



**EXISTING CONDITIONS SURVEYS, INC.**  
"LASER BUILDING MEASURING AT THE LOWEST COST"

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Existing Conditions Surveys Inc. Terms and Conditions 2010

**1. Compensation.**

- a. ECS shall be compensated in accordance with the our proposal which will outline a clearly defined scope of services to include but not limited to;
1. Project background, understanding and goals.
  2. Building elements (architectural, structural, MEP, FP, etc.) to be surveyed
  3. Field work, /measurement/data gathering as needed per scope.
  4. Drawing software per client's standards (Autocad, Revit, etc.)
  5. Drawing files to be included in the deliverable (floor plans, RCP's, roof plan, etc.)
  6. Level of detail defined for each drawing file, room, space or other element.
  7. Deliverables/drawings to match Cad standards, drawing files, level of detail etc.
  8. Schedule for field survey work and deliverables.

**2. Payment**

a. Deposits. ECS may require a deposit to cover mobilization, travel, housing or other field work related expenses as needed and depending on the project location or other exceptional factors. The deposit will be credited against the total fee proposal and will be paid before mobilization.

b. Invoices. ECS will invoice the balance of the fee on or before final document delivery.

c. Payment. Payment is due thirty (30) days from the invoice date.

d. Disputes. Client must notify ECS in writing, with seven (7) days of your receiving the invoice of any dispute regarding the invoice amount or if there is any questions regarding the deliverables, allowing ECS time to re-verify, correct, and resolve such matters. If ECS does not receive such notice of a disputed invoice within seven (7) days of the invoice date, client agrees to that the invoice will be treated as undisputed and is due thirty (30) days from the date of invoice.

**3. Additional Services**

a. If changes or additional services are required during the course of the project that are beyond the initial scope of services such modifications and additional services will be subject to additional fees and will be defined by ECS in writing in an Additional Services Order. The additional services order will advise the client of any additional fees and time required to execute the changed or additional services and is subject to all the terms and conditions set forth herein with regard invoices, disputes, and late payments. The additional services order must be signed and returned with seven (7) days.

#### **4. Professional License**

a., ECS does not superintend or manage construction, or provide architectural, engineering or other services for which such professional license is required. ECS may contract with providers of licensed services for the benefit of the client and the project. It is agreed that any such licensed services or other services are the sole responsibility of the providers there of and ECS does not accept any responsibility or liability for the acts or omissions of such providers. Upon request ECS will provide a copy of its contract with such providers and agrees, to the extent possible, to pass through any representations, warranties and indemnities made available by such providers.

#### **5. Insurance**

a. ECS and the client agree to maintain commercial general liability insurance and premises liability sufficient in amount, type and duration. All insurance coverage's shall name its affiliates, officers, directors, employees, agents and contractors as additional insured's.

#### **6. Limitation of Liability**

a. ECS and the client understand and agree that total liability for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of the proposed and agreed scope of services and these Terms and Conditions from any cause or causes shall not exceed the proposed and agreed fee paid to ECS for its services for the project out of which the liability may arise. Such causes include but are not limited to negligence, errors, omissions, breach of contract and breach of warranty. In no event will ECS, its directors, officers, employees, attorneys, agents, assigns, heirs or successors-in-interest be liable to the client or any third parties in connection with the project for any indirect, incidental, punitive, or exemplary damages, loss of profits, opportunities or business revenue or other damages.

#### **7. Confidentiality**

a. ECS agrees to keep confidential and not to disclose, without prior consent, all information not previously known and or generated by or furnished to ECS. It is agreed that ECS may use your and the projects name and a general description of ECS services with respect to the project in ECS corporate communications and ECS professional experience and qualifications.

#### **8. Document Ownership**

a. ECS will retain ownership of the survey and documentation process including field notes, progress drawings and models and other materials, methods, tools, equipment, technology, software and other proprietary parts of the process used to generate the final product/deliverable as defined in the scope of services. The final product – finished 2D Cad drawings, 3D models and the drawing files associated with the final product (floor plans, reflected ceiling plans, roof plans, interior and exterior elevations, structural, mechanical, electrical, plumbing and fire protections drawings and details) will become the property of the client upon payment in full for all invoices. If payment in full is not received ECS will retain ownership of the final product.

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### **9. Termination**

- a. ECS or the client may terminate this agreement for
1. Failure of the other to fulfill their obligations under this agreement.
  2. If the project is discontinued.

Regardless of the reason for termination, ECS will be entitled to compensation for services rendered and work completed up to the date of written notice of termination. All terms hereof which by nature survive termination including indemnification, and confidentiality obligations shall survive termination of this agreement and terms and conditions.

### **10. Assignment.**

- a. Neither party may assign rights under this agreement without written consent. Any assignment with written consent shall be void.

### **11. Agreement**

- a. This agreement and terms and conditions are entered into solely between ECS and the client and will not be deemed to create any rights in third parties or to create any obligation of the parties to any third party. This agreement will be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts without giving effect to any choice-of-law rules. The parties agree that the exclusive jurisdiction and venue for any action relating to this agreement shall be a federal or state court in Boston, Massachusetts and the parties hereby consent to such jurisdiction and venue. No amendment, modification or addendum will be effective unless provided in writing and signed by duly authorized officers of both parties. ECS shall not be liable for inabilities to perform, delays, interruptions or any damages caused by events beyond its control including delays by clients, suppliers or third parties, fire, flood, war, act of terrorism, industrial disturbances, acts of god, civil commotion, government action or unusually severe weather. Nor term or provision hereof will be deemed waived and no breach excused unless such waiver or consent will be in writing and signed by an authorized officer of the party claimed to have waived or consented. This agreement constitutes the entire agreement between the parties hereto concerning the matters covered herein and supersedes all prior agreements and or understandings between the parties, whether written or oral concerning the matters addressed herein.