

IMPORTANT NOTICE: YOU MUST CAREFULLY READ AND THEN AGREE TO THE TERMS AND CONDITIONS SET OUT BELOW BEFORE ACCESSING AND USING THE GBCSA Certification Engine ONLINE SOFTWARE APPLICATION (THE "SOFTWARE") PROVIDED AT www.certificationengine.org (THE "WEBSITE") AND ANY ASSOCIATED PHYSICAL MEDIA, DOCUMENTATION WHETHER IN PRINTED FORM OR AVAILABLE ONLINE PROVIDED BY IES BUT EXCLUDING ANYTHING PROVIDED BY THE GBCSA (AS DEFINED BELOW) (ALTOGETHER THE "SERVICE"). IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU MAY NOT ACCESS OR USE THE SERVICE.

Welcome to the Service. The Service is owned and or/ licensed by Integrated Environmental Solutions Limited of **Helix Building, Kelvin Campus, West of Scotland Science Park, Glasgow G20 0SP**, headquarter address (referred to in these Terms and Conditions as "IES", "we" and "us" and our group companies including but not limited, to Integrated Environmental Solutions Limited).

These Terms and Conditions form part of an agreement between you, the end-user, and us, and that agreement sets out the conditions under which you may access the Service and, any information, services, products or information available through the Service. Please note that where you are an individual acting on behalf of a third party organisation, the third party organisation shall be deemed to be "you", the end-user, for the purposes of this agreement and such third party organisation shall be deemed to be bound by these Terms and Conditions. You, the individual, confirm by accepting the terms hereof that you have the requisite authority to so bind such third party organisation and that you, the individual, shall comply with these Terms and Conditions. The company or third party organisation will be responsible to IES for any breach of these Terms and Conditions by any Authorised User.

If these Terms and Conditions are not accepted in full, you do not have permission to access and/or use the Service. Use of the Service constitutes your acceptance of these Terms and Conditions, and they apply from the time of your first use of the Service.

Terms and Conditions

Your use of the Service is subject to the acceptance of these Terms and Conditions and the receipt of the record of purchase email which you will receive from the Green Building Council South Africa ("GBCSA"), a nonprofit organization established under the laws of South Africa (company registration number 2007/029477/08), with its principal office address at 2nd Floor, The Old Warehouse Building, Black River Office Park, 2 Fir Street, Observatory, 7925, South Africa ("**Record of Purchase**"). These Terms and Conditions and the Record of Purchase form the "**Agreement**". There may be other terms and conditions within the Service, which relate to your use of the Service, and such other terms and conditions will, together with these Terms and Conditions, govern your use of the Service. We reserve the right to change these Terms and Conditions and any other terms and conditions contained elsewhere on the Service at any time. It shall be your responsibility to check regularly to ensure that you agree to any such amendments. If you do not agree to any changes that we have made, you should stop accessing the Service immediately.

Use of the Service

In the event that you subscribe to the Service by paying the Charges (as such term is defined below), you will have non-exclusive non-transferable access to the Service:

- (a) for the named employees, agents and independent contractors set out in the Record of Purchase ("**Authorised Users**");
- (b) only in respect of the [ratings system analysis project] described by you and detailed in your Record of Purchase (the "**Project**");and
- (c) for the duration set out in the Record of Purchase

For the avoidance of doubt, the Service can only be used by the Authorised Users and shall not be transferrable to any other users or organisations, including your subsidiary, holding or other group companies. In the event that you wish to add additional named Authorised Users, you shall only do so with our prior written consent and the use of the Service by such additional Authorised Users shall be governed by the terms of this Agreement.

You will notify us in writing of the estimated duration of the Project for our information purposes only.

Your data storage space usage of the Service is limited to 1Gb per Project. Any data storage space in excess of this limit shall be charged at 175.80 South African Rand per calendar month for each additional gigabyte or part thereof used by you in relation to the Project. Such charges shall be due at the end of each month in which the excess use was incurred and shall be payment by credit or debit card or in accordance with any invoice issued by us.

