# General Terms of Use for Remote Data Transmission

**For the Companies:**        **Weiss Technik GmbH**
                            **Weiss Klimatechnik GmbH**
                            **Weiss Pharmatechnik GmbH**

## 1.        Scope of application/contractual partner

1.1.        The following General Terms and Conditions (GTC) apply to the use of the software solution for remote data transmission (hereinafter referred to as the "Product"). The contractual partner of the User is the company named in the service contract for remote data transmission (hereinafter referred to as the "Provider"). Deviating conditions of the User or third parties are not recognised unless the Provider expressly agrees to the validity of these in writing.

1.2.        Unless otherwise agreed, the GTC in the notified version shall also apply as a framework agreement for similar future contracts without the Provider having to refer to them separately.

1.3.        The product offering of the Provider is exclusively aimed at users who are entrepreneurs. "Entrepreneurs" within the meaning of these GTCs are natural or legal persons or partnerships with legal capacity who, at the time of conclusion of the contract, are acting in the exercise of their commercial or self-employed professional activity.

1.4.        The User may assign its rights under this contract to third parties only with the prior consent of the Provider; Section 354 a HGB shall remain unaffected.

1.5.        The original contract was written in German. This is a convenience translation only. The German language version is authoritative.

1.6.        The current GTC can be accessed, saved, and printed out at any time at https://www.weiss-technik.com/en/multimedia-center-downloads/terms-conditions-and-guidelines/weiss-technik.

1.7.        In the event of contradictions between these GTC and agreements from individual contracts that have already been concluded, the provisions made in individual contracts shall always take precedence over these GTC.

## 2.        Subject of the Contract

2.1.        The subject of the contract is the provision of a software system for the control and monitoring of system technology. Details on the scope of functions and the necessary system environment (hardware and software) can be found in the respective offer and/or individual contract.

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2.2.    The product is a chargeable software solution based on data collected via system sensors and actuators for the purpose of controlling and monitoring of the User's own system technology.

2.3.    The use of the Product requires sensors and actuators from the Provider. These are not the subject of the contract and must be purchased separately – unless they are installed as standard in the systems of the Provider. The same applies with regard to interfaces for integration into the User's own systems as well as the installation of the software.

2.4.    The Provider reserves the right to modify the scope of services of the software to the extent reasonable. The User will be informed of any further changes.

## 3.    Conclusion of contract/registration

3.1.    Subject to a separate provision, the contract between the Provider and the User shall come into effect upon receipt of an order confirmation from the Provider or upon conclusion of a service contract at the latest upon provision of the service by the Provider. Contract offers of the Provider are always subject to change.

## 4.    Rights and obligations of the Provider

4.1.    The Provider shall provide the User with an IT infrastructure for a fee; the specific content and scope of this is set out in the functional description in the respective offer or the service contract. The service of the Provider shall also include the computing power required for the use as well as the storage and data processing space. The establishment and/or maintenance of the data connection between the transfer point (router output of the data centre) and the IT system used by the User is not owed under the Agreement. The product is considered to be ready for operation with configuration and commissioning.

4.2.    The Provider shall provide, maintain, and service the software and technical server landscape necessary for the provision of the services. In this respect, the Provider is entitled to use third party companies as subcontractors. Insofar as the Provider processes personal data on behalf of third parties, details of the third party companies involved can be found in the order processing contract to be concluded under the point "approved subcontractors".

4.3.    The Provider shall back up the data inventory of the servers on a daily basis using an up-to-date data backup medium. There is no contractual obligation to archive the backup media. The User shall have no claim whatsoever to the surrender of the data backup medium.

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4.4.     During the existing contractual relationship, the Provider is entitled to contact the User for quality assurance reasons and to use stored contact data for this purpose.

4.5.     The Provider is entitled to irretrievably delete content that violates the terms of use. In this respect, there is no claim to the restoration of this content.

4.6.     If the User violates the obligations applicable to them under Item 5 of these Terms and Conditions, the Provider may

a) modify or delete content
b) terminate the contract of use without notice
c) limit the duration of the user account or block it permanently.

