

## ENTERPRISE SELLING SOLUTIONS

THE LEGAL AGREEMENT (“AGREEMENT”) BELOW GOVERNS YOUR USE OF THE SERVICE YOU ARE ACCESSING (THE “SERVICE”). IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THE FOLLOWING TERMS.

THIS AGREEMENT CONTAINS A DISCLAIMER OF WARRANTIES, A LIMITATION OF LIABILITY AND INDEMNIFICATION OBLIGATIONS.

BY USING THE SERVICE IN ANY MANNER, YOU ARE AGREEING THAT THESE TERMS WILL APPLY WHEN YOU CHOOSE TO ACCESS OR USE THE SERVICE. WE SUGGEST THAT YOU PRINT OUT THIS AGREEMENT AND READ IT PRIOR TO AGREEING TO ITS TERMS.

Enterprise Selling Solutions, Inc. (“ESS”) is the provider of the Service, regardless of whether you access the Service through ACQuotePro, HVACProposals, a distributor’s portal site or any other access point. Use of the Service requires compatible devices, Internet access, and certain software (fees may apply); may require periodic updates; and may be affected by the performance of these factors.

### 1. CHANGES TO THIS AGREEMENT

ESS reserves the right at any time to modify this Agreement and to impose new or additional terms or conditions on your use of the Service. Such modifications and additional terms and conditions will be effective immediately and incorporated into this Agreement. Your continued use of the Service will be deemed acceptance of the modified and additional terms and conditions.

### 2. LICENSE TO USE SERVICE

Your access to the Service is pursuant to a non-exclusive, non-assignable and non-transferable limited license granted by ESS, and is subject to all of the terms of this Agreement and your payment of the applicable license fee to ESS. License fees are due within thirty (30) days after the date of the invoice. Late payments will bear interest at the rate of one and one-half percent (1.5%) per month, or the maximum amount allowed by law, whichever is less, until such interest and unpaid amounts are paid in full.

### 3. ACCOUNTS AND USERS

You represent that you have provided ESS with accurate and complete information when registering with ESS, and you agree to update this information to keep it accurate and complete.

You are authorized to permit use by an unlimited number of your agents and employees who have been supplied with user identifications and passwords to access the Service (“Users”). You are solely responsible for maintaining the confidentiality and security of user identifications and passwords, and for notifying ESS if you become aware of any breach of security related to the Service. Users may access the Software solely for purposes related to your business (the “Permitted Use”), and not for any other business or purpose, including re-offering the Service to third parties.

You and your agents, your representatives and Users, must comply with all applicable laws in connection with accessing the Service, including all laws involving private data and applicable export controls. You will be responsible for ensuring that each of your agents, your representatives and Users abides by the provisions contained in this Agreement. You are responsible for all User activity while accessing or using the Service.

ESS may suspend or terminate your or any User's access to the Service if such use is disrupting or causing harm to ESS, the Service or ESS's computer systems, or is in violation of, or likely to violate, any applicable laws. Access to the Service may be temporarily unavailable during periods in which ESS is providing maintenance and system upgrades. Access to the Service may be unavailable as the result of actions of or interference by governmental or other regulatory authorities, acts of God (including floods, hurricanes and other acts of nature), acts of terrorism, fire, labor disturbance, wars, riots or other civil disturbances, communications and Internet failures, and other events beyond ESS's control.

#### 4. INTELLECTUAL PROPERTY

ESS will own and retain all interest, right and title in and to the Service (including all scripts and software used to implement the Service), and all copyrights, patents, service marks, trademarks, trade secrets and other intellectual property rights ("Intellectual Property Rights") and confidential and proprietary information related to the Service. You may not take any action to interfere with, jeopardize or limit ESS's ownership of the Service (including all scripts and software used to implement the Service), or the Intellectual Property Rights or confidential and proprietary information related to the Service. ESS reserves all rights in the Service (including all scripts and software used to implement the Service), and in Intellectual Property Rights and confidential and proprietary information related to the Service.

