
Weiss Technik UK Limited
Terms and Conditions of Sale

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1. INTERPRETATION:

1.1 In these Conditions the following words and expressions have the following meanings:

Business Day	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
Conditions	the terms and conditions set out in this document.
Contract	the contract between the Supplier and the Customer for the provision of the Services in accordance with the Order, the written acceptance referred to in clause 2.4, and these Conditions.
Customer	the person or entity who purchases the Goods and, where applicable, the Services from the Supplier.
Documentation	all drawings, plans, models, details, specifications, calculations, software and other work generated in the course of the creation or supply of the Goods or the carrying out of the Services.
Equipment	the Customer's equipment in relation to which the Supplier is to provide the Services, as stated in the Quotation
Force Majeure	an event or circumstance beyond a party's reasonable control.
Goods	the tangible goods (or any part of them) set out in the Order.
Initial Term	the period stated in the Quotation during which the Supplier is to carry out the Services.
Intellectual Property Rights	all patents, utility models, copyright (including rights in computer software), rights in designs, database rights, know-how, and all similar or equivalent rights or forms of protection (including the right to apply for such protection).
Order	the Customer's order for the Goods or Services, as set out in the Customer's purchase order or other documentation requesting the Supplier to supply the Goods and, where applicable, the Services.
Premises	the premises at which the Equipment is located.
Price	the price or prices of the Goods and, where applicable, the Services as stated in the Order or as adjusted in accordance with the Contract.

Relevant Transfer	a “relevant transfer” within the meaning the Transfer of Undertakings (Protection of Employment) Regulations 2006
Quotation	the Supplier’s proposals for the supply of the Services submitted to the Customer at the Customer’s request.
Services	any activities set out in the Order and required to support the supply of the Goods, including delivery, installation, commissioning, training or other similar activity.
Spare Parts	the spare parts and consumables (if any) to be supplied by the Supplier pursuant to clause 14.1.
Specification	any specification for the Goods and, where applicable, the Services, that is contained in the Quotation or otherwise agreed in writing by the Customer and the Supplier.
Supplier	WEISS TECHNIK UK LIMITED (registered in England and Wales with company number 03659232) or any other company which is a member of the same group as Weiss Technik UK Limited, “group” having the meaning defined in Section 1261 of the Companies Act 2006.
Term	the Initial Term plus any extension under the terms of the Contract.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.3 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 A reference to **writing** or **written** includes faxes and e-mail (unless otherwise expressly provided in the Contract).
- 1.5 Any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.6 A reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force on the date the Contract is entered into and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts and subordinate legislation for the time being in force made under it, except to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party.

2. BASIS OF CONTRACT

- 2.1 The Contract incorporates these Conditions to the exclusion of any other terms that the Customer seeks to impose or incorporate, whether in the Order or otherwise.
- 2.2 No Quotation shall constitute an offer and any Quotation shall only be valid for a period of 30 days from its date of issue or such other period as may be stated in the Quotation. The supplier may amend or reissue any Quotation at any time before it is incorporated in an Order that is accepted by the Supplier.
- 2.3 The Order constitutes an offer by the Customer to purchase the Goods and, where applicable, the Services in accordance with these Conditions. In issuing the Order the Customer will be deemed to have satisfied itself that the Goods and, where applicable, the Services described in the Specification meet the Customer's requirements.
- 2.4 Subject to clause 2.5, the Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.5 If the Customer, whether in the Order or otherwise, purports to impose other terms to the exclusion of these Conditions, the Supplier's acceptance of the Order, referencing these Conditions, shall constitute a counter-offer, and the Contract shall come into existence on the Customer's acceptance, whether express or by conduct, of the counter-offer.
- 2.6 In the event of any conflict or inconsistency between the Conditions, the Order, the Quotation or the Specification, the conflict or inconsistency shall be resolved by giving precedence in the following order:
 - 2.6.1 the Conditions;
 - 2.6.2 the Specification;
 - 2.6.3 the Quotation;
 - 2.6.4 the Order.