The end of the Project you may store your data for a one off fee which will be due and payable to the GBCSA. Details of such one off fee can be found at <https://www.gbcsa.org.za/projects/project-certification/>

Your Obligations

You undertake and warrant to us:

- a. that only Authorised Users shall have access to the Service and that in the event that you become aware of any unauthorised use, you shall promptly notify us of the same providing full written details of the unauthorised use;
- b. that each Authorised User shall keep the username and password allocated to you and set out in the Record of Purchase ("**Access Code**") secure and confidential;
- c. that you shall maintain a written, up to date list of current Authorised Users who are in possession of the Access Code and provide a copy of such list to us within five (5) business days of our request at any time from time to time;

- d. not to use all or any part of the Service for any unlawful purpose and to use and ensure that Authorised Users use the Service only in accordance with instructions provided by us to you from time to time and that you will be responsible for any Authorised User's breach of these Terms and Conditions;
- e. not to make any use of all or any part of the Service so that all or any part of the Service is interrupted, damaged, rendered less efficient, or the functionality of all or any part of the Service is in any way impaired;
- f. not to or attempt to copy, duplicate, frame, mirror, reproduce, recompile, de-compile, disassemble, reverse engineer, or otherwise reduce to human perceivable form, transfer, display, disclose, sell, rent, license, lease, assign, distribute, publish, display, perform, modify, upload to create derivative works from, download, transmit or in any other way exploit all or any part of the Service in any form or media or by any means;
- g. not to use all or any part of the Service in such a way as to facilitate illegal activity, depict sexually explicit images, promote unlawful violence, for the storing, transmission, distribution or posting of any computer viruses or any material which, in our sole opinion, is unlawful, harmful, threatening, infringing, discriminatory, defamatory, offensive or of an obscene or menacing character, or in such a way as to cause annoyance, damage, inconvenience or needless anxiety to any person or property;
- h. not to use all or any part of the Service in a manner which, in our sole opinion, amounts to a violation or infringement of the rights of any person, firm or company (including but not limited to rights of copyright, confidentiality or privacy) or to build a product or service which competes with all or any part of the Service;
- i. not to use all or any part of the Service to transmit any material for the purposes of publicity, promotion and/or advertising on behalf of yourself or anyone else;
- j. should you have any right, claim or action against any other person arising out of the use of all or any part of the Service, you shall pursue such right, claim or action independently of, and without recourse to, us;
- k. not to make all or any part of the Service available to third parties including your subsidiaries, group companies, sub-contractors or sub-licensees unless otherwise approved in writing by IES;
- l. not use all or any part of the Service to provide services to third parties (including without being limited to providing any training services);
- m. not to use all or any part of the Service for a number of users in excess of the Authorised Users set out in the Record of Purchase;
- n. not to make alterations to, or modifications of, all or any part of the Service nor permit the Service or any part of it to be combined with, or become incorporated in, any other programs;
- o. not to attempt to obtain or assist third parties to obtain access to all or any part of the Service, other than as provided under this Agreement.

You undertake to us to:

a. provide us with:

- (i) all necessary co-operation in relation to this Agreement; and
- (ii) all necessary access to such information as may be required by us;

in order to render the Services, including but not limited to Your Data, security access information and configuration services;

b. comply with all applicable laws and regulations with respect to your activities under this Agreement;

c. be licensed and accredited by the appropriate accreditation body and inform us if such license or accreditation shall lapse. It is a material condition of this Agreement that you are so licensed or accredited;

d. carry out all other responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in your provision of such assistance as agreed with us, we may adjust any agreed timetable or delivery schedule as reasonably necessary;

e. obtain and shall maintain all necessary licences, consents, and permissions necessary for us, our contractors and agents to perform our obligations under this Agreement, including without limitation the Services;

f. ensure that your network and systems comply with the relevant specifications provided by us from time to time; and

g. be solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to our data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.

Payment

In consideration of the rights granted in terms of this Agreement, you shall pay to the GBCSA the sums set out in the [Purchase Order] received from the GBCSA

(the "**Charges**") in accordance with the terms set out in the [Purchase Order].

Availability of Service

We shall, during the Subscription Period, provide the Services to you on and subject to the terms of this Agreement. We shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

- (a) planned maintenance carried out during the maintenance window of 6.00 pm to 8:00 am Monday to Friday UK time; and

- (b) unscheduled maintenance performed inside normal business hours.

