

**TERMS AND CONDITIONS FOR THE PROVISION OF A
BUILDING ENERGY RATING ASSESSMENT**

BY ORDERING THE BUILDING ENERGY RATING ASSESSMENT, YOU ACCEPT THE FOLLOWING TERMS AND CONDITIONS.

PARTICULAR ATTENTION IS DRAWN TO CLAUSES 6 (WARRANTY), 7 (LIMITATIONS) AND 11 (DATA PROTECTION NOTICE). PLEASE READ THESE CAREFULLY.

1. THE BUILDING ENERGY RATING ("BER") ASSESSMENT

- 1.1 The BER Assessor will carry out the BER Assessment in accordance with the SEAI's Code of Conduct utilising the DEAP survey guide. The data collected by the BER Assessor will be uploaded into the SEAI DEAP III software or any further versions of that software as may be approved by the SEAI from time to time.
- 1.2 The BER Assessment is based on the characteristics of the building elements of your Property (wall, roof and floor dimensions, window and door sizes and orientations) as well as the construction type and levels of insulation, ventilation and air tightness features, the systems for heat supply (including renewable energy), distribution and control, and the type of lighting installed in the Property. The BER Assessment covers annual energy use for space heating, water heating, ventilation, lighting and associated pumps and fans, calculated on the basis of standard conditions in respect of the energy rating performance of your Property and the prevailing conditions within the Republic of Ireland.
- 1.3 The BER Certificate, which shall be produced on foot of the BER Assessment, shall express energy performance as:
- (a) primary energy use per unit floor area per year (kWh/m²/yr) represented on an A to G scale; and
 - (b) associated Carbon Dioxide (CO₂) emissions in kgCO₂/m²/yr.

THE BER IS ONLY A MEASURE OF THE ENERGY PERFORMANCE OF YOUR PROPERTY AND ITS ABILITY TO MINIMISE HEAT LOSS. ACTUAL ENERGY USAGE WILL DEPEND ON HOW THE OCCUPANTS UTILISE THE HEATING AND VENTILATION SYSTEMS AND THEIR CONTROLS. ACTUAL ENERGY USAGE MAY ALSO BE AFFECTED BY LIFESTYLE CHOICES OF THE OCCUPANTS OF THE PROPERTY.

- 1.4 The Advisory Report, which shall also be produced on foot of the BER Assessment, will set out a list of suggested improvements for your Property (e.g. increase insulation, install low energy light fittings or upgrade your boiler) which, if implemented, may result in a higher BER being available for your Property subject to a revised BER Assessment being carried out.

2. COMMENCEMENT AND CANCELLATION

- 2.1 **Commencement:** When you order the BER Assessment, Bord Gáis Energy will run a credit check against you. If this is satisfactory to Bord Gáis Energy, the BER Assessor will carry out the BER Assessment on the date agreed between you and Bord Gáis Energy which shall be set out in your Order Confirmation Letter. Bord Gáis Energy will carry out the BER Assessment during normal working hours from Monday to Friday (excluding bank holidays and public holidays in Ireland), unless otherwise agreed between the Parties. Bord Gáis Energy will not be obliged to carry out the BER Assessment unless it is satisfied with your credit check results and unless and until payment in full for the BER Assessment has been made.
- 2.2 **Cancellation:** In circumstances where you order the BER Assessment over the phone, you can cancel the BER Assessment within seven working days of receiving these Terms and Conditions, without giving a reason, and without incurring any

charges, unless the BER Assessment has been carried out before the end of this period with your agreement. Otherwise, you can cancel the BER Assessment up to 48 hours before the assessment is due to be carried out. If you cancel less than 48 hours before the BER Assessment is due to be carried out, we may charge you a cancellation fee equal to €30. You will be deemed to have cancelled with less than 48 hours notice if, without at least 48 hours prior notice to us, the BER Assessor cannot access your home to carry out the BER Assessment at and on the agreed time and day.

- 2.3 If you cancel the BER Assessment, we will refund any payment for the service which you have already made, less any cancellation fee which is payable. By ordering the BER Assessment you expressly agree to payment of any cancellation fee due in accordance with these Terms and Conditions.