3. DELIVERY

- 3.1 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree.
- 3.2 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by Force Majeure or the Customer's failure to provide the Supplier with adequate information relevant to the delivery of the Goods.
- 3.3 The Supplier will give the Customer not less than one Business Days' notice that the Goods are ready for delivery.
- 3.4 If, on the expiry of the period referred to in clause 3.3, the Supplier is unable to deliver the Goods to the location referred to in clause 3.1 due to any act or default of the Customer or to Force Majeure:
 - 3.4.1 the Supplier shall store the Goods at the expense of the Customer until delivery takes place;
 - 3.4.2 the Supplier shall notify the Customer of the location where the Goods are to be stored, any restrictions in terms of access and the estimated costs of storage (including insurance) and of re-delivery of the Goods;

- 3.4.3 the Supplier will be entitled to issue an invoice for the full price of the Goods from the day they are put into storage;
- 3.4.4 the Customer shall provide the Supplier with not less than ten Business Days' notice, stating that the Customer is ready to take delivery of the Goods at the location referred to in clause 3.1;
- 3.4.5 for the purposes of clause 9, the Goods will be deemed to have been delivered ex-works on the day they are put into storage;
- 3.4.6 the Customer will be liable to the Supplier for the reasonable costs of storage, insurance, redelivery and any additional administration or project management time, and the Supplier will be entitled to submit a further invoice or invoices for such costs; and
- 3.4.7 if, on the expiry of the period referred to in clause 3.4.4, the Supplier is still unable to deliver the Goods to the location referred to in clause 3.1 due to any act or default of the Customer or to Force Majeure, the provisions of clauses 3.4.1 to 3.4.6 shall continue to apply until the goods are delivered.

4. ACCEPTANCE

- 4.1 The Customer shall inspect the Goods on delivery and notify the Supplier no later than 5 Business Days after the date of delivery if the Customer discovers:
 - 4.1.1 any damage to the Goods or their packaging; or
 - 4.1.2 any defects in design, material and workmanship.
- 4.2 The Customer will be deemed to have accepted the Goods on the expiry of 5 Business Days from the date of delivery except for any damage or defects notified in accordance with clause 4.1.
- 4.3 The warranty given by the Supplier under clause 9 will only apply to the extent that any non-compliance could not have been discovered by the Customer using reasonable diligence in the inspection referred to in clause 4.1.

5. COMMISSIONING

- 5.1 Where the Contract includes commissioning by the Supplier, the Supplier shall notify the Customer of the date of completion of the commissioning, and completion of commissioning will be deemed for all the purposes of the Contract to have occurred on that date, but without prejudice to the Supplier's other liabilities under the Contract in respect of the commissioning.
- 5.2 The Customer shall not make any use of the Goods for commercial purposes unless and until the Supplier has issued a notice of completion of commissioning under clause 5.1.

6. WARRANTY AS TO QUALITY

- 6.1 The Supplier warrants that on delivery of the Goods or (where the Contract includes commissioning by the Supplier) on the completion of commissioning, whichever is the later, and for a period expiring 15 months from the date of delivery or 12 months from the date of completion of commissioning, whichever is the earlier, or such other period as may be specified in the Quotation, the Goods shall:
 - 6.1.1 conform in all material respects with their description in the Quotation and the Specification; and
 - 6.1.2 be free from material defects in design, material and workmanship.

