



## ELMHURST ENERGY SERVICES LIMITED – Standard Terms and Conditions for Supply of Goods and Services

### 1 DEFINITIONS

- In this document the following words shall have the following meanings:
- 1.1 “Consumer” shall have the meaning ascribed in section 12 of the Unfair Contract Terms Act 1977;
- 1.2 “Customer” means any person or company who purchases Goods and Services from the Supplier;
- 1.3 “Proposal” means a statement of work, quotation, internet website or other document or electronic media describing the Goods and Services to be provided by the Supplier;
- 1.4 “Goods” means the articles specified in the Proposal;
- 1.5 “Service or “Services” means the services specified in the Proposal;
- 1.6 “Supplier” means Elmhurst Energy Services Limited of 16 St Johns Business Park, Lutterworth, Leicestershire, LE17 4HB and with email address [services@elmhurstenergy.co.uk](mailto:services@elmhurstenergy.co.uk);
- 1.7 “Terms and Conditions” means the terms and conditions of supply set out in this document and any special terms and conditions agreed in writing by the Supplier;
- 1.8 The expression “the Act” means the Companies Act 1985 as amended by the Companies Act 1989, but so that any reference in these Terms and Conditions to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of the provision for the time being in force.

### 2 GENERAL

- 2.1 These Terms and Conditions shall apply to all contracts for the supply of Goods or Services by the Supplier to the Customer and shall prevail over any other documentation or communication from the Customer.
- 2.2 Any variation to these Terms and Conditions shall be inapplicable unless agreed in writing by the Supplier. *Latest version available from website [www.elmhurstenergyservices.co.uk](http://www.elmhurstenergyservices.co.uk).*
- 2.3 Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Supplier may be entitled in relation to the Goods and Services, by virtue of any statute, law or regulation.
- 2.4 Nothing in these Terms and Conditions shall affect the Customer’s statutory rights as a Consumer.

### 3 THE ORDER

All Orders for Goods or Services shall be deemed to be acceptance of the Proposal pursuant to these Terms and Conditions.

### 4 PRICE AND PAYMENT

- 4.1 The price for the Goods or Services are subject to any applicable charges and only where stated in the Proposal are inclusive of VAT. Where the price is not stated as VAT inclusive they will be subject to the addition of VAT at the prevailing rate.
- 4.2 Payment of the price shall be in the manner specified in the Proposal.
- 4.3 If the Customer fails to make payment within 30 days of it becoming due, the Supplier shall be entitled to charge interest at the current base rate plus 2.00% per month on the outstanding amounts.

### 5 DELIVERY

- 5.1 The date of delivery specified by the Supplier is an estimate only. Time for delivery shall not be of the essence of the contract and the Supplier shall not be liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods or performance of Services.
- 5.2 All risk in the Goods shall pass to the Customer upon delivery.
- 5.3 Services specified in the Proposal will be provided by the Supplier to the Customer within the terms specified in the Proposal.

### 6 TITLE

Title in the Goods shall not pass to the Customer until the Supplier has been paid in full for the Goods.

### 7 CUSTOMER’S OBLIGATIONS

- To enable the Supplier to perform its obligations the Customer shall:
- 7.1 co-operate with the Supplier;
- 7.2 provide the Supplier with any information reasonably required by the Supplier;
- 7.3 obtain all necessary permissions, licenses and consents which may be required before the commencement of the Services, the cost of which shall be the sole responsibility of the Customer; and
- 7.4 comply with such other requirements as may be set out in the Proposal or otherwise agreed between the parties.
- 7.5 For the provision of Services by the Supplier the Customer must provide the Supplier with a proper contact address (PO box is not acceptable) and any contact details as required by the Supplier and agree to inform the Supplier immediately in writing (an email is an acceptable form of writing) of any changes thereto. The Supplier may at their discretion either suspend or terminate the supply of services if they are unable to contact the Customer.

### 8 SUPPLIER’S OBLIGATIONS

- 8.1 The Supplier warrants that the Goods will at the time of delivery correspond to the description given by the Supplier.
- 8.2 The Supplier shall perform the Services with reasonable skill and care and to a reasonable standard in accordance with recognised standards and codes of practice.
- 8.3 The Supplier accepts all responsibility for the condition of tools and equipment used in the performance of the Services and shall ensure that any materials supplied shall be free of defects.

