

**HOME REPORT DIRECT LIMITED (“HRD”)  
TERMS OF ENGAGEMENT**

**HRD AND SELLER**

**1 DEFINITIONS**

1.1 The following definitions shall apply to this Agreement:

“Agreement” means this Agreement;

“Energy Report” means the Energy Report being the information on energy efficiency referred to in regulation 4 of the Regulations, in respect of the Property and which is carried out by the Surveyor pursuant to and in accordance with the regulations and the RICS guidelines;

“Home Report Documents” means the Survey and Energy Report as defined in the Regulations together with the Property Questionnaire;

“HRD” means Home Reports Direct Limited, a company incorporated in Scotland with registered number SC345867 and having its registered office at 37 Carrick Street, Ayr, KA7 1NS;

“Order” means the Housing (Scotland) Act 2006 (Consequential Provisions) Order 2008;

“Property” means the address provided to HRD by the Seller and which is subject to the Survey;

“Property Questionnaire” means the questionnaire prepared by the Seller, in accordance with the Regulations and which is included in the Home Report Documents;

“Regulations” means the Housing (Scotland) Act 2006 (Prescribed Documents) Regulations 2008;

“RICS” means the Royal Institute of Chartered Surveyors;

“Seller” means the person selling the Property for whom the Survey and Energy Report are commissioned;

“the Survey” means the Survey Report referred to in regulation 4 of the Regulations being a full internal and external inspection of the Property carried out by the Surveyor pursuant to and in accordance with the Regulations and the RICS guidelines;

“the Surveyor” means a firm registered with RICS and who is entitled to prepare the Home Report Documents under the Regulations;

“Services” means the preparation on your behalf of the Home Report Documents (including the appointment on your behalf of the Surveyor);

“you/your” means the person placing an order.

**2 GENERAL**

2.1 The purpose of this Agreement is to regulate how the Home Report Documents will be provided to you and to clarify the relationship between HRD and you. Payment of the price shall constitute your acceptance of the terms of this Agreement.

2.2 This Agreement shall apply to all orders placed by you for the supply of the Services by HRD.

2.3 By placing an order with HRD you are making an offer to HRD to provide the Services to you in accordance with this Agreement. All offers are subject to acceptance by HRD. HRD will confirm such acceptance verbally over the telephone and will follow this up by sending you a confirmation email or letter (where you do not have access to email). The contract between you and HRD for the Services will be formed upon HRD notifying you of their acceptance verbally.

**3 ACTING AS AGENT**

3.1 HRD confirms that it acts as your disclosed agent in the preparation of the Home Report Documents and will employ a Surveyor on your behalf to prepare the Survey and Energy Report.

3.2 **The terms and conditions regulating the Surveyor’s preparation of the Survey and Energy Report (“the Surveyor’s terms and conditions”) are attached as Annexe 1 of this Agreement. Please ensure that you read over these terms and conditions carefully and ensure that you are in agreement with these before proceeding. By acceptance of this Agreement you confirm that you are bound by this Agreement and the Surveyor’s terms and conditions and that you consent to HRD acting as your disclosed agent in relation to the preparation of the Home Report Documents.**

3.3 You are also required to sign a copy of the Surveyor’s Terms, to signify your agreement to the terms and conditions contained therein. HRD will send a copy of the Surveyor’s Terms to you for signature by email/letter within [3] working days of your order being placed with HRD.

**4 OBLIGATIONS OF HRD**

- 4.1 HRD shall engage the Surveyor, on your behalf, to attend at the Property, carry out a Survey of the Property and thereafter to prepare the Survey and Energy Report, in accordance with the Regulations and the RICS code of conduct.
- 4.2 HRD shall collate the Home Report Documents in a proper, diligent and professional manner.
- 4.3 Information supplied in the Home Report Documents may become out of date after a period of time. HRD is under no obligation to re-produce or update any Home Report Documents to include any required updated information. Should you require to update any information, you should contact HRD, who can provide this service, on payment of the appropriate fee.