- 6.2 The Supplier shall not be liable for any non-compliance with the warranty set out in clause 6.1 in any of the following cases:
- 6.2.1 where the Customer has failed to comply with the appropriate instructions as to storage, commissioning, installation, use, inspection and maintenance of the Goods;
 - 6.2.2 where the non-compliance arises from maltreatment, fire or firefighting equipment, the action of water, any interruption to or fluctuation in power supplies, lack of the correct environmental conditions for the operating of the Goods, or any other extraneous cause;
 - 6.2.3 where the Customer makes any further use of the relevant Goods after a defect has become apparent or, following a repair, before the Supplier has notified the Customer that it may use the relevant Goods;
 - 6.2.4 where the Goods are repaired, altered or rebuilt in any way by persons or companies other than by the Supplier or others authorised and approved by the Supplier; and
 - 6.2.5 where the Customer, having discovered or suspected an error in the Goods, neglects to notify the Supplier of the suspected defect, and continues to use the Goods.
- 6.3 Subject to clause 6.2, if some or all of the Goods do not comply with the warranty set out in clause 6.1 and the Customer gives notice of such non-compliance in writing to the Supplier not later than 12 months from the date of delivery, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full provided that:
- 6.3.1 the Supplier is given a reasonable opportunity of examining such Goods; and
 - 6.3.2 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier.
- 6.4 Except as provided in this 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.
- 6.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.6 Clauses 6.1 to 6.3 shall apply in relation to any repaired or replaced Goods supplied by the Supplier until the expiry of the period referred to in clause 6.1 or the expiry of a period of 6 months from delivery of the repaired or replaced Goods, whichever is the later.

7. TITLE AND RISK

- 7.1 The risk in the Goods shall pass to the Customer when they are delivered by the Supplier to the Customer's vehicle or his premises or otherwise to his order.
- 7.2 Where the Goods are delivered by the Supplier to the Customer's premises, delivery will be effected, and the risk in the Goods shall pass to the Customer, when the Goods are made available for unloading from the Supplier's vehicle or his agent's vehicle. The Customer will be responsible for any damage to the Goods in the process of unloading.
- 7.3 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods, in which case title to the Goods shall pass at the time of payment.
- 7.4 Until title to the Goods has passed to the Customer, the Customer shall:
- 7.4.1 not make any use of the Goods for commercial purposes;

- 7.4.2 store the Goods separately from all other goods held by the Customer so that they remain identifiable as the Supplier's property; and
 - 7.4.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full value from the date of delivery.
- 7.5 If the Customer breaches its obligations under clause 7.4, the Supplier may enter the Customer's premises and repossess the Goods and only redeliver them on payment of the Price plus the Customer's reasonable costs and expenses of storage and redelivery.

8. EXPORT CONTROL

- 8.1 The parties shall comply with all applicable export control laws and regulations.
- 8.2 The Customer acknowledges that all Goods supplied under the Contract are sold for use within the United Kingdom and are not intended for export.
- 8.3 If, notwithstanding clause 8.2, any Goods are exported outside the United Kingdom, the Customer shall immediately inform the Supplier in writing and shall be responsible for obtaining all necessary export licences and approvals at its own cost.
- 8.4 The [Customer/Buyer] shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014.
- 8.5 The [Customer/Buyer] shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.
- 8.6 Any violation of paragraph (1) or (2) shall constitute a material breach of this Agreement. This entitles [Schunk/Weiss] to seek appropriate remedies, including, but not limited to, to terminate this Agreement. If [Schunk/Weiss] has grounds for reasonable doubts about compliance with the obligation, [Schunk/Weiss] has the right to suspend the Agreement without consequences until the [Customer/Buyer] is able to disprove the doubts.
- 8.7 The [Customer/Buyer] shall immediately inform [Schunk/Weiss] about any problems in applying paragraph (1) or (2) and provide [Schunk/Weiss] all relevant information thereof without undue delay.

9. TERM OF THE CONTRACT

- 9.1 The Supplier shall provide the Services in accordance with the Contract during the Term.
- 9.2 After the expiry of the Initial Term the Term shall, unless agreed otherwise under clause 9.3, be automatically extended unless and until terminated by either party under clause 17.3.
- 9.3 The parties may agree in writing that the Term shall expire at the end of the Initial Term or that the Term shall automatically terminate on the expiry of a fixed extension.