A final blocking for an unlimited period of time is possible in particular if the User causes considerable damage to the Provider or third parties or if there is another important reason that makes a contractual relationship unreasonable.

4.7.     The Provider is entitled to provide all support and services as well as troubleshooting via remote access. If the User refuses remote access, the Provider shall be released from providing care and maintenance work for the duration of the refusal. This shall not apply if remote access is unreasonable for the User. The User shall promptly notify the Provider of the reasons for unreasonableness.

## 5.     Rights and obligations of the User

5.1.     The User shall assure that the information that has been provided is correct and complete. The User shall promptly inform the Provider of any changes to the data necessary for the performance of the contract. Furthermore, the User shall use the IT infrastructure and software only to the contractually agreed extent and fulfil all obligations necessary for the performance of this contract in a timely, complete, and technically correct manner. Furthermore, the User is responsible for ensuring that the software is not misused, in particular that it is not copied.

5.2.     The User shall protect the usage and access authorisations as well as identification and authentication safeguards assigned to them or to the authorised other users from access by third parties and shall not pass them on to unauthorised users. As soon as the User becomes aware that the access authorisation has been illegally obtained by a third party, they are obliged to promptly notify the Provider.

5.3.     The User shall refrain from the unauthorised retrieval of information or data by themselves or by unauthorised third parties or from interfering or allowing interference with programmes operated by the Provider or from unauthorised intrusion into the data networks of the Provider.

5.4.     The User is obliged

a) not to perform any actions that violate applicable law or the rights of third parties

b) not to perform any actions that could block, burden, or impair the proper functioning or appearance of the software (e.g. damaging source codes or other damaging programming instructions)

c) not to use legally protected content without being entitled to do so

(d) to obtain necessary consents from data subjects if and to the extent that personal data are processed and no legal ground for authorisation applies

e) not to process special categories of data within the meaning of Article 9 of the GDPR.

5.5.     The User must ensure that the necessary hardware and software – in particular also for Internet use – as well as the necessary Internet access are available. The User shall ensure that common Internet browsers are used and kept up to date. The provision of these prerequisites as well as the telecommunication services of the transmission services from the server to the devices used by the User are not the subject of this contract but rather are the responsibility of the User.

5.6.     The User is obliged to take reasonable precautions for data backup according to due diligence so that the data from the files held in machine-readable form can be reproduced with reasonable effort.

5.7.     If the User violates one or more of their obligations or endangers the security, integrity, or availability of networks or other servers as well as software and data of third parties or the Provider by means of their IT systems or is suspected of doing so because of objective circumstances, the Provider is entitled to temporarily block access to the services provided to the User. This also applies in the event that the User is not responsible for the harmful action or condition (e.g. if the IT environment of the User is manipulated and used by third parties). An intentional act by the User entitles the Provider to terminate the contractual relationship without notice and without prior warning. The assertion of claims for damages shall remain unaffected.

5.8.     If the Provider is entitled to provide services by remote maintenance, the User shall create the necessary technical conditions for this at their own expense and ensure the operational readiness of the remote access.

## 6.    Granting of Rights

6.1.    The User and the users (employees) authorised by the User shall be granted the non-exclusive right to access the software by means of telecommunications and to use the functionalities associated with the software in accordance with these regulations. With regard to the provision of the Product against payment, the use is limited in time to the respective term of the concluded contract against payment and is also subject to complete and timely payment. The User does not receive any further rights, in particular to software applications, source codes, or the operating software. The User is not entitled to use the software beyond the use permitted under the terms of this agreement. In particular, the User is not permitted to reproduce, sell, or temporarily transfer, rent, or lend the software or parts thereof. Furthermore, the User is not entitled to modify, decompile, disassemble, reverse engineer, or otherwise determine the source code or parts thereof or to create derivative works thereof. However, the provisions of Sections 69 d, 69 e of the German Copyright Act (UrhG) shall remain unaffected. The rights of use granted shall also apply to updates and upgrades made available during the term of the contract unless separate licence provisions are made. In all other respects, the licence conditions of the respective software manufacturer to which the Provider refers within the scope of its individual contracts shall apply.