## **5 OBLIGATIONS ON YOU**

- 5.1 You take full responsibility for supplying HRD, without charge, and in good time all necessary and relevant data and information in your possession as shall reasonably be required by HRD including the correct Property address.
- 5.2 You shall ensure that the information you supply to HRD is complete, accurate and up to date. You will notify HRD immediately if you become aware of any inaccuracy in the information you have supplied. Providing incomplete information may result in delay in processing your order, for which HRD will not be responsible.
- 5.3 You shall complete the Property Questionnaire with reasonable skill and care and ensure that all answers are accurate, truthful and not misleading. You should note that under the Regulations you shall be liable for any inaccurate, incorrect or false statements contained in the Property Questionnaire.
- 5.4 Upon receipt of the Home Report Documents, you shall not make any amendments or change any section or statement contained within the Home Report Documents.
- 5.5 You shall use best endeavours to allow the Surveyor access to the Property at such times to be mutually agreed between the Surveyor and you. Should you have to cancel an agreed appointment time, you shall let HRD know immediately. Failure to inform HRD may result in an administration fee being levied to cover expenses incurred by the Surveyor, such fee to be determined at the sole discretion of the Surveyor, acting reasonably.
- 5.6 You shall ensure you read and understand the Surveyors' Terms, which HRD will send to you. You shall ensure you sign the Surveyor's Terms to signify your acceptance of those terms. You shall also ensure that you make the signed copy of the Surveyor's Terms available at the Property for collection by the Surveyor, prior to the carrying out of the Survey and Energy Report on the designated day, such day to be agreed with you and the Surveyor. Failure to make the Surveyor's Terms available to the Surveyor prior to the Survey and Energy Report being carried out, will result in a delay in HRD providing the Services to you, for which HRD will not be responsible. Such failure may also incur a cancellation charge to the Surveyor, such amount to be determined at the sole discretion of the Surveyor, acting reasonably.
- 5.7 You shall not use the Home Report Documents for any purpose other than that specified in the Regulations and HRD shall not be liable for any other such use.
- 5.8 You shall be liable to HRD for any loss, damage or costs incurred by HRD which are caused as a result of your failure to fulfil any of your obligations under this section.

## **6 SUPPLY OF THE SERVICES**

- 6.1 HRD will use reasonable endeavours to supply you with the Home Report Documents within 7 days of your order being placed. This is a fair estimate of the time taken to prepare the Home Report Documents but is dependant on your compliance with clause 5 above. HRD will not be liable to you for any loss incurred as a result of any delay in the preparation of the Home Report Documents which is due to circumstances beyond HRD's reasonable control. In such cases, HRD will supply you with the Home Report Documents, as soon as is reasonably practicable.
- 6.2 HRD will supply one A4 size copy. Additional A4 copies will be charged at £15 per copy.
- 6.3 HRD will keep a database setting out who has requested additional copies of the Home Report Documents and will make this available to the Surveyor, on demand. The seller has agreed unless stated in writing that HRD can issue copies of their Home Report to other parties at the Seller or their agent's request.

## **7 PAYMENT**

- 7.1 The cost of the Services will be £ \_\_\_\_\_ of which HRD have paid on your behalf £ \_\_\_\_\_ to the Surveyor. Payment of the Price must be made at the point your order is placed. Payment can be made by debit or credit card over the telephone by calling 01292 268020.
- 7.2 If HRD has to carry out additional work in the performance of the Services for reasons beyond HRD's control (including as a result of receiving incomplete information from you) you shall make an additional payment to HRD in respect of the additional work carried out and the additional resources employed, in such amount as HRD shall reasonably determine.

## **8 CANCELLATION**

- 8.1 If you wish to cancel your order you must inform HRD in writing to Home Reports Direct Limited, 37 Carrick Street, Ayr, KA7 INS, within 14 working days of commencement of this Agreement.
- 8.2 Where work has not yet commenced, cancellation will be possible upon payment of an administrative fee of £50, which represents a contribution towards any losses and/or costs HRD suffer as a result of your cancellation.

- 8.3 Where work has already been commenced, but not yet completed, cancellation will be possible upon payment of an administrative fee of £50 and payment of any third party costs (including the Surveyor's costs), fees or charges already incurred in relation to any aspect of the preparation and/or compilation of the Home Report Documents.
- 8.4 Where work has already been completed, before your notice of cancellation is received by HRD, you will not be entitled to a cancel this Agreement or obtain a refund of the Price.
- 8.5 Any refund due to you will be processed as soon as possible via the same payment method as you used to pay the Price and in any event, within 30 days of receipt of notification of cancellation from you.
- 8.6 HRD reserves the right to cancel or suspend an order within 14 days of your order being received, where in its sole opinion, it would not be reasonable to continue with the order (for example, where there are technical problems or to protect the interests of innocent third parties). In such cases, you will be notified in writing of the reason for the suspension/ cancellation within 48 hours and you will be given a full refund within 30 days of this notification being sent to you.
- 8.7 If you cancel this Agreement, otherwise than in accordance with this Clause 8, HRD may be entitled to claim damages from you.