10. CONDITION OF THE EQUIPMENT

- 10.1 As soon as practicable after the commencement of the Term, the Supplier shall carry out an inspection of the Equipment to determine whether it is in good working order.
- 10.2 If the inspection referred to in clause 10.1 shows the Equipment not to be in good working order, the Supplier may either:

- 10.2.1 issue a quotation for the work and materials that are necessary to procure that the Equipment is in good working order; or
 - 10.2.2 terminate the Contract under clause 17.2.
- 10.3 If the quotation referred to in clause 10.2.1 is not accepted by the Customer within 14 days of receipt, the Supplier may terminate the contract under clause 17.2.

11. SERVICES

- 11.1 The Contract does not include the provision of Services except to the extent expressly set out in the Quotation or the Specification.
- 11.2 To the extent that the Quotation or the Specification includes the provision of Services by the Supplier:
 - 11.2.1 the Supplier shall provide the Services using reasonable skill and care;
 - 11.2.2 the Customer shall provide all necessary facilities for the timely provision of the Services, including, as appropriate, site preparation and the making available of sufficient personnel for the purposes of commissioning and staff training;
 - 11.2.3 if the Supplier is unable to provide the Services in the manner contemplated by the Order due to any act or default of the Customer, the Customer will be liable to the Supplier for any additional costs, loss and expense incurred by the Supplier, and the Supplier will be entitled to submit a further invoice or invoices for such costs, loss and expense;
 - 11.2.4 if the Supplier is unable to provide the Services for a period exceeding three months due to any act or default of the Customer, the Supplier will no longer be obliged to provide them, but without affecting or diminishing the Customer's liability to pay for the Services; and
 - 11.2.5 if the Supplier is unable to provide the Services for a period exceeding six months due to Force Majeure, the Supplier will no longer be obliged to provide them, and the Seller will no longer be obliged to pay for them.

12. PERFORMANCE OF THE SERVICES

- 12.1 Unless agreed as a change to the Services in accordance with clause 13, the Services do not include any work that may be required to correct or remedy:
 - 12.1.1 any defect in the design or manufacture of the Equipment unless the Equipment was supplied by the Supplier;
 - 12.1.2 any use of the Equipment otherwise than in accordance with the manufacturer's guidance and good working practice;
 - 12.1.3 any attempted repair or maintenance undertaken by or on behalf of the Customer unless previously approved by the Supplier;
 - 12.1.4 any damage to the Equipment resulting from a failure of any associated structure, equipment or material or of any power supply used to operate the Equipment; or
 - 12.1.5 any neglect or misuse of the Equipment by the Customer.
- 12.2 The Supplier shall provide the Services using reasonable skill and care.

- 12.3 The Customer shall provide all necessary access and facilities for the timely provision of the Services.
- 12.4 If the Customer fails to make any payment due to the Supplier under the Contract by the final date for payment, the Supplier will not be obliged to provide any further Services unless and until such payment is made
- 12.5 If the Supplier is unable to provide the Services in the manner contemplated by the Order due to any act or default of the Customer, the Customer will be liable to the Supplier for any additional costs, loss and expense incurred by the Supplier, and the Supplier will be entitled to submit a further invoice or invoices for such costs, loss and expense.
- 12.6 If the Supplier is unable to provide the Services for a period exceeding three months due to any act or default of the Customer, the Supplier may terminate the Contract under clause 17.2.
- 12.7 If the Supplier is unable to provide the Services for a period exceeding three months due to Force Majeure, either party may terminate the Contract under clause 17.3.

13. CHANGES TO THE SUPPLY OF GOODS OR SERVICES

- 13.1 The parties may, without vitiating the Contract, agree in writing a change to the Goods or the Services to be supplied under the Contract.
- 13.2 Following such a change, an adjustment shall be made to the Price, and to any time period for the delivery of the Goods and, where applicable, for the provision of the Service. Such adjustment shall be as agreed between the parties or, in the absence of such agreement, a reasonable adjustment, having regard to the nature of the change, shall be made.

