has passed a Customer's Job information will contact the Customer.
- e. The Company cannot accept any liability in respect of any contract or other agreement entered into between the Customer and the Installer. In particular, but without limitation, the Company accepts no liability relating to the quality or fitness of any Work performed or omitted to be performed by any Installer and accordingly shall not be liable to the Customer for any occurrence resulting from the introduction of the Installer to the Customer including but not limited to any direct, indirect or consequential or inconsequential loss of any kind suffered by the Customer howsoever arising.
- f. The Company makes no guarantee with regard to the accuracy of the results generated from the completion of the energy assessment and therefore cannot accept any liability of any costs of expenses not recovered through the installation of any project.

2. General disclaimer - Installers

- a. The Company relies on Customers to specify and describe their Job requirements. The Company makes no warranty for the accuracy or completeness of any information provided by the Customer.
- b. The Company makes no guarantee to refer any Jobs to an Installer.
- c. As the Customer retains the right to modify or withdraw its Job in the absence of a contract or other binding agreement with an Installer, the Company makes no warranty as to the availability or suitability of a specific Job.
- d. As an Installer, you must ensure that you are legally able to tender for a Job. In addition, you must ensure that you are legally able to perform the Work specified in the Job description.
- e. The Company is not party to any contract made between the Customer and the Installer in relation to a specific Job and accordingly shall not be liable to the Installer for any occurrence resulting from the introduction of the Customer to the Installer including but not limited to any direct, indirect or consequential or inconsequential loss of any kind suffered by the Installer howsoever arising.

3. Privacy and data protection and exchange of information

- a. By accepting this Agreement, you expressly consent to uses and disclosures of Your Information as set out in the Company's then current Privacy Policy, which is incorporated herein by reference.
- b. The Company's Privacy Policy is available at <http://www.beenergysmart.co.uk/about-us/policies/>.
- c. The Company holds Your Information on a database and as part of the business System strictly in accordance with its Privacy Policy.
- d. The Company may at its own discretion forward details of Customer's Job requests to selected and suitable Installers. Should the Installer express an interest in quoting for the Job then the Company may send personal contact details to both the Customer and the Installer concerned.
- e. The Company may make user profile information held by it, including ratings and comments from Members in relation to historic Jobs, available for Members and non-Members to see at any stage on the Website.

f. If for any reason you do not wish any or all of Your Information to be used in the way set out in these Terms and Conditions then please do not use the Services of the Company.

g. After receipt of written request by a Member and proof of identity of that Member, the Company will provide a copy of any data held by the Company of the requesting Member. For this service the Company reserves the right to charge an amount to cover administrative costs, the level of which shall be communicated to the Member at such time.

h. Members may only use contact information obtained from the Website or any information obtained through a Company communication for communications relating to specific Job inquiries which have been notified to the Member via the Service or the Website.

i. Members agree not to use any personal contact information of any other Member provided via the Service or the Website for any unsolicited or commercial messages save as expressly authorised by these Terms and Conditions or where expressly authorised by the particular Member following adequate disclosure of the purpose. In addition, a Member agrees to only use such information in accordance with applicable laws and regulations, including without limitation data protection and privacy laws.

j. In addition, under no circumstances, except as defined in this Section, can a Member disclose personally identifiable information about another Member to any Third Party obtained as a result of the Services without the Company's consent and the consent of such other Member after adequate disclosure.

4. Disclaimer of warranties

a. The Website and the Services are provided on an "as is" and "as available" basis and the Company makes no warranties or representations, whether express or implied, in relation to the Website or the Services, including but not limited to, implied warranties or conditions of completeness, accuracy, satisfactory quality and fitness for a particular purpose.

b. The Company makes no warranty that the Website or use of the Services will meet your requirements or will be uninterrupted, timely, secure or error-free.

c. No warranty is given by the Company as to results that may be obtained or the accuracy of any information obtained through the Website or the Services or that any defects in the Website or the Services will be corrected and you understand and agree that any material or data obtained through use of the Website or the Services is at your own discretion and risk.