## **9 LIMITATION OF LIABILITY**

- 9.1 HRD shall not be deemed to be in breach of any of the provisions of this Agreement, by reason of any delay in performing or any failure to perform any of HRD's obligations hereunder, if the delay or failure was due to any cause beyond HRD's reasonable control.
- 9.2 HRD is providing a service to collate the Home Report Documents, which are supplied by the Surveyor, and is therefore only liable for mistakes and omissions arising out of the collation of the Home Report Documents. For the avoidance of doubt, HRD shall not be liable for any inaccurate, misleading or false statements contained in the Property Questionnaire completed by you, nor for any omission or error contained in the Survey and/or the Energy Report provided by the Surveyor.
- 9.3 HRD shall use reasonable endeavours to ensure that the Surveyor carries out the Survey and the Energy Report with reasonable skill and care but HRD shall not be liable for any damage caused to the Property incurred as a result of the Surveyor carrying out the Survey.
- 9.4 HRD will take all reasonable steps to assist you with the completion of the Property Questionnaire to ensure that you answer all questions fully and truthfully. However, HRD is not responsible for verifying information provided by you or by your agents and is not responsible for any liability arising from the information supplied by you or by your agents being inaccurate, misleading or false.
- 9.5 HRD's entire aggregate liability under this Agreement shall not exceed the Price.
- 9.6 HRD's entire liability for any claims shall be further limited to such sums as would be just and equitable for HRD to pay having regard to the extent of its responsibility for the loss or damage suffered as a result of the provision of the Home Report Documents.

## **10 DATA PROTECTION**

- 10.1 Personal details provided will only be used in accordance with the privacy policy. By providing your personal details to HRD, you are consenting to their use in accordance with the privacy policy. HRD's privacy policy is available online or on request. You should read this carefully before proceeding.

## **11 COPYRIGHT AND LICENCE**

- 11.1 The copyright in all intellectual property created or provided by HRD in connection with the Services shall remain vested in HRD, but you shall have a non exclusive licence to use the Home Report Documents.

## **12 RESOLUTION OF DISPUTES**

- 12.1 The parties agree that any dispute arising from the provision of the Services should be dealt with by reference to HRD's Complaints Procedure, a copy of which is available on request.

## **13 TERMINATION**

- 13.1 Without prejudice to any other rights and remedies HRD may have, this Agreement can be terminated by HRD in the event of:-

- 13.1.1 a material breach of any of the conditions of this Agreement by you;
- 13.1.2 your bankruptcy;
- 13.1.3 late or non payment of the Price and any additional payment due by you;

In such cases, HRD may terminate the contract for the supply of the Services immediately.

- 13.2 Upon such termination you shall pay HRD all monies owed or accrued up to the date of termination.
- 13.3 Where you are in breach of clauses 14.1.1, 14.1.2 or 14.1.3 any payments already made to HRD will be retained and HRD reserve the right to claim such damages as may have been sustained in consequence of any breaches of this Agreement, by you.

## **14 ASSIGNATION**

HRD may assign or sub-contract all or any part of its rights or duties under this Agreement and HRD confirms that your rights under this Agreement will not be prejudiced as a result of any such assignment.

**15 WAIVER**

A failure or delay in exercising a right or remedy granted by this Agreement will not constitute a waiver thereof and no waiver by HRD of any breach by you of any provision of the Agreement will be deemed to be a waiver of any subsequent breach.

**16 NO VARIATION**

No variation to this Agreement will be valid unless agreed in writing between HRD and you. HRD confirms that any such variation will not be materially detrimental to you.

**17 THIRD PARTY RIGHTS**

This Agreement is between you and HRD only and is not intended to give any rights or benefits to any other person but this shall not affect any right or remedy of a third party which exists or is available under the Order.

**18 SEVERABILITY**

If any provision of this Agreement be held to be void or unenforceable, that part shall be deemed to be severed from the Agreement, but the remaining provisions shall not be affected and each remaining provision shall remain in full force and effect.

**19 NOTICES**

19.1 Except as otherwise provided in this Agreement, all monies, requests, demands, statements or other communications required or permitted to be given hereunder will be given in writing and delivered personally (HRD recommend that you send any notice by first class recorded delivery post) to the Property address in the case of the Seller and to 37 Carrick Street, Ayr, KA7 1NS in the case of HRD.

19.2 The notice will be deemed to have been served, if delivered by hand or by courier, when left at the correct address for service and if by first class or recorded delivery, 48 hours after being posted.

**20 ENTIRE AGREEMENT**

HRD intends to rely solely upon the terms set out in this Agreement. Neither HRD nor you may alter the terms of this Agreement without the consent of the other. You should ensure you read this Agreement carefully and are happy with its contents.

**21 APPLICABLE LAW**

This Agreement is executed pursuant to and will be construed under and governed by the laws of Scotland and the parties submit to the non-exclusive jurisdiction of the Scottish courts.