

ESTATE ENERGY SOLUTIONS TERMS AND CONDITIONS

1. Application

- 1.1 These terms and conditions shall apply to the provision of Services by the Supplier to the Client.
- 1.2 In the event of conflict between these terms and conditions and any other terms and conditions (of the Client or otherwise), these terms and conditions shall prevail unless expressly otherwise agreed by the Supplier in writing.
- 1.3 No variation to these terms and conditions shall be binding unless agreed in writing between the authorised representatives of the Supplier and the Client.

2. Definitions

- 2.1 In this terms and conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Client”	means any individual, firm or corporate body (which expression shall, where the context so admits, include its successors and assigns) which purchases services (or good where relevant) from the Supplier
“Contract”	means the contract for the purchase and supply of the Services under these terms and conditions
“Default”	means any act, representation or omission by the Supplier which is done made or not done as a result of any act representation or omission in connection with the Contract as a result of which the Supplier is legally liable to the Client or any third party whether in contract tort or otherwise. A number of Defaults which together result in or contribute substantially to the same loss or damage shall be treated as one Default occurring on the date of occurrence of the last such Default.
“Services”	means the services which the Supplier has agreed to provide to the Client in accordance with any quotation or offer of the Supplier which is accepted by the Client or any order of the Client which is accepted by the Supplier and pursuant to these terms and conditions
“Supplier”	means Estate Graphics Limited its officers employees subcontractors agents or assigns

- 2.2 Any reference in these terms and conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.
- 2.3 Where the Client consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Client shall be joint and several obligations of such persons
- 2.4 The headings in these terms and conditions are for convenience only and shall not affect their interpretation.

3 The Services

- 3.1 The Supplier shall provide and the Client shall pay for the Services in accordance with these terms and conditions.
- 3.2 The Supplier will use all reasonable care and skill in providing the Services.
- 3.3 The Supplier shall use all reasonable endeavours to complete its obligations under any quotation provided to the Client but time will not be of the essence in the performance of the Supplier’s obligations.
- 3.4 The Supplier reserves the right to decline an order without providing a reason for decline.
- 3.5 No order which has been accepted by the Supplier may be cancelled or amended by the Client except with the agreement in writing of the Supplier on the terms that the Client shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation or amendment.

4 Price

- 4.1 The price of the Services shall be the price given in the Supplier’s quotation or such other price as may be subsequently agreed in writing by the Supplier and the Client.
- 4.2 The price given in any quotation shall be valid for a period of 28 days only or such lesser time as the Supplier may specify.
- 4.3 The Client will pay the Supplier for any additional services provided by the Supplier that are not specified in the original quotation in accordance with the Supplier’s then current applicable daily rate in effect at the time of the performance or such other rate as may be agreed.
- 4.4 All sums payable by either party pursuant to the Contract are exclusive of any value added or other tax (except corporation tax) or other taxes on profit for which that party shall be additionally liable.
- 4.5 The Supplier reserves the right, by giving notice to the Client at any time before final provision of the Services, to increase the price of the Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any alteration of duties, significant increase in the costs of labour, materials or other costs of supply, any change in service delivery dates, quantities or specifications for the Services which is requested by the Client, or any delay caused by any instructions of the Client or failure of the Client to provide adequate access to the relevant property, or failure of the Client to give the Supplier adequate information or instructions, including for example, a significant variation in the property description provided by the Client and those found by the Supplier on attendance).

5 Payment

- 5.1 Unless otherwise agreed in writing by the Supplier, the Client shall pay the Supplier for the Services in full prior to the provision of the Services without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.

6 Variation and amendments

- 6.1 If the Client wishes to vary any details of the Supplier’s quotation it must notify the Supplier in writing as soon as possible and in any event at least 48 hours before the date the Services are due to be provided. The Supplier shall endeavour to make any required changes and any additional costs thereby incurred shall be invoiced to the Client.

6.2 If, due to circumstances beyond the Supplier's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Client as soon as reasonably practicable. The Supplier shall endeavour to keep such changes to a minimum and shall seek to offer the Client arrangements as close to the original as is reasonably possible in the circumstances.

7 Assignment

7.1 The Supplier may assign or subcontract the Contract or any part of it to any person, firm or company who in the Supplier's reasonable opinion is qualified to provide the Services..

7.2 The Client shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

8 Client's Default

8.1 In the event that:

8.1.1 the Client is in breach of any of its obligations hereunder (including the failure to make any payment on the due date); or

8.1.2 the Client has entered into liquidation (other than for the purposes of a bona fide amalgamation or reconstruction) whether compulsory or voluntarily or compounds with its creditors generally or has an administrator, administrative receiver or receiver appointed over all or a substantial part of its undertaking or assets; or

8.1.3 the Client has become bankrupt or shall be deemed unable to pay its debts by virtue of Section 123 of the Insolvency Act 1986; or

8.1.4 the Client ceases or threatens to cease to carry on business; or

8.1.5 the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly; or

8.1.6 any circumstances whatsoever beyond the reasonable control of the Supplier (including but not limited to the termination of the Contract through no fault of the Supplier) arise that necessitate for whatever reason the termination of the provision of the Services;

then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:

(a) terminate the Contract forthwith; and/or

(b) suspend the provision of any further Services to the Client without any liability to the Client, and if the Services have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary; and/or

(c) appropriate any payment made by the Client to such of the Services (or the Services supplied under any other contract between the Client and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Client.

8.2 In the event of termination under clause 8.1 the Supplier shall retain any sums already paid to it by the Client without prejudice to any other rights the Supplier may have whether at law or otherwise.