3. **CONDITIONS AT THE PROPERTY**

You are responsible for making sure that conditions at your Property are suitable for us to carry out the BER Assessment and that the BER Assessor can work without danger to his health or safety and can easily access each room within the Property (including any external boiler house and the attic space). If it is not possible for the BER Assessor to access all relevant parts of your Property or to carry out the BER Assessment safely, we will not be obliged to carry out the BER Assessment and will refund the fee that has been paid for the BER Assessment subject to our right to withhold an administration charge of €30.

4. **PRICE PAYABLE BY YOU**

The price payable for the BER Assessment is as set out on Order Confirmation Letter and on the Bord Gáis Energy website at the date of the BER Assessment. Quoted prices are valid for 45 days. You can check the current rates applicable to the BER Assessment on the Bord Gáis Energy website at www.bordgaisenergy.ie. All prices quoted are inclusive of VAT at the applicable rate from time to time and charges by the SEAI for registration of the BER rating.

5. **PAYMENT TERMS**

- 5.1 You must pay in full for the BER Assessment in advance of the assessment being carried out. Payments for the BER Assessment which are made by way of cheque must be cleared prior to the BER Assessment being carried out.
- 5.2 We will ask for your payment details at the same time that we book the BER Assessment with you.

6. **WARRANTY**

- 6.1 The only warranties given in relation to the BER Assessment are those set out in this clause 6 of these Terms and Conditions.
- 6.2 Bord Gáis Energy warrants that the BER Assessor has the necessary skill to carry out the BER Assessment and will carry out the BER Assessment with due skill, care and diligence PROVIDED ALWAYS that where the BER Assessor has complied with all the SEAI's instructions and guidelines as regards the carrying out of a BER Assessment, the BER Assessor shall be regarded as having met the appropriate standard of skill, care and diligence.

7. **GENERAL LIMITATIONS OF OUR OBLIGATION**

- 7.1 Neither Bord Gáis Energy nor the SEAI shall have any responsibility for any loss or damage that may arise as a result of the BER Assessment or the BER grade awarded to your Property on the BER Certificate. The methodology used for the BER Assessment incorporates standard occupancy assumptions and a range of technical judgments on the energy efficiency of various building components and

attributes. A BER may change over time due to many factors, including deterioration or modification to the fabric of the Property or its elements. As a result, a BER is only a guide to the overall energy efficiency of your Property. In practice, energy efficiency is highly dependent on how occupants utilise the heating and ventilation systems and their controls. Actual energy usage may also be affected by lifestyle choices of the occupants of the Property.

- 7.2 We shall not be liable if we, and/or the BER Assessor, are unable to carry out our obligations due to industrial disputes or any other cause outside our reasonable control, including but not limited to Acts of God, explosion, flood, lightning, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or disorder; acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental authority; import or export regulations or embargoes; defaults of suppliers or sub-contractors; or any act or omission of any nature whatsoever on the part of the Customer or its agents.
- 7.3 We shall not be liable for any indirect, special or consequential loss you suffer arising out of or in connection with the provision or non-provision of any services under these Terms and Conditions or any defects in or breach of warranty with respect to any service provided pursuant to and in accordance with these Terms and Conditions.
- 7.4 We have no obligation, duty or liability to you in contract, tort, for breach of statutory duty or otherwise beyond that of a duty to exercise reasonable skill and care as set out in clause 6, except that nothing herein purports to disallow liability for fraud, or liability in the event of the death or personal injury of the Customer attributed to Bord Gáis Energy or to exclude any liability or responsibility, the exclusion of which would be contrary to Irish law.

8. ASSIGNMENT

These Terms and Conditions are personal to you and therefore may not be assigned or transferred by you to any other person without our prior written consent. For business reasons, we have the right to assign these Terms and Conditions to any company or person.

9. USE OF SUBCONTRACTORS

We reserve the right to use sub-contractors to carry out all or any part of the works to be carried out pursuant to these Terms and Conditions.