6.2.    All rights to services, data, works, and work results generated by means of the software of the Provider (hereinafter referred to as evaluation data) shall, to the extent permissible, pass into the ownership of the Provider at the time of their creation or shall remain with the Provider.

6.3.    For the purpose of improving the products and services, the User also grants the Provider the simple, irrevocable right, unlimited in time, space, and content, to analyse, evaluate, store, process, and reproduce evaluation data of the User.

6.4.    The User irrevocably grants the Provider its simple copyright rights of use and distribution, unlimited in terms of time, space, and content, to data and content processed via the software for all types of use possible under Sections 15 to 24 UrhG at the time they arise. The User waives a copyright designation within the meaning of Section 13 UrhG.

6.5.    The Provider is entitled to make the data available to indirectly or directly affiliated companies for the aforementioned purposes.

## 7.    Warranty / Liability

7.1.    The warranty of the Provider for chargeable software does not extend to such damages and/or faults that are caused by the User culpably violating provisions of this Agreement. Upon request, the User shall support the Provider to the best of their ability in the

determination and elimination of errors and – insofar as necessary – also grant access to production facilities.

7.2.  If there is a defect in the remunerated services of the Provider, the Provider shall, at their discretion, either remedy the defect within a reasonable period of time or provide the service again free of defects (overall subsequent performance).

7.3.  The Provider shall be liable for damages or reimbursement of futile expenses without limitation and in accordance with the statutory provisions

- in the event of intent or gross negligence
- in the event of injury to life, limb, or health
- in accordance with the provisions of the Product Liability Act
- to the extent of any warranty assumed by the Provider
- in the event of fraudulent intent on the part of the Provider

The same applies in the event of default on the part of the Provider for claims to interest on arrears to the lump sum for default in accordance with Section 288, para. 5 of the German Civil Code (BGB) as well as to compensation for the damage caused by default, which is justified in the costs of legal action.

7.4.  In the event of a slightly negligent breach of an obligation that is essential for achieving the purpose of the contract (cardinal obligation), the liability of the Provider shall be limited to the amount of the damage that is foreseeable and typical according to the nature of the transaction in question.

7.5.  Liability for loss of data shall be limited to the typical recovery costs that would have been incurred if back-up copies had been made regularly and according to the risk unless one of the conditions set out in Sections 7.1.3 and 7.1.4 applies.

7.6.  The Provider shall not be liable for the functioning of the telecommunications connection (telephone/ISDN/DSL lines) to its server in the event of power failures or failures of servers that are not within the sphere of influence of the Provider. Furthermore, the Provider shall not be liable for damage caused by force majeure or comparable events. Comparable events include, in particular, strikes, official orders, pandemics, epidemics, and the failure of telecommunications networks or gateways of other operators as well as disruptions in the area of other telecommunications or service providers.

7.7.  The strict liability of the Provider for damages (Section 536 a BGB) for defects existing at the time of conclusion of the contract is excluded. Likewise, the liability of Section 536 a, para. 2 BGB (right of self-remedy of the tenant) is excluded.  Items 7.1.3. and 7.1.4. of these GTC shall remain unaffected.

7.8.    The Provider shall have no further liability.

7.9.    The above limitation of liability shall also apply to the personal liability of the employees, representatives, organs, and vicarious agents of the Provider.

## 8.    Care and Maintenance

8.1.    The Provider is entitled to carry out necessary care and maintenance work and to discontinue or restrict the provision of the application for this reason (planned downtime).

8.2.    The Provider is also entitled to temporarily restrict or discontinue services insofar as this is necessary for the assurance of public safety, the security of network operations, the maintenance of network integrity, the interoperability of the service, the protection of data, the control of spam and computer viruses, and/or the performance operationally or technically necessary work.