You may not reproduce all or any portion of the Service (including all or any scripts and software used to implement the Service) in any form or by any means. You may not adapt, convert, copy, create derivations of, decompile, disassemble, frame, mirror, reverse engineer, or translate all or any portion of the Service (including all scripts and software used to implement the Service), or re-offer the Service as a service to third parties, or knowingly permit any other entity or person to do so. You may not disclose or use any of the Intellectual Property Rights or confidential and proprietary information related to the Service, except pursuant to your use of the Service under the express terms of this Agreement.

#### 5. YOUR DATA; LIMITED LICENSE TO ESS

Your data, User data and the data of your customers, including all data that you or any User inputs into the Service (collectively, "Your Data") will remain your property (or the property of the applicable User or customer). You accept full responsibility for all of Your Data. Neither you nor any User may input any material that is defamatory, illegal, indecent, infringing, invasive of personal privacy (including as a result of privacy laws), misleading, profane, in poor taste or otherwise objectionable ("Objectionable Material"). ESS reserves the right to remove Objectionable Material. You accept sole responsibility for the accuracy of all documentation generated by the Software.

You will be responsible for archiving, backup and preservation of all and any User Data, all proposals and reports generated by the Service at your request, all emails generated by the Service, and all documents executed electronically and stored in the Service. Upon your reasonable request, and to the extent available, ESS will provide you any backup that ESS has of Your Data, in ESS's standard format, but ESS takes no responsibility for creating or maintaining any backup of Your Data or any such proposals, reports, emails or documents.

You hereby grant to ESS a perpetual, non-exclusive, non-assignable, non-transferable and royalty free license to copy, distribute, store, transmit and use Your Data, solely for the following purposes: (1) to provide the Service to you, and (2) to the extent we de-identify the User Data, for statistical reporting purposes, including anonymous statistical data regarding the function and use of the Service for purposes of marketing the Service.

## 6. SUSPENSION OR TERMINATION OF THE SERVICE

If ESS determines that you or any of your agents, your representatives or Users have violated this Agreement (including your failure to timely pay license fees pursuant to invoices), ESS may (a) suspend your and your User's access to the Service until the violation has been remedied or (b) terminate this Agreement, and your and your User's access to the Service.

## 7. DISCLAIMER OF WARRANTIES

THE SERVICE IS PROVIDED "AS IS," "AS AVAILABLE," AND ESS MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE SERVICE, INCLUDING THE ACCURACY OF ANY INFORMATION CONTAINED IN THE SERVICE REGARDING BROCHURES, DEALER, DISTRIBUTOR OR MANUFACTURER INFORMATION, EQUIPMENT, DESCRIPTIONS OF THE FUNCTIONALITY OR SPECIFICATIONS OF EQUIPMENT, IMAGES OF EQUIPMENT, PART NUMBERS, OR OTHER PRODUCT INFORMATION, OR THE ACCURACY OF ANY DOCUMENTATION GENERATED BY THE SERVICE. ESS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTIES OF MERCHANTABILITY AND ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE. ESS IS NOT RESPONSIBLE FOR ANY SOFTWARE INSTALLED ON YOUR, ANY USER'S OR ANY HOMEOWNER'S COMPUTER SYSTEMS, INCLUDING ANY SOFTWARE USED TO ACCESS THE INTERNET, ELECTRONIC MAIL AND/OR THE SERVICE. ESS ALSO IS NOT RESPONSIBLE FOR ANY INFORMATION PROVIDED BY HOMEOWNERS TO YOU, INCLUDING THE GENUINENESS OF ANY HOMEOWNER DOCUMENTS OR SIGNATURES THEREON.