5. Your information

a. You are solely responsible for Your Information. You agree to provide true, accurate, current and complete information when providing details to the Company. You agree not to impersonate any other person or entity or to use a false name or a name that you are not authorised to use.

b. Your Information and your activities on the Website must not, be false, inaccurate or misleading, offensive, menacing, abusive, defamatory, or in breach of copyright, confidence, privacy or any other rights. Your Information must not infringe any Third Party's copyright, patent, trade mark, trade secret or other proprietary rights or rights of publicity or privacy, be fraudulent, be in breach of any applicable laws or regulations (including, but not limited to, consumer protection, unfair competition, anti-discrimination, false advertising), be obscene, indecent or contain pornography.

c. Your Information must not create liability for the Company or cause the Company to lose (in whole or in part) the services of its ISPs or other suppliers. Your Information must not link directly or indirectly to any other website.

d. To enable the Company to use Your Information, you grant to the Company a non-exclusive, world-wide, perpetual, irrevocable, royalty-free, sub-licensable (through multiple tiers) licence to exercise the copyright, trade mark, publicity, and database rights you have in Your Information, in any media now known or not currently known. You also waive all moral rights you have in Your Information to the fullest extent permitted by law.

e. Your Information may not contain any computer viruses, macro viruses, trojan horses, worms or anything else designed to interfere with, interrupt or disrupt the normal operating procedures of a computer or to surreptitiously intercept, access without authority or expropriate any System, data or personal information. Your Information may not cause the Website to be interrupted, damaged, rendered less efficient or such that the effectiveness or functionality of the Website is in any way impaired.

f. You hereby acknowledge that the Company, at its absolute discretion, shall be entitled to edit, modify or remove any part or parts of Your Information which it considers is in breach of any of the provisions of these Terms and Conditions.

6. Your obligations

a. In consideration of the Company making the Website and the Services available to you, you:

I. may not submit or tender for Jobs which are prohibited by Law;

II. are responsible for procuring the necessary equipment and the payment of telephone charges necessary to access the Website;

III. accept responsibility for any content you provide on the Website;

IV. agree not to copy, reproduce, modify, create derivative works from, distribute or publicly display any content (except for Your Information) from the Website without the Company's prior written permission;

V. agree not to use the Website or the Services for any illegal purpose and in accordance with all relevant laws;

VI. agree not to use the Website or the Services to transmit or post any chain letters or any material for the purposes of publicity, promotion and/or advertising;

VII. agree not to use the Website or the Services to distribute by any means computer viruses or worms to Members or Third Parties;

VIII. agree not to use the Website or the Services to transmit or post any material which is defamatory, offensive, malicious, misleading or of an obscene or menacing character, or in such a way as to cause annoyance, inconvenience or needless anxiety;

IX. agree not to use the Website or the Services such that the whole or part of the Website or the Services is interrupted, damaged, rendered less efficient or such that the effectiveness or functionality of the Website or the Services is in any way impaired;

X. agree not to use the Website or the Services in any manner which constitutes a violation or infringement of any person, firm or company or the rights thereof (including, but not limited to, Third Party intellectual property rights or confidentiality);

XI. agree not to use the Website to attempt any unauthorised access to any part or component of the Website or that of any Third Party or Member to which you can connect via the Website (or other directly or otherwise connected network);

XII. agree that you will not use any robot, spider, scraper or other automated means to access the Website for any purpose without the Company's express written permission;

XIII. agree not use the Website or Services as source of targeting material or contact data for any kind of telemarketing, direct marketing, viral or other electronic marketing activity on your own behalf or on behalf or for the benefit of a Third Party;

XIV. agree not to bypass measures we may use now or in the future to prevent or restrict access to the

Website or certain information contained therein;

XV. agree that in the event that you have any right, claim or action against any user arising out of the use of the Website or the Service, then you will pursue such right, claim or action independently of, or without recourse to the Company.

7. Tradesperson vetting

- a. the Company does not 'vet' Installers who use the site.
- b. It is the responsibility of the Customer to satisfy themselves that the Installer is appropriately qualified to complete the job prior to accepting a quote.

