

International Terms and Conditions for Services

1. General

- 1.1 The scope, quantity, quality, functionality and technical specifications of any goods, equipment, documentation, software, work or services to be provided by WEISS (collectively referred to as "**Services**") are exclusively defined as the case may be either in the order confirmation of WEISS or the Contract signed by the Customer and WEISS.
- 1.2 The offer letter from WEISS together with these terms and conditions and those other documents expressly identified in the offer letter as forming part of the contract shall together constitute the entire agreement between the parties (the "**Contract**"). Any terms and conditions of the Customer shall apply only where expressly accepted in writing by WEISS.
- 1.3 Works which are not explicitly described in the Contract are not included in the scope of the Services. Unless explicitly agreed otherwise, operating materials, consumables, spare and wearing parts shall not be included in the remuneration for the Services.

2. Right of Use

- 2.1 Except as expressly otherwise agreed in this Contract, as between the parties all intellectual and industrial property rights in the Services, in all documents provided by WEISS in connection with this Contract (the "**Documents**") and in all software, hardware, knowhow ("**IPR**") and other things provided with or as part of the Services and the Documents shall be the exclusive property of and vest in WEISS. The Customer shall not reverse engineer, decompile, or reproduce the Services or goods delivered in connection with such Services or parts thereof and shall ensure that third parties will not reverse engineer, decompile, or reproduce the Services or goods delivered in connection with such Services or parts thereof in each case to the extent mandatory law does not prohibit such limitation.
- 2.2 The Customer may use the Documents unmodified and to the extent necessary for operation and routine maintenance of the serviced objects by the Customer's own personnel, unless explicitly agreed otherwise in writing by WEISS.
- 2.3 If the Services include WEISS software, such software is licensed under the license terms contained in the software documentation, the software itself or in the attached license terms (in each case the "**applicable license conditions**"), which shall prevail over this Clause 2. The software is issued in object code without source codes. The license hereunder only grants the non-exclusive right to use the software as described in the applicable license conditions or, if there are no applicable license terms, for the purpose of operation and routine maintenance of the Services.
- 2.4 The Services may include third party software. Insofar as specific license terms of the third party licensor apply, WEISS will provide such license terms together with the Services. The Customer shall comply with such third party license terms.
- 2.5 Insofar as the software contains Open Source Software ("**OSS**"), WEISS will provide the applicable OSS license terms together with the Services. The OSS license terms shall prevail over this Contract. Details regarding any third-party software and OSS contained in the Services are available in the software documentation (e.g. README_OSS).
- 2.6 The rights granted in Clause 2 shall be transferable to a third party only together with the transfer of ownership of all of the serviced objects to that third party.
- 2.7 Without prejudice to the Customer's intellectual property rights and subject to compliance with applicable law, WEISS and its Affiliates may for its own business purposes collect, use, modify, and copy any data received in connection with the Services.

3. Prices and Terms of Payment

- 3.1 Unless agreed otherwise in writing, prices exclude insurance and any other additional charges (such as inspections by third parties). The price payable by the Customer under this Contract shall be referred to in this Contract as the “**Contract Price**”.
- 3.2 The Customer shall bear all incidental costs, e.g. travel expenses, daily allowances, in addition to the Contract Price.
- 3.3 The Contract Price is exclusive of any indirect taxes (such as property, license, sales, use, value added or similar tax) and/or any duties, customs or public charges related to the Contract. The Customer agrees pay to or reimburse WEISS for any taxes, customs, duties or other public charges levied on WEISS in relation to the Services. All payments shall be made to WEISS' bank account without deduction (e.g. deduction of withholding tax) within 30 days after issuance of the invoice. If the Customer is required to make a deduction by law, the sum payable shall be increased so that WEISS receives a net amount equal to the amount it would have received without such deduction. The Customer shall provide to WEISS tax receipts from the relevant tax authorities in connection with the payments in due course.
- 3.4 Without prejudice to any other rights it may have, WEISS may charge interest at 9 percentage points above the current base lending rate of the European Central Bank on any overdue payments.
- 3.5 Each party must pay all sums that it owes to the other party under this Contract free and clear without any set-off, counterclaim, deduction or withholding of any kind, save as agreed otherwise in writing or as may be required by law.

4. Rights and Obligations of WEISS

- 4.1 WEISS begins with the Services within a reasonable period of time and performs the Services during its normal service hours (Monday to Friday, 8.00 a.m. to 5.00 p.m. except for national and/or local holidays) or during the specifically agreed service hours, unless otherwise agreed in writing or stated in the Contract.
- 4.2 WEISS reserves the right to execute the Services using a different, but technically equivalent method to that set out in the Contract, provided that any such modification does not materially change the agreed characteristics/specifications of the Services to the detriment of the Customer.
- 4.3 WEISS is entitled to subcontract Services to subcontractors. If WEISS commissions subcontractors, WEISS remains responsible for these subcontractors within the scope of the statutory regulations.