## 9.    Remuneration/terms of payment

9.1.    Unless otherwise agreed, prices are quoted in EUR net plus the statutory VAT.

9.2.    Unless otherwise agreed in individual contracts, the remuneration shall be due in advance for the first time on the day on which the Product is available for use and later on the 3rd day of each calendar month.

9.3.    Invoices may also be created and sent electronically. The User hereby agrees to this.

9.4.    If the User is in arrears with payment of at least two months' remuneration, the Provider is entitled, after unsuccessful reminder, to temporarily block access to the Product after warning by email until payment has been made in full. The Provider shall notify the User of the date for the temporary blocking as part of the threat. The temporary blocking of services does not affect the User's obligation to pay.

9.5.    Unless otherwise agreed, invoices are payable within 14 days of receipt of the invoice.

## 10.    Data collection/secrecy

10.1.    Further information on data collection by the Provider can be found in the privacy policy of the Provider at https://www.schunk-group.com/en/legal/data-protection-guidelines. The Provider has a data protection officer. If personal data are processed, the parties shall conclude a commission processing agreement within the meaning of Article 28 GDPR.

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10.2. If the User collects, processes, or uses personal data themselves or through the Provider, they warrant that they are entitled to do so according to the applicable provisions and, in the event of a breach, indemnify the Provider against claims by third parties upon first request.

10.3. Each contracting party undertakes to treat confidential information of which it has become aware as strictly confidential and to use it only in connection with the contractually agreed purpose. Confidential information is all information disclosed to the respective party in connection with the contractually owed performance (including manufacturing processes, expertise, inventions, business relationships, and digitally embodied information (data)). Confidential information includes, in particular, business secrets within the meaning of the Law on the Protection of Trade Secrets (GeschGehG) and the disclosure of which is not permitted under Section 3, para. 2 GeschGehG as well as other information that is the subject of technical and organisational secrecy measures and is marked as confidential or is to be regarded as confidential according to the nature of the information or the circumstances of the transmission.

## 11. Contract duration/termination/deletion of the account

11.1. Regulations on the duration of the contract and periods of notice for contracts against payment can be found in the respective individual contracts.

11.2. The right to terminate the contract in accordance with Section 543, para. 2, No. 1 BGB for failure to provide use in accordance with the contract is permissible only if the Provider has been given sufficient opportunity to remedy the defect and this has failed. The right to extraordinary termination for good cause shall remain unaffected.

11.3. Technical data will no longer be available to the User after termination of the contract. The Provider is not obliged to archive data after termination of the contract.

## 12. Subject to change

The current version of these terms of use can be viewed and saved at https://www.weiss-technik.com/en/multimedia-center-downloads/terms-conditions-and-guidelines/weiss-technik. The Provider reserves the right to unilaterally amend these terms of use – with the exception of the main service obligations owed – if this appears objectively justified. Changes are objectively justified in the event of a change in the legal or statutory situation (e.g. if case law declares a clause to be invalid) or if the equivalence relationship existing at the time of conclusion of the contract is disturbed to a not insignificant extent because of unforeseeable changes that the Provider does not cause and on which it also has no influence. The prerequisite for a change is always that it is reasonable for the User.

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Insofar as the User uses the software after being notified of changes to the terms of use, this shall be understood as acceptance of the amended terms of use. The date of the last revision of these terms of use is at the end of the document.

## 13. Final provisions

13.1. The entire contractual relationship between the Provider and the User shall be governed by German law, excluding the UN Convention on Contracts for the International Sale of Goods, unless otherwise agreed individually.

13.2. The place of performance for all claims against the Provider is the registered office of the Provider.

13.3. The place of jurisdiction shall be deemed to be Gießen if the contracting parties are merchants, legal entities under public law, or special funds under public law. However, the Provider is also entitled to sue the User at their general place of jurisdiction. This shall not apply if mandatory statutory provisions within the meaning of Articles 24, 25, or 26 of the Brussels I Regulation as amended on 12 December 2012 conflict therewith.

13.4. Should a provision be wholly or partially invalid or later lose its legal validity, this shall not affect the validity of the remaining provisions. If the contract contains a loophole, the same shall apply.