14. SPARE PARTS AND CONSUMABLES

- 14.1 If and as stated in the Quotation, the Supplier shall supply and fit such spare parts and consumables as are required to maintain the Equipment.
- 14.2 Unless the Quotation states that spare parts and consumables are to be supplied at the Supplier's cost, the prices stated in the Quotation for any spare parts or consumables used by the Supplier to maintain the Equipment will be added to the Price or, if no prices are stated in the Quotation, the fair and reasonable value of such spare parts or consumables will be added to the Price.
- 14.3 The Supplier warrants that for a period expiring 12 months from the date when they are fitted, the Spare Parts shall:
 - 14.3.1 conform in all material respects with their description in the Quotation and the Specification; and
 - 14.3.2 be free from material defects in design, material and workmanship
- 14.4 The Supplier shall not be liable for any non-compliance with the warranty set out in clause 14.3 in any of the following cases:
 - 14.4.1 where the non-compliance arises from maltreatment, fire or firefighting equipment, the action of water, any interruption to or fluctuation in power supplies, lack of the correct environmental conditions for the functioning of the Spare Parts, or any other extraneous cause;
 - 14.4.2 where the Customer makes any further use of the relevant Spare Parts after a defect has become apparent;

- 14.4.3 where the Spare Parts are repaired, altered or rebuilt in any way by persons or companies other than by the Supplier or others authorised and approved by the Supplier; and
- 14.4.4 where the Customer, having discovered or suspected an error in the Spare Parts, neglects to notify the Supplier of the suspected defect, and continues to use the Spare Parts.
- 14.5 If any Spare Parts do not comply with the warranty set out in clause 14.3 and the Customer gives notice of such non-compliance in writing to the Supplier within a reasonable time, the Supplier shall, at its option, repair or replace the defective Spare Parts, or refund the price of the defective Spare Parts.
- 14.6 Except as provided in this clause 7, the Supplier shall have no liability to the Customer in respect of the Spare Parts" failure to comply with the warranty set out in clause 14.3.
- 14.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

15. CORRECTIVE MAINTENANCE

Subject to clause 12.1, where the Services include corrective maintenance, but not otherwise, if the Customer notifies the Supplier that the Equipment is not functioning in good working order:

- 15.1 within the time stated in the Specification, or, if none, within a reasonable time, the Supplier shall attend the Premises to identify the cause of the malfunctioning; and
- 15.2 within the time stated in the Specification, or, if none, within a reasonable time, the Supplier shall undertake any adjustment or replacement of parts to restore the Equipment to good working order.

16. PRICE AND PAYMENT

- 16.1 Unless expressly stated otherwise in the Quotation, the Price does not include the costs of freight and transport, which will be payable by the Customer as an addition to the Price.
- 16.2 The Supplier will be entitled, by giving notice to the Customer at any time before delivery, to adjust the Price to take account of:
 - 16.2.1 any deviation by more than 2% in the exchange rate between the euro and the pound between the date of acceptance of the Order by the Supplier and the date of despatch of the goods by the Supplier;
 - 16.2.2 any increase in export and import duties;
- 16.3 The Price is exclusive of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate on receipt of a valid VAT invoice.
- 16.4 The Price shall become due in the instalments set out in the Quotation or, if none, shall become due in the following instalments:
 - 16.4.1 30% of the Price on acceptance of the Order by the Supplier;
 - 16.4.2 70% of the Price or, where the Contract includes Services, 65% of the Price on delivery of the Goods; and
 - 16.4.3 where the Contract includes Services, 5% of the Price on the later of delivery of the Goods or completion of the Services.