9 Liability

9.1 The following clause specifies the extent to which the Supplier will be liable for Default. Its principal terms are a financial limit on the Supplier's liability (except for death or personal injury), the liability of the Supplier only for certain defined losses and a time limit applicable to both parties for the enforcement of claims. The Supplier's entire liability and the Client's sole remedies, whether in contract, tort or otherwise, shall be as set out in this clause 9.

9.2 The Client accepts that it is its responsibility to select how the Services meet its specific requirements. Except as expressly provided in this Agreement, all conditions, representations and warranties (express or implied, statutory or otherwise) are excluded to the extent permitted by law including without limitation any implied warranties or conditions as to quality, fitness for purpose or reasonable care.

9.3 The Client shall always inform the Supplier of any Default and afford it a reasonable opportunity of correcting that Default including, without limitation, the option of re-supplying the Service or correcting any defect in the same.

9.4 The Supplier will not be liable for the following loss or damage however caused and even if foreseeable by the Supplier: economic loss, which term shall include loss of profits, loss of use of profits, business, revenue, goodwill or anticipated savings; loss of or damage to the Client's or a third party's data; special, indirect or consequential loss arising from any claim made against the Client by a third party; or loss or damage arising from the Client's failure to fulfil its responsibilities, or accept the Supplier's advice, or any matter under the control of the Client or a third party; or loss or damage arising out of or in connection with the Client's use of anything issued by the Supplier whilst providing the services (such as reports, certifications, information or advice); or loss or damage arising out of or in connection with the Client's use of anything issued by the Supplier whilst providing the services (such as reports, certifications, information or advice) or loss or damage arising from the Supplier acting in accordance with the instructions of the Client, its officers, employees, agents or third parties engaged by the Client.

9.5 The Supplier's entire liability for actual damages in respect of any one Default shall not, in any event, exceed the total purchase price for the Services, which is directly related to the Default.

9.6 Except in respect of payments due under this agreement, no action may be brought by the Client against the Supplier more than two years after the cause of action has accrued.

9.7 The Client agrees to indemnify the Supplier against damages, costs, claims and expenses suffered by the Supplier arising from loss or damage to any person property or equipment (including that of third parties) caused by the Client, or its agent or employees.

9.8 The Client acknowledges that:

9.9.1 the price for the Services has been calculated on the basis that the Supplier excludes and/or limits its liability to the Client in accordance with this agreement; that the exclusions and limitations contained in this agreement are fair and reasonable in all the circumstances known at the date of this agreement; it is not possible to foresee and provide in the agreement (in particular by way of adjustments to the price of the Services) for all contingencies which may give rise to loss, damage or liability;

9.9.2 each of the limitations and exclusions set out above is to be construed as a separate limitation or exclusion, applying and surviving even if for any reason one or other of the limitations or exclusions is held inapplicable or unreasonable in any circumstances, and shall remain in force despite termination of this agreement.

9.9 The Supplier shall not be liable to the Client or be deemed to be in breach of these terms and conditions by reason of any delay in performing or any

failure to perform any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

10 Confidentiality Publications and Endorsements

10.1 It is agreed that:

10.1.1 the parties will regard as confidential the Contract and all information obtained by the other relating to the business and/or products of the parties and will not use or disclose to any third party such information without the other's prior written consent provided that this undertaking shall not apply to information which is in the public domain other than by reason of the other party's default;

10.1.2 the parties will not use or authorise or permit any other person to use any name, trademark, house mark, emblem or symbol which the other party is licensed to use or which is owned by the Supplier upon any premises note paper visiting cards advertisement or other printed matter or in any other manner whatsoever unless such use shall have been previously authorised in writing by the other party and (where appropriate) its licensor;

10.1.3 the parties will use all reasonable endeavours to ensure compliance with this condition by its employees, servants and agents.

10.2 This condition shall survive the termination of the Contract.

11 Force Majeure

Neither the Supplier nor the Client shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Contract, if the delay or failure was due to any cause beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:

11.1 act of God, explosion, flood, tempest, fire or accident;

11.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

11.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

11.4 import or export regulations or embargoes;

11.5 strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of either the Supplier or the Client or of a third party);

11.6 difficulties in obtaining raw materials, labour, fuel or equipment;

11.7 power failure or breakdown in equipment.

12 Waiver

12.1 No waiver by the Supplier of any breach of these terms and conditions by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of this agreement shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which the waiver is given.

12.2 No failure or delay on the part of any party in exercising any right, power or privilege under this agreement shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of or the exercise of any other right, power or privilege.

13 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 of these terms and conditions and the remainder of the provision in question shall not be affected thereby.

14 Copyright

The Supplier reserves all copyright and any other rights (if any) which may subsist in the products of, or in connection with, the provision of the Services. The Supplier reserves the right to take such actions as may be appropriate to restrain or prevent infringement of such copyright.

15 Notices and Service

15.1 Any notice or other information required or authorised by this agreement to be given by either party to the other shall be given by sending via first class post, email, facsimile transmission or other comparable means of communication.

15.2 Any notice or information given by post which is not returned to the sender as undelivered shall be deemed to have been given on the second day after the envelope containing it was so posted.

15.3 Any notice or information sent by e-mail, telex, cable, facsimile transmission or comparable means of communication shall be deemed to have been duly given on the date of transmission.

15.4 Service of any document for the purposes of any legal proceedings concerning or arising out of this agreement shall be effected by either party by causing such document to be delivered to the other party at its registered or principal office, or to such other address as may be notified to one party by the other party in writing from time to time.

16 Applicable Law and Jurisdiction

These terms and conditions shall be governed and construed in accordance with the law of England and Wales and the parties shall submit to the exclusive jurisdiction of the English and Welsh courts.