Unless otherwise stated in this Contract, WEISS shall not have any responsibility for Customer's scheduling, planning, project-management, quality programs, health, safety, security or environmental management and for any resulting time extension or cost-overrun with the Services.

WEISS shall be responsible for obtaining any work permits required by its personnel. WEISS shall only use suitably qualified and experienced personnel and shall have the right to replace any of its personnel at any time with equivalent personnel.

- 4.4 Upon WEISS' request, the Customer shall inform the WEISS personnel in time of all their obligations towards the local authorities (such as police registration, etc.) and shall assist such personnel in their dealings with the local authorities. Customer shall provide WEISS all support reasonably required in the procurement of entry, residence and working permits.

Any impossibility or delay in obtaining the necessary entry residence or working permits which is not solely attributable to WEISS shall not constitute a breach of WEISS' contractual obligations and WEISS shall be entitled to an adjustment in deadlines for performance.

- 4.5 To the extent the Services include supervision, WEISS' only obligation is to provide correct instructions and it shall not be liable for the performance of third parties or Customer's personnel.

5. Delay

- 5.1 Any agreed dates for performance of the Services or any part of them shall be extended by a reasonable period of time if and to the extent that WEISS is delayed or impeded in the performance of its obligations by any third party or by the failure of the Customer to perform its obligations. This includes without limitation the delivery of required documents (such as necessary permits and approvals), timely performance of any work to be undertaken by the Customer or any third party appointed by the Customer, and compliance with the terms of payment.
- 5.2 If WEISS does not meet any binding dates solely due to the fault of WEISS, the Customer shall be entitled to liquidated damages amounting to 0,5% of the price of the delayed part of the Services per complete week of delay, in which the Customer suffered loss as a result of such delay. Liquidated damages payable in case of delay shall be limited to 5 % of the price of the delayed part of the Services.
- If Services are provided on basis of a flat rate fee, the value of the service fee applicable to one month shall be used for calculating such liquidated damages and the maximum amount of liquidated damages.
- 5.3 Any other liability of WEISS and any claims, rights, and remedies of the Customer in case of delay except as expressly stipulated in this Clause 5 and in Clause 16.2 a) below shall be excluded, to the extent permissible by law.
- 5.4 If the Customer, the Customer's contractors, or any other third party put in charge by the Customer causes a delay to the provision of the Services, the Customer shall reimburse WEISS all additional costs and expenses incurred due to such delay.

6. Force Majeure

- 6.1 A "**Force Majeure Event**" means any event which is beyond the reasonable control of a party or its subcontractors, which could not have been prevented by good industry practice and which results in a party (the "**Affected Party**") being unable to perform or being delayed in performing in whole or in part its obligations under this Contract. Force Majeure Events include, among others, acts of war, riot, civil commotion, terrorism, natural disaster, epidemic, strikes, lock-outs, attacks on WEISS' IT systems (such as virus attacks, hacker attacks), non-issuance of licenses, permits or approvals, or any other act or failure to act by any public authority, or embargos or any other trade sanctions.
- 6.2 If a Force Majeure Event occurs, the Affected Party will be deemed not to be in breach of its obligations under the Contract for so long as and to the extent necessary to overcome the effects of the Force Majeure Event.
- 6.3 The Affected Party shall notify the other party as soon as reasonably practicable of the Force Majeure Event and of its affected obligations.
- 6.4 If one or more Force Majeure Events and their effect last for a period of 180 days in aggregate either party may terminate the Contract by giving to the other a written notice of termination with regard to the part of the Services not yet provided. With regard to the part of the Services not performed, WEISS shall be entitled to reimbursement from the Customer of its unavoidable costs related to such termination.

7. Obligations of the Customer

- 7.1 The Customer shall apply for and obtain all necessary licenses, permits and approvals required for commissioning, acceptance and use of the Services.
- 7.2 The Customer shall do all that is required for WEISS to commence the performance of the Services in time and to carry out the Services in an uninterrupted manner. In particular, the Customer shall at its cost:

- (i) support WEISS in problem analysis to the extent necessary, e.g. providing incident reports and error messages.
- (ii) Coordinate third parties commissioned by the Customer.
- (iii) provide up to date documents, drawings of and information about the serviced objects before commencement of the Services and without specific request by WEISS. WEISS shall be entitled to use the Customer's documents for the provision of the Services and make them available to WEISS' subcontractors providing Services.
- (iv) provide current data back-up of the current software version, including the stored data and the system parameters on an appropriate data carrier as well as the provision of a copy of the respective data carrier. Execution of data retrieval if necessary.
- (v) obtain of any permits, approvals, consents or authorizations from any relevant authority, except to the extent that these can only be obtained by WEISS.
- (vi) bear costs related to the transportation of the serviced objects to WEISS if the Services are conducted at WEISS' premises, the Customer.