- 16.5 The Supplier may submit an invoice to the Customer for any instalment of the Price or any other payment which becomes due under the Contract, specifying the sum that the Supplier considers to be due on the payment due date and the basis on which it has been calculated. The payment due date for each such payment shall be the date of the Supplier's invoice.
- 16.6 Within 5 days of each payment due date the Customer may give to the Supplier a notice specifying the sum that the Customer considers to be due on the payment due date and the basis on which it has been calculated.
- 16.7 Subject to clause 16.8, the Customer shall on or before the final date for payment stated in clause 16.9 pay to the Supplier, in full and in cleared funds, the amount specified in the Customer's notice in accordance with clause 16.6 or, if no such notice is given, the amount specified in the Supplier's invoice in accordance with clause 16.4.
- 16.8 Not later than five Business Days before the final date for payment stated in clause 16.9, the Customer may give to the Supplier a notice of its intention to pay less than the amount which becomes due under clause 16.7, specifying the sum that the Customer considers to be due on the date the notice is given and the basis on which it has been calculated. In such a case the amount due will be the amount specified in the Customer's notice under clause 16.8.
- 16.9 The final date for payment of any amount which becomes due is 30 days from the payment due date.
- 16.10 Except as provided in clause 16.8, the Customer may not pay less than the amount which becomes due under clause 16.7, whether on account of any right of abatement, set-off, counterclaim or otherwise.
- 16.11 If the Customer fails to make any payment due to the Supplier under the Contract by the final date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount.

17. SUSPENSION AND TERMINATION

- 17.1 Without limiting its other rights or remedies, if the Customer fails to pay any amount due under the Contract by the final date for payment, the Supplier may, by giving seven days' prior notice to the Customer, suspend the performance of its obligations under the Contract. In such a case, any time period for the performance of the Supplier's obligations under the Contract will be extended by a period corresponding to the length of the extension, and the Customer will be liable to the Supplier for any additional costs, loss and expense incurred by the Supplier as a result of the suspension.
- 17.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer:
- 17.2.1 If the Customer fails to pay any amount due under the Contract by the final date for payment;
- 17.2.2 If the Customer becomes insolvent within the meaning of section 113 of the Housing Grants, Construction and Regeneration Act 1996;
- 17.2.3 in the circumstances referred to in clauses 10.2.2, 10.3 and 12.6.
- 17.2.4 the Supplier remains unable to deliver the Goods due to any act or default of the Customer for a period exceeding 6 months from the expiry of the period referred to in clause 4.3.
- 17.3 Either party may, by giving one month's prior notice to the other, terminate a Service Contract:

- 17.3.1 on the expiry of the Initial Term or any agreed extension of the Term; or
- 17.3.2 in the circumstances referred to in clause 12.6
- 17.4 On termination of the Contract under clause 17.2 the Customer shall immediately pay to the Supplier the whole of the Price and any other sums for which the Customer is liable under the Contract insofar as they have not already been paid,
 - 17.4.1 less any sums referred to in clauses 17.5.2 and 17.5.3.
 - 17.4.2 less the reasonable cost which the Supplier would have incurred in providing the Services after the date of termination, but does not incur as a result of the termination.
- 17.5 Following any termination of the Contract under clause 17.2, to the extent that the Goods have not been delivered to the Customer before the date of termination:
 - 17.5.1 the Supplier will be under no further obligation to supply them;
 - 17.5.2 where the Supplier, without being obliged to do so, is able to sell or put the Goods to alternative use, it shall give credit to the Customer for to sums realised as a result of such sale or use, less any administrative costs incurred in respect of such sale or use; and
 - 17.5.3 where the Goods have not been brought into existence, the Supplier shall give credit to the Customer for any amounts which the Supplier would have incurred in supplying the Goods but has not incurred due to the termination.
- 17.6 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract that existed at or before the date of termination.

18. INTELLECTUAL PROPERTY

- 18.1 The Supplier shall remain the owner of the Intellectual Property Rights in the Documentation, but the Supplier grants to the Customer an exclusive, royalty-free licence to use the Documentation in connection with the use of the Equipment for the purposes of the Customer's business.
- 18.2 The Customer shall not disclose the Documentation to any third party or use or permit the Documentation to be used for any purpose other than that permitted by clause 18.1.
- 18.3 The Customer shall not, without the express written approval of the Supplier, modify or alter the Documentation or permit the Documentation to be modified or altered.
- 18.4 If the Customer breaches clause 18.2 or clause 18.3, the licence granted by clause 18.1 shall be automatically revoked, and the Customer shall immediately cease to make any further use of the Documentation.