### 9 CANCELLATIONS AND REFUNDS FOR GOODS AND SERVICES

- 9.1 Where Goods are faulty or do not comply with any of the Proposal, the Customer must notify the Supplier within 7 days of delivery and return the Goods to the Supplier within 7 days of notifying the Supplier. Once the Supplier has confirmed the Goods are faulty or do not comply with any of the contract the Customer shall be entitled to replacement Goods or a full refund.
- 9.2 Where Services do not comply with any of the contract, the Customer must notify the Supplier within 7 days. Once the Supplier has confirmed that Services do not comply with any of the contract the Customer shall be entitled to a full refund.
- 9.3 Any request by the Customer to cancel an Order must be made by notifying the Supplier in writing (an email is an acceptable form of writing) at the contact address specified at the time of placing the order. Refunds will not be made where

- a) the Goods ordered have been produced; or
- b) the Goods or Services being supplied comply with the contract; or
- c) the Supplier has incurred expenditure with sub-contractors to fulfil the order.

### 10 CONFIDENTIALITY

All mail items received and business information acquired by the Supplier are treated as commercially confidential and will not be disclosed or supplied to any third party outside of the Supplier or partner companies as agreed in the contract for provision of Services. The duty of confidentiality by the Supplier to the Customer does not apply when the Supplier is required by English law to provide information to the police or other organisations empowered by statute or under any money laundering regulations in force for the time being.

### 11 LIMITATION OF LIABILITY

- 11.1 Nothing in these Terms and Conditions shall exclude or limit the liability of the Supplier for death or personal injury, however the Supplier shall not be liable for any direct loss or damage suffered by the Customer howsoever caused, as a result of any negligence, breach of contract or otherwise in excess of the price for the Goods and Services.
- 11.2 The Supplier shall not be liable under any circumstances to the Customer or any third party for any indirect or consequential or other economic loss suffered by the Customer howsoever caused, as a result of any negligence, breach of contract, misrepresentation or otherwise.
- 11.3 For the avoidance of doubt, time shall not be of the essence and the Supplier shall incur no liability to the Customer in respect of any failure to complete the Services by any agreed completion date.

### 12 INDEMNITY

- The Customer agrees to indemnify each of the Supplier, his principals, agents and respective servants against:
- 12.1 the consequences of any defect in, or unsuitability of any article, plant or other equipment or incorrect information provided by the Customer;
- 12.2 the consequences of any breach of health and safety regulations made, or code of practice approved, pursuant to statute;
- 12.3 all claims by third parties and any other claim under common law or by statute arising out of any such defect, unsuitability or breach;
- 12.4 all damages, penalties, costs and expenses to which each or any of them may become liable as the result of work done in accordance with any Contract between them which involves the infringement of any letters patent, copyright, design, trademark or other intellectual property right or any claim for such infringement;
- 12.5 any claims, costs and expenses arising out of any slanderous matter, translated, printed or in any matter published by the Customer including any such loss arising out of costs and expenses incurred in respect of any threatened action and any costs and expenses incurred arising out of any action which is settled by the parties concerned without being tried by a court or other tribunal; and all actions, costs, claims and demands arising out of any Contract between them whether occasioned by breach, negligence or by any other cause whatsoever.

### 13 TERMINATION

- The Supplier shall have the right to terminate any agreement with the Customer forthwith on giving notice in writing (an email is an acceptable form of writing) to the Customer on the occurrence of any one or more of the following events:
- 13.1 breach of any of the terms of this Contract by the Customer;
- 13.2 if a petition is made for the Customer’s bankruptcy or a criminal bankrupt order is made against the Customer or if the Customer makes any composition or arrangement with or for the benefit of creditors or makes any conveyance or assignment for the benefit of creditors;
- 13.3 where the Customer is a company; if any action is taken for or with a view to its winding up, or a petition is presented for an administration or a winding up order against it or such an order is made, or it becomes insolvent or unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an administrative receiver, receiver or manager of its undertaking is duly appointed by a creditor or by the court, or possession is taken of any of its property by an encumbrancer and in that event such termination shall not affect any rights which the Supplier may have against the Customer in consequence of the breach by the Customer;
- 13.4 if without reasonable cause the Customer with-holds either an agreed interim or full payment to the Supplier in respect of this contract or any other contract between the two parties; or
- 13.5 if it is the Suppliers belief that the Services are being used with fraudulent or criminal intent.

### 14 FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform an of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

### 15 SEVERANCE

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

### 16 ASSIGNMENT

The Customer shall not be entitled to assign his or its rights or obligations under any contract with the Supplier without the prior written consent of the Supplier.

### 17 NOTICES

Where a notice is to be given to any party hereto it may be served by leaving it at the registered office or last known address of that party. Otherwise it may be sent by first class letter post to the registered office or the last known address of that party, when it shall be deemed to have been served at the expiration of 48 hours after it has been posted.

### 18 GOVERNING LAW

These Terms and Conditions shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.