In the event that you want us to provide support services, we shall do so in accordance with our Standard Support Service Policy (which may be amended from time to time in our sole and absolute discretion) and any charges due thereunder.

Warranty

The Service, is provided to you on an "as is" and "as available" basis without any representation, endorsement or warranty of any kind, express or implied (by law or otherwise). During the Subscription Period, we warrant that the Service will be performed with reasonable skill and care and will comply in all material respects with the description set out in the gbcso.org.za website or the related documentation, provided that your use of the Service is in accordance with any and all instructions set out in the gbcso.org.za website and the related documentation. The foregoing warranty shall not apply to the extent that any non-conformance is caused by any modification or alteration of the Services by any party other than us or our authorised contractors or agents. Other than as expressly set out in these Terms and Conditions, all other warranties, representations and conditions in relation to the Service, whether express or implied, are expressly excluded to the fullest extent permitted by law.

If the Service does not conform to the foregoing warranty, we shall at our expense, use all reasonable commercial endeavours to correct any such non-conformance or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the foregoing warranty.

Specifically, we do not warrant, at all times: (1) that any functions of the Service or will be uninterrupted or error free; (2) that any effects which may occur will be corrected; (3) that the Service or the server that makes them available, are free from bugs, defects or viruses; or (4) the accuracy of the Service.

You acknowledge that the Service has not been developed to meet your individual requirements and that it is therefore your responsibility to ensure that the facilities and functions of the Service as described in the related documentation meet your requirements.

You acknowledge that you are using the Service at your own risk and that the results generated by your use of the Service (the "Results") will depend on the data that you enter. We will not be liable for Results that are incorrect or inaccurate as a result of the data you enter into the Service. You assume sole responsibility for the Results obtained from your use of the Services and for the conclusions drawn from such use. We shall have no liability for any damage caused by errors or mistakes in any information, instructions or scripts provided to us by you in connection with the Services.

Liability

Nothing in this Agreement, shall exclude or in any way limit our liability for fraud, or for death and personal injury caused by our negligence or any other liability to the extent it cannot be excluded or limited as a matter of law.

IES shall not be liable for any loss of income, business profits or contracts, business interruption, loss of the use of money or anticipated savings, loss of information, loss of opportunity, goodwill or reputation, loss of, damage to or corruption of data, or any indirect or consequential loss or damage of any kind howsoever arising out of or in connection with your use of the Service at anytime and whether caused by errors or omissions in the Service by tort (including negligence), delict, breach of contract or otherwise.

Notwithstanding the above, IES's maximum aggregate liability for any loss, damage or expenses arising out of or in connection with your use of the Service at anytime, whether in contract, delict, tort (including negligence) or otherwise, shall be limited to one thousand pounds Sterling (£1,000).

In no event shall we, our employees, agents and sub-contractors be liable to you as a result of:

- (a) any modification of the Service by anyone other than us; or
- (b) your use of the Service in a manner contrary to the instructions given to you by us; or
- (c) your use of the Services after notice of any alleged or actual infringement from us or any appropriate authority.

Intellectual Property Rights

The Service, including (but not limited to), the Results, artwork, data, frames, graphics, illustrations, logos, music, names, pages, photographs, service marks, software, sound, source codes, text, trade marks, video, and other material are protected by copyright and/or other proprietary rights (the "Intellectual Property Rights"). Except as expressly stated herein, this Agreement does not grant you any rights to, or in the Intellectual Property Rights subsisting in the Service.

The Intellectual Property Rights remain with us, or where any material has been licensed to us, with the rights owners of such material. You may not copy anything from the Service in whole or in part without our express written authority. You must abide by all additional copyright notices or restrictions contained on the Service. You are granted a non-exclusive license to use the Results for your business purposes only. You may not sell or sub-license the Results for any purposes.

You acknowledge and agree that we may use the Results and data you provide during your use of the Service for collecting the Results and your data into a database for sharing or selling to third parties. Our use of the Results and data shall not identify you or your buildings in anyway.

Confidentiality

Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by these Terms and Conditions.

Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers,

representatives or advisers to whom it discloses the other party's confidential information comply with this *condition*; and

- (b) as may be required by law, court order or any governmental or regulatory authority.