8. The company's rights

- a. The Company reserves the right to modify or discontinue all or part of, temporarily or permanently, the Website or the Service with or without notice to you and you confirm that the Company shall not be liable to you or any Third Party for any modification to or discontinuance of the Website or the Service.
- b. The Company may change the terms and conditions from time to time and shall post such alterations on the Website.
- c. The content, layout and organisation of the Website shall be subject to variation at the sole discretion of the Company.
- d. In the event of the Company's publication of the Website being restricted, curtailed or prevented by any law or any other act or thing beyond the Company's control, the Company may at any time, notwithstanding anything contained in this Agreement, forthwith terminate this Agreement in whole or in part.

9. Intellectual property rights

- a. To the extent that all copyright and other intellectual property rights throughout the world in Your Information does not vest in the Company by operation of law or the other provisions of this Agreement, you hereby grant to the Company (free of charge) an exclusive, perpetual, royalty-free licence to use such information for any purpose.
- b. You hereby acknowledge that all present and future copyright and other intellectual property rights subsisting in, or used in connection with, the Website (the **Rights**), including the manner in which the Website is presented or appears and all information and documentation relating thereto is the property of the Company and nothing contained herein shall be construed so as to transfer any such rights to you.
- c. Without prejudice to the generality of the foregoing, if and to the extent that you own any or all of the Rights, you hereby irrevocably and unconditionally assign the Rights, with full title guarantee, to The Company for the full period of copyright and all renewals extensions and/or revivals thereof and thereafter in perpetuity, throughout the world.

10. Indemnity

- a. You agree to indemnify the Company forthwith on demand and hold the Company harmless against any and all expenses, damages and losses of any kind (including reasonable legal fees and costs) incurred by the Company in connection with any claims, actual or threatened, of any kind (including without limitation any claim of trademark or copyright infringement, libel, defamation, breach of confidentiality, false or misleading advertising or sales practices) arising from the provision of Your Information or from your use of the Website or the Services.

11. Limitation of liability

- a. Neither party shall, nor shall it purport to, exclude or restrict liability for death or personal injury resulting from the negligence of it or its employees, servants or agents acting in the course of their employment.
- b. You acknowledge that the Company has no control over the information that can be accessed by using the Website and the Services and that the Company may not examine your use of the Services or the nature of the information you are sending or uploading. The Company therefore excludes all liability of any kind for the transmission or reception of such information of whatever nature.
- c. The Company does not represent that the information contained in the Website or in any communication from the Company, including but not limited to telephone conversations, E-mails and letters, is accurate, verified, current, comprehensive or complete. They could contain inaccuracies, typographical, human and/or machine errors or omissions. The Company will not be liable in any circumstances for any direct, indirect, consequential or special damages arising from use of the Website or Services of the Company. For these reasons users of the Website should neither rely, nor act upon any of the information contained within The Website, and if anyone does so, it will be entirely at their own risk.
- d. E-mails that are automatically generated from information provided by Customers and Installers are NOT under the editorial control of the Company. These may be automatically sent un-checked and un-edited by the Company and therefore they do not necessarily reflect the opinions and/or beliefs of The Company.
- e. The Company is not responsible and cannot be held liable for any inaccuracies, the validity, reliability, any falsehoods, misrepresentations, defamatory language or words, libellous statements, fraudulent activities or any other damaging words, sentences or statements contained in the components of E-mails that are not under the editorial control of the Company.
- f. You agree that, except for death and personal injury arising from our negligence, the Company shall not be liable in contract, tort, negligence, statutory duty or otherwise, for any loss or damage whatsoever arising from or in any way connected with this contract, including, without limitation, damage for loss of business, loss of profits, business interruption, loss of business information, loss of data, or any other pecuniary loss (even where the Company has been advised of the possibility of such loss or damage).
- g. Without limiting the generality of Clauses 1(e) and 1(f) of this Agreement, Customers agree not to hold the Company responsible for any damages or other liabilities arising from Work performed by any Installer. The Company does not and cannot be involved in Customers' dealings with Installers, or control whether or not Installers will complete any Work as agreed and in the event that a Customer has a dispute with one or more Installers, the Customer hereby releases the Company (and its agents and employees) from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes.
- h. Save as expressly set out herein, all conditions, warranties and obligations which may be implied or incorporated into this Agreement by statute, common law, or otherwise and any liabilities arising therefrom, are hereby expressly excluded to the extent permitted by law.
- i. While every reasonable care will be taken in respect of information supplied by you, the Company cannot accept liability for any information placed or omitted to be placed on the Website (whether or not any such liability is occasioned by the Company's fault or negligence or otherwise).
- j. The Company cannot and does not guarantee and does not warrant against human and/or machine errors, omissions, delays, interruptions or losses of information or data, infringing any material, or defamation.
- k. The Company cannot guarantee the day or time that the Company will respond to any E-mail, telephone or written enquiries or Website form submissions.
- l. Any responses made by the Company do not purport to be complete and exhaustive.
- m. Without limiting the foregoing, the Company shall have no liability for any failure or delay resulting from any governmental action, fire, flood, insurrection, earthquake, power failure, riot, explosion, embargo, strikes whether legal or illegal, labour or material shortage, transportation interruption of any kind, work slowdown, transmitter or satellite degradation, failure of the Internet, interruption or failure or any other condition beyond the control of the Company's affecting production or delivery of the Website and any information incorporated in it in any manner or any of its obligations under this Agreement.