19. EMPLOYEES

- 19.1 Except where the Supplier has expressly agreed in writing to employ persons previously employed by the Customer:
 - 19.1.1 the Customer warrants that the Contract and the carrying out of the Services by the Supplier will not give rise to a Relevant Transfer; and
 - 19.1.2 the Customer shall indemnify the Supplier against all liabilities, costs, expenses and losses incurred by the Supplier as a result of any Relevant Transfer.

19.2 Where the Supplier has expressly agreed in writing to employ any person previously employed by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses and losses incurred by the Supplier as a result of any matter occurring in respect of such person before the date of any Relevant Transfer.

20. CONFIDENTIALITY

20.1 Except as permitted by clause 20.2, neither party shall disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party.

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

20.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract; and

20.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

20.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

20.4 Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 20.

21. LIMITATION OF LIABILITY

Except for death or personal injury caused by the negligence of the Supplier, its employees, agents or subcontractors, and for any other matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability:

21.1 the Supplier shall have no liability whatever to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

21.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the Price.

22. FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from Force Majeure. If the period of delay or non-performance continues for more than 3 months, either party may terminate the Contract by giving not less than 10 Business Days' written notice to the other party.

23. ADJUDICATION

23.1 Either party may at any time give notice in writing to the other of its intention to refer any dispute or difference arising under the Contract to adjudication in accordance with this clause 23.

23.2 The dispute or difference will be determined by an adjudicator nominated on the application of the referring party by the Chartered Institute of Arbitrators.

23.3 The adjudication will be conducted in accordance with the Scheme for Construction Contracts, SI 1998 No. 649, but subject to the provisions of clause 23.

- 23.4 The adjudicator will determine the matters in dispute in accordance with the law and the terms of the Contract, applying the normal standards of proof applicable to civil disputes.
- 23.5 As soon as possible after reaching his decision, the adjudicator will provide each party with a copy of his decision, supported by reasons.
- 23.6 The adjudication and all matters arising in the course of the adjudication, must be kept confidential by the parties, except as may be properly required for the purpose of obtaining legal or professional advice or for the purpose of any subsequent court or arbitration proceedings.
- 23.7 In any reference to adjudication each party will bear its own costs.
- 23.8 Clause 23 will apply whether or not the Contract is a “construction contract” within the meaning of Part II of the Housing Grants, Construction and Regeneration Act 1996.

24. ASSIGNMENT AND OTHER DEALINGS

- 24.1 The Supplier may at any time assign, transfer, mortgage, charge or deal in any other manner with the benefit of any or all monies due or to become due under the Contract.
- 24.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

25. ENTIRE AGREEMENT

- 25.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 25.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the documents forming the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the documents forming the Contract.

26. VARIATION

No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives). A change to the supply in accordance with clause 13 is not a variation of the Contract.

27. SEVERANCE

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

28. NOTICES

- 28.1 Any notice or other communication given under or in connection with the Contract must be in writing delivered personally or sent by first class post to the relevant party’s registered office or its principal place of business or to such other address as that party may have specified to the other party in writing. Any notice sent by post is deemed to have been duly given on the third business day following the date on which it was sent by post.

- 28.2 Any notice sent by e-mail to the Supplier must be sent to sales@weiss-technik.com or such other e-mail address as the Supplier may have notified to the Customer for the purpose. Any notice sent by e-mail to the Customer must be sent to such e-mail address as the Customer may have notified to the Supplier for the purpose.
- 28.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

29. RECKONING OF PERIODS OF TIME

- 29.1 Where an act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.
- 29.2 Where the period would include Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England and Wales, that day is excluded.

30. LANGUAGE

The language of the Contract is English unless the parties agree otherwise in writing.

31. THIRD PARTY RIGHTS

Except as permitted by clause 24, no one other than a party to the Contract shall have any right to enforce any of its terms.

32. GOVERNING LAW AND JURISDICTION

- 32.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 32.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.