No party shall use any other party's confidential information for any purpose other than to perform its obligations under these Terms and Conditions.

Your Data

You shall own all rights, title and interest in and to all of the data inputted by you, each Authorised Users or us on your behalf for the purpose of using the Service or facilitating your use of the Service ("**Your Data**") and you shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Your Data.

It is your responsibility to maintain adequate back up copies of Your Data. In the event of any loss or damage to Your Data, your sole and exclusive remedy shall be for us to use reasonable commercial endeavours to restore the lost or damaged Your Data from the latest back-up of such of Your Data maintained by us. We shall not be responsible for any loss, destruction, alteration or disclosure of Your Data caused by any third party.

We shall, in providing the Services, comply with the Privacy and Security Policy relating to the privacy and security of Your Data available at [www. www.certificationengine.org] or such other website address as may be notified to you from time to time, as such document may be amended from time to time by us in our sole discretion.

We shall follow the archiving procedures for Your Data as shall be notified to you from time to time but, for the avoidance of doubt, we shall only retain Your Data for a period of thirty (30) days from (a) confirmation of completion of the Project; or (b) the termination of this Agreement , whichever is earlier.

If we process any personal data on your behalf when performing our obligations under this Agreement, you shall be the data controller and we shall be a data processor and in any such case:

- (a) you acknowledge and agree that the personal data may be transferred or stored outside the EEA or the country where you and the Authorised Users are located in order to carry out the Services and our other obligations under this agreement;
- (b) you shall ensure that you are entitled to transfer the relevant personal data to us so that we may lawfully use, process and transfer the personal data in accordance with this Agreement on your behalf;
- (c) you shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- (d) we shall process the personal data only in accordance with the terms of this Agreement and any lawful instructions reasonably given by you from time to time; and
- (e) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

Downloaded Material

Any material, which is downloadable, is carefully checked for viruses before being uploaded onto the Website. However we recommend that, as an extra precaution you run your own virus check on any material you download by opening it and/or saving it to your disk or hard drive.

The use by you of any screensavers, wallpapers or other software including any files and images is licensed to you by us. We do not transfer control, ownership or any intellectual property rights in such screensavers, wallpaper or other software.

Downloading by you of any material ("**Downloaded Material**") is permitted by us provided only that: (1) you do not download on to any server or other device connected to a network; (2) you make no more than one printed copy of it and no further copies of such printed copies are made; (3) you make only personal, non commercial use of it and/or printed copy; and (4) you retain on it and/or printed copy or any part thereof, all copyright and other proprietary notices and shall remain bound by the terms of such wording and notices; (5) you do not offer any Downloaded Material for sale or for distribution.

No part of the Service may be used to construct a database of any kind, nor may any part of the Service be stored in databases for access by you or any person, unless you or such other person, have obtained our prior written consent.

Links to other Websites

Links are only permitted to the Home Page of the Website. You must not make the Website or any part of it available as part of another website, whether by hyperlink framing on the Internet or otherwise. You must not make the Website or any part of it appear on any other website as having a special relationship with that or any other website(s).

The Service may contain links (the "**Links**") which may enable or assist you to access the websites operated by, correspond with and purchase products and services from parties other than us ("**Third Party Websites**"). We do not control Third Party Websites, are not responsible for their content and make no representation or commitment in relation to them. We shall have no liability in relation to the consent, use of or correspondence with any such Third Party Website. The inclusion of the Links does not imply any endorsement of the material on Third Party Websites, or any association with their operators. You are solely responsible for evaluating the integrity of the operators of any Third Party Websites; the accuracy and completeness of any information contained on them, and the value and authenticity of any goods or services offered through them. We recommend that you refer to the Third Party Website's terms and conditions and privacy policy prior to using such Third Party Website.

Exclusion of Liability in Relation to Third Party Websites

We accept no liability with respect to any of the products, information, material or services offered or provided by any persons or other organisations listed on, or linked to, the Website, nor do we endorse any of them or any of their products or services. Should you decide to contract with any such person or organisation, the contract will be directly between you and that other party. We will have no contractual involvement, and will not be liable to you in contract or otherwise for any losses or damages that you suffer in relation to and as a result of products, information, materials or services provided to you by any of these organisations.