n. Each of the provisions of this Clause 11 shall be construed separately and independently of the others.

12. Disputes

a. Should Members have a dispute with another Member, they must, in the first instance, address such dispute directly to the Member concerned and feedback the results to the Company.

b. The Company may at its sole discretion without being under legal obligation to do so, investigate any grievances held by Members, and may discuss any investigation with all involved parties. However there are only three possible outcomes of a grievance investigation:

I. a Member may be allowed to continue using the Services of The Company;

II. a Member may be Suspended from using the Services of The Company for a period of time, at the discretion of The Company;

III. a Member may be banned indefinitely from using the Services of The Company.

c. You hereby agree to release The Company from any damages or claims (including punitive, consequential and incidental damages) of every kind or nature, suspected and unsuspected, known and unknown, and disclosed or undisclosed, arising out of or in any way connected with such disputes.

13. Suspension and termination

a. The Company reserves the right to Suspend or discontinue its Service to individual Members, with immediate effect, as it sees fit and in circumstances including, but not limited to:

I. where The Company has not received written permission from provisional Installers to undertake the necessary checks as part of its vetting process within the required 14-day period.

II. where payments that are due have not been settled within 14 days.

III. where the Company suspects that a Member is in material breach of any term hereof.

b. Either party may terminate this Agreement forthwith by written notice if the other commits any material breach of any term hereof and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same.

14. General

a. Clause headings are inserted for convenience only and shall not effect the construction hereof.

b. If any provisions hereof are held to be illegal or unenforceable such provisions shall be severed and the remainder of this Agreement shall remain in full force and effect unless the business purpose of this Agreement is substantially frustrated thereby.

c. You may not assign, transfer or sub-contract any of its rights hereunder without the prior written consent of the Company. The Company may assign, transfer or sub-contract all or any of its rights at any time without your consent.

d. Any express or implied waiver by the Company of any term or condition hereof or any breach or default by you may be terminated by the Company at any time. No such waiver shall constitute a continuing waiver nor shall it prevent the Company from acting upon that or any subsequent breach or default or from enforcing any term or condition hereof.

e. This Agreement constitutes the entire agreement between the Company and you as to the subject matter hereof and supersedes all previous communications, representations and arrangements, either written or oral (other than fraudulent misrepresentation). You acknowledge that no reliance is placed on any representation made but not embodied herein.

f. The provisions of Clauses 1, 2, 3, 4, 9, 10, 11, and 14(f) shall survive termination of this Agreement.

g. Any notice to be given under this Agreement may be given via E-mail, regular mail, facsimile or by hand to the address provided on the Website or otherwise as notified by one party to the other.

h. No terms or conditions other than those set forth herein or any variation thereof under Clause 8(b) shall be binding upon The Company, unless in writing and signed on behalf of both The Company and you.

i. Nothing herein shall create or be deemed to create any joint venture, principal-agent or partnership relationship between the parties and neither party shall hold itself out in its advertising or otherwise in any manner which would indicate or imply any such relationship with the other.

j. This Agreement shall be subject to the laws of England and Wales and the parties shall submit to the exclusive jurisdiction of the English courts.

If you have any further comments or questions regarding our User Agreement, [Privacy Policy](#) or [Payment Terms](#) then please Contact Us - we're ready to help.