## 8. LIMITATION OF LIABILITY

USE OF THE SERVICE IS AT YOUR OWN RISK. IN NO EVENT WILL ESS'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND/OR THE SERVICE, WHETHER IN CONTRACT OR TORT (INCLUDING ESS'S OWN NEGLIGENCE), IN A PROCEEDING AT EQUITY OR LAW, EXCEED THE LESSER OF THE ACTUAL DIRECT DAMAGES OR THE TOTAL OF THE LICENSE FEES PAID TO ESS DURING THE ONE (1) YEAR PERIOD IMMEDIATELY PRECEDING THE CIRCUMSTANCES THAT GAVE RISE TO THE CAUSE OF ACTION. ESS WILL NOT, IN ANY EVENT, BE LIABLE TO YOU FOR ANY LOSS OF PROFITS, LOSS OF THE USE OF ANY REVENUE OR PROFITS NOR ANY CONSEQUENTIAL, ECONOMIC, INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR THIRD PARTY DAMAGES INCURRED (INCLUDING ANY LOSS OF YOUR DATA), EVEN IF ESS HAS BEEN ADVISED OF THE LIKELIHOOD OR POSSIBILITY OF SUCH DAMAGES.

## 9. INDEMNIFICATION

YOU WILL DEFEND, HOLD HARMLESS, INDEMNIFY, COMPENSATE, REIMBURSE AND RELEASE ESS AND ITS AGENTS AND REPRESENTATIVES FROM AND AGAINST ANY AWARDS, CLAIMS, COSTS, DAMAGES, EXPENSES, FEES, JUDGMENTS, REASONABLE EXPENSES AND FEES OF LEGAL COUNSEL AND OTHER LITIGATION COSTS AND EXPENSES, LOSSES, PENALTIES, AND SETTLEMENTS (COLLECTIVELY, "LOSSES") INCURRED BY ESS ARISING OUT OF OR RELATED TO (A) THE BREACH OR VIOLATION OF THIS AGREEMENT BY YOU, YOUR AGENTS, YOUR REPRESENTATIVES AND/OR USERS, AND (B) ALL AND ANY ACTION, APPEAL, AUDIT, CHARGE, CLAIM, COMPLAINT, DEMAND,

HEARING, INVESTIGATION, LITIGATION, PROCEEDING OR SUIT, INCLUDING BANKRUPTCY AND INSOLVENCY PROCEEDINGS ARISING OUT OF RELATED TO THE INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS BY YOU OR YOUR AGENTS, YOUR REPRESENTATIVES OR USERS.

#### 10. MISCELLANEOUS

The use in this Agreement of the word "including" means "including, without limitation." This Agreement does not confer any remedies or rights upon any person other than ESS and you. Your relationship with ESS is that of licensee and licensor only. Nothing may be construed as creating any agency relationship, employment relationship, joint venture or partnership between ESS and you. No waiver of any provision in this Agreement will be effective unless it is contained in a written document executed by ESS. No waiver of any provision contained in this Agreement will be deemed a further or continuing waiver of such provision, or of any other provision. If any provision contained in this Agreement would be held to be illegal, invalid, prohibited or unenforceable for any reason, then such provision is ineffective in such jurisdiction, without invalidating the remaining provisions contained in this Agreement or affecting the enforceability, legality or validity of such provision in any other jurisdiction. If such provision could be drawn more narrowly so as not to be illegal, invalid, prohibited or unenforceable in such jurisdiction, it will be so narrowly drawn without invalidating the remaining provisions contained in this Agreement or affecting the enforceability, legality, or validity of such provision in any other jurisdiction.

Regardless of where you are located or where you access the Service, this Agreement will be governed by, interpreted and construed in accordance with the laws of the STATE OF FLORIDA, without giving effect to choice of law or any conflicting rules. The laws of the STATE OF FLORIDA will control the interpretation and construction of this Agreement, even if under another jurisdiction's choice of law or conflict of law analysis, the substantive law of another jurisdiction ordinarily would apply. Your use of the Service may be subject to other laws applicable to you and your business.

This Agreement and all invoices from ESS contain all of the agreements among you and ESS with respect to your use of the Service and supersede all prior agreements, contracts or understandings between you and ESS with respect to your use of the Service. No agent or representative of ESS has the authority to vary the terms of this Agreement unless it is contained in a writing signed by ESS and you.