Right of Automatic Suspension

We shall have the right to immediately suspend your access to any part of the Service if you commit a breach of the Agreement, including non-payment of any Charges.

Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this agreement without liability to the other if:

- (a) the other party commits a material breach of any of the terms of this agreement and (if such a breach is remediable) fails to remedy that breach within 20 business days of that party being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court or competent jurisdiction to make a winding-up order in relation to the other party; or
- (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- (d) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- (e) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (f) the other party ceases, or threatens to cease, to trade; or
- (g) there is a change of control of the other party within the meaning of section 840 of the Income and Corporation Taxes Act 1988; or
- (h) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

Upon expiry or termination of the Agreement for any reason:

- (a) all rights granted to you under the Agreement shall cease;
- (b) you must cease all activities authorised by the Agreement;
- (c) you must immediately pay to IES any sums due to IES under the Agreement;
- (d) we may destroy or otherwise dispose of any of Your Data in our possession unless we receive, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to you of the then most recent back-up of Your Data. We shall use reasonable commercial endeavours to deliver the back-up to you within 30 days of our receipt of such a written request, provided that you have, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination) and including any fees notified as being due for delivery of such back-up of Your Data. You shall pay all reasonable expenses incurred by us in returning or disposing of Your Data;
- (e) paragraphs Indemnity, Your Obligations, Warranty, Liability and Law and Jurisdiction, shall survive such expiration or termination.

Indemnity

You will indemnify and defend us against all claims, liability, proceedings, losses, damages, costs and expenses, including legal fees, arising out of a breach of the Agreement or any use of the Service, provided that:

- (a) you are given prompt notice of any such claim;
- (b) we provide you with reasonable co-operation in the defence or settlement of such claim, at your cost and expense; and
- (c) you are given authority to defend or settle the claim.

Severability

If any of these Terms and Conditions should be determined to be illegal, invalid or otherwise unenforceable by reason of law then, to the extent and within the jurisdiction in which that Term or Condition is found to be illegal, invalid or unenforceable, it shall be severed and deleted and the remainder of the Terms and Conditions shall survive, remain in full force and effect, and shall continue to be binding and enforceable.

If any illegal, invalid or otherwise unenforceable Terms or Condition would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

Privacy

If we gather any information about you then such information will be gathered and used by us in accordance with our Privacy Policy.

Waiver

No waiver by us of any breach by you of any of these Terms and Conditions shall constitute a waiver of any other breach, and no failure to exercise or partial exercise by us of any remedy shall constitute a waiver of the right subsequently to exercise that or any other remedy in part or in full. A waiver of any right under these Terms and Conditions is only effective if it is in writing.

Transfer Rights and Obligations

This Agreement is binding on you and us and on our respective successors and assigns. You may not transfer, assign, charge or otherwise dispose of this Agreement, or any of your rights or obligations arising under it, without our prior written consent. IES may transfer, assign, charge, sub-contract or otherwise dispose of this Agreement, or any of its rights or obligations arising under it, at any time.

Notices

Any notice or other communication required to be given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand, or sent by email or by pre-paid first-class post or other next working day delivery service providing proof of postage, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

Any notice or communication shall be deemed to have been received if delivered by hand on signature of a delivery receipt, or if sent by fax, at 9.00 am on the next business day after transmission, or if sent by email 24 hours after an email is sent or otherwise three days after the date of posting of any letter.

Events Outside IES's Control

IES will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under this Agreement that is caused by an act, event, non-happening, omissions or accident outside its reasonable control ("**Force Majeure Event**"). IES's performance under this Agreement is deemed to be suspended for the period that the Force Majeure Event continues, and it will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under this Agreement may be performed despite the Force Majeure Event.

Entire Agreement

This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with Scottish law. All disputes arising from it shall be submitted to the exclusive jurisdiction of the Scottish courts.

If you have any queries about the Agreement or these Terms and Conditions, you may contact us by emailing enquiries@iesve.com

Legal Information – Integrated Environmental Solutions Limited

Registered in Scotland No: **SC151456**

Registered Address: **Helix Building, Kelvin Campus, West of Scotland Science Park, Glasgow, G20 0SP**

VAT Registration No: **GB652 3186 44**