10. AUDITS OF BERs

- 10.1 Bord Gáis Energy has an ongoing responsibility to ensure the accuracy of BER Certificates based upon BER Assessments carried out by us or our agents. For that purpose, it may be necessary for Bord Gáis Energy or the SEAI or its agents to visit your Property to check that it complies with the submitted drawings and/or survey sketches on which the BER Certificate is based. You and/or the subsequent owner(s) of the Property may be requested to allow Bord Gáis Energy or the employees or agents of the SEAI to visit the Property for this purpose. If you or the subsequent owner(s) of the Property decide not to facilitate such a request, the SEAI may decide to revoke the relevant BER Certificate.
- 10.2 In carrying out the BER Assessment, the BER Assessor will be required to take and store digital images of parts of your Property relevant to the BER Assessment for the purposes of validating the DEAP inputs and for future quality assessment checks of the BER Assessment. In agreeing to accept these Terms and Conditions you are deemed to have consented to the taking and storing of these digital images for the aforementioned purposes.

11. DATA PROTECTION NOTICE

- 11.1 In order that Bord Gáis Energy may perform its obligations under these Terms and Conditions and provide you with an effective service, it is necessary for Bord Gáis Energy to collect and use data relating to you while you are being supplied with this service. This data is used mainly to manage our relationship with you and for the provision of the BER Assessment, including for example, visits to your home. In addition, data relating to you may be used for health and safety, administration, risk assessment, marketing (in which case we may use the results of your BER Assessment (including the Advisory Report) to provide you with more tailored marketing) and credit checking purposes. Bord Gáis Energy may keep your data for a reasonable period after it has ceased to provide you with this service but will not keep it for any longer than is necessary and/or as required by law.
- 11.2 Bord Gáis Energy may exchange data which relates to you with the SEAI, other members of the Bord Gáis Eireann group and agents who act on behalf of Bord Gáis Energy in connection with the activities referred to above, including any agent or third party service provider who Bord Gáis Energy may engage to assist us in the performance of the service. Such agents or third parties are only permitted to use your data as instructed by Bord Gáis Energy. They are also required to keep your data safe and secure.
- 11.3 From time to time you may speak to employees of Bord Gáis Energy (or agents acting on its behalf) by telephone. To ensure that Bord Gáis Energy provides a quality service, your telephone conversations may be recorded. Bord Gáis Energy will treat the recorded information as confidential and will only use it for staff training/quality control purposes, confirming details of your conversations with Bord Gáis Energy or any other purposes mentioned in this Notice.
- 11.4 You have the right to ask for a copy of your personal data (Bord Gáis Energy is entitled to charge a nominal administration fee for this). If you wish to avail of this right, you should submit a written request to: Bord Gáis - Data Protection Officer, P.O. Box 51, Gasworks Road, Cork. In order to protect your privacy, you may also be asked to provide suitable proof of identification. If any of your details are incorrect please let us know and we will amend them.
- 11.5 Please note that by requesting this service to be carried out, you are consenting to the uses and disclosures of personal data outlined in this clause 11.

12. **MARKETING**

- 12.1 Bord Gáis Energy, members of the Bord Gáis Eireann group and/or agents acting on behalf of Bord Gáis Energy may wish to contact you by text message, e-mail, post, telephone or in person with information about products or services which may be of interest to you, including those which appear most relevant based on the results of your BER Assessment. Please follow carefully the instructions below to ensure that your marketing preferences are respected.
- 12.2 If you do not wish to be contacted by e-mail or text message with information about Bord Gáis Energy products and services which are designed to promote energy efficiency in the home, please exercise your right of opt-out as described below.
- 12.3 If you do not wish to be contacted by post, telephone or in person with information about Bord Gáis Energy products or services, please exercise your right of opt-out as described below.
- 12.4 How to exercise your right of opt-out. You can exercise your right of opt-out by either:
- (a) writing to us at: Bord Gáis Energy
Data Protection Opt-out
PO Box 10310
Freepost F4062
Dublin 1

OR

(b) completing the Web Form on www.bordgaisenergy.ie/dp

13. COMPLAINTS PROCEDURE

If you are unhappy with any service or contact you have with us, you can register your complaint with us in any of the following ways, by:

- (a) calling our customer contact team at 1850 632 632;
- (b) email to info@bordgais.ie or through our website at www.bordgaisenergy.ie; or
- (c) letter to Customer Care Department, Bord Gáis Energy Supply, Foley Street, Dublin 1.

14. GENERAL

14.1 **Notices:** Any notice or account sent by ordinary post pursuant to these Terms and Conditions shall be deemed to have been received on the day that is the second postal day after the day of such posting. Any notice sent by the Customer by electronic mail shall be deemed to have been received upon confirmation of receipt from Bord Gáis Energy by electronic mail or by post.

Any notice required or permitted to be given by the Customer shall be in writing addressed to Bord Gáis Energy Home Team, PO Box 10943, Dublin 1 or such other address or electronic mail address as may be provided to the Customer by Bord Gáis Energy from time to time.

14.2 **Amendments:** We reserve the right to change the Terms and Conditions applicable to the BER Assessment by giving written notice to you as soon as is reasonably practicable prior to the changes being introduced. We will also publish details of any changes on the Bord Gáis Energy website at www.bordgaisenergy.ie as soon as possible prior to the changes being introduced.

14.3 **No waiver:** No forbearance, indulgence or relaxation on the part of Bord Gáis Energy shown or granted to the Customer shall in any way affect, diminish, restrict or prejudice the rights or powers of Bord Gáis Energy or operate as or be deemed to be a waiver of any breach of these Terms and Conditions.

14.4 **Severance:** If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions and the remainder of the provision in question shall not be affected.

14.5 **Governing Law:** These Terms and Conditions shall be governed by and construed in accordance with Irish law. The Parties irrevocably submit to the exclusive jurisdiction of the courts of Ireland.

14.6 **Bord Gáis Re-Organisation:** Notwithstanding anything to the contrary in these Terms and Conditions, if we or the Government of Ireland or any Department thereof, whether pursuant to Directive 2009/73/EC or otherwise howsoever, should re-organise the business and/or legal structure of Bord Gáis Éireann (whether by dividing its business between two or more corporate bodies or otherwise), our rights and obligations under these Terms and Conditions may be divided between such bodies or assigned or novated to any one or more of such bodies (in whole or in part) and you shall thereafter deal with such bodies as if the parts of these Terms and Conditions relevant to the business of such bodies formed a contract between you and such corporate bodies.

- 14.7 **Entire Agreement:** The Parties acknowledge that these Terms and Conditions and the Order Confirmation Letter constitute the complete agreement between the Parties and supersede all prior understandings, agreements, representations or communications whether written or oral between the Parties relating to the subject matter hereof, but no term purports to exclude liability for fraud.

15. **GLOSSARY**

Wherever the following words and phrases appear in the Order Confirmation Letter or these Terms and Conditions, they will have the following meaning:

"Advisory Report" means the report setting out Bord Gáis Energy's recommendations to improve the BER of your Property;

"BER" means a building energy rating;

"BER Assessment" means the calculation of the energy performance of your Property for the purposes of producing a BER for your Property;

"BER Assessor" means a qualified energy assessor registered with the SEAI and engaged by Bord Gáis Energy to carry out the BER Assessment on the Property;

"BER Certificate" means the certificate issued to you by Bord Gáis Energy setting out the building energy rating of your Property;

"Bord Gáis Energy", "us" or "we" means Bord Gáis Éireann trading through its division Bord Gáis Energy;

"Customer" or **"you"** means the customer(s) who asks us to carry out the BER Assessment for them, and includes a person who we reasonably believe is acting with the customer's authority or knowledge;

"DEAP" means the Dwellings Energy Assessment Procedure as developed by the SEAI;

"Order Confirmation Letter" means the letter from Bord Gáis Energy to you confirming your BER Assessment, including your payment details;

"Parties" means us and you;

"Property" means the domestic address shown on your Order Confirmation Letter at which we shall carry out the BER Assessment;

"SEAI" means the Sustainable Energy Authority of Ireland;

"Terms and Conditions" means the terms and conditions in respect of the BER Assessment including the Order Confirmation Letter; and

"VAT" means value added tax at the applicable rate from time to time.