7.3 If and to the extent the Services will be performed at the Customer's premises, the Customer shall at its cost additionally:

- (i) provide unrestricted access to the serviced objects, timely performance of all preparatory work and establishment of the required operating conditions and infrastructural requirements necessary for the performance of the Services (e.g. internet access, electricity and telephone).
- (ii) provide briefings and trainings, including provision of information regarding relevant hazards for humans and machines resulting from the provision of Services, as well as regarding the applicable safety regulations of Customer.
- (iii) ensure and monitor that the serviced objects are in a safe condition so that there are no risks for humans or machines during the performance of the Services. The Customer shall ensure that the serviced objects are disconnected from the mains during the performance of the Services. The switching authorization for the serviced objects and the respective responsibility always remains with the Customer. The same applies to the implementation of other required operational and legal safety measures, as well as to the provision of (special) protective clothing and devices as well as the provision of security and escort personnel to escort the service technicians in accordance with the requirements of work safety, and upon WEISS' request, the provision of a second person required for accident prevention.
- (iv) provide suitably qualified personnel during the performance of the Services with the necessary experience and know-how to operate the serviced objects. Furthermore, the personnel must be able to make and implement any necessary decisions concerning the Services. Unqualified personnel may be rejected by WEISS and shall be replaced at the Customer's cost.
- (v) provide technical resources and auxiliary equipment (e.g. ladders, scaffolding, lifting devices, special tools as well as on-site transportation) with the required operating personnel as well as the operating and production resources and materials and consumables necessary for the performance of the Services.
- (vi) provide power and water supplies together with the necessary connections up to the required location on site as well as heating and general lighting and, if necessary, air-conditioning and ventilation.
- (vii) be responsible for adequate safety precautions on site against theft, damage, destruction and other adverse factors. Material lost or damaged shall be replaced or repaired at the Customer's cost.

7.4 If Services cannot be performed in the required manner or can only be performed upon delay on grounds for which WEISS is not responsible, particularly because the Customer has not performed or timely performed its general or special duties of cooperation or the Customer has culpably missed an agreed deadline, WEISS may separately charge to the Customer the additional expenses incurred, including all waiting periods. Agreed-upon dates and deadlines shall be prolonged to a reasonable extent.

7.5 The Customer acknowledges that Services on site may generate and/or uncover hazardous waste which is subject to specific legal or regulatory requirements under applicable laws "hazardous materials" or "hazardous waste".

If WEISS discovers hazardous materials like asbestos, environmentally hazardous substances, geological or geothermal conditions, archaeological findings or any other local conditions which adversely affect the Services, the Customer shall be liable for any required remediation and also reimburse WEISS for any additional costs and expenses. WEISS shall also be entitled to a reasonable

extension of time. The Customer shall, at its expense, provide containers complying with all legal and regulatory requirements and shall handle, store and dispose of hazardous waste in accordance with the applicable laws.

7.6 The Customer shall be responsible for the collection and disposal of the waste electrical and electronic equipment and batteries at the end of their use phase at its own expense according to the law at the place of use.

7.7 WEISS shall comply with the Customer's site rules and regulations when performing Services on the Customer's premises, provided that the Customer informs WEISS, in writing, of all relevant site rules and regulations in force at the premises within a reasonable period prior to performance of the Services.

The Services shall not be carried out in unhealthy or dangerous surroundings. All the necessary safety and precautionary measures shall have been taken by the Customer, at no cost to WEISS, before Services commence and shall be maintained by the Customer during WEISS' performance of the Services.

7.8 For any portion of the Services performed by WEISS and/or its subcontractors on a time basis, the Customer shall confirm WEISS on a weekly basis of the hours worked by WEISS' and/or its subcontractors' personnel.

8. Changes to the Services, Variations

8.1 Either party may at any time request in writing changes, modifications or additions to the scope of the Services (hereinafter referred to as "**Variation**"). Upon receipt of such Variation request, WEISS shall provide the Customer with a written quotation for the requested Variation, specifying the effects of the requested Variation on the Contract, including any necessary adjustment of the Contract Price, time schedules and agreed dates, scope of the Services and any other affected provisions of the Contract.

If the Customer wishes to proceed with a requested Variation on the basis of a WEISS Variation quotation, the Customer shall notify WEISS thereof in writing within 14 days of receipt of such Variation quotation. WEISS is not obliged to give effect to the Variation until it has been agreed in writing by the parties.

8.2 If applicable laws, rules and regulations, engineering standards and codes of practice, and decisions or guidance issued by courts or public authorities are amended or added to after the date of Contract signature, WEISS shall be entitled to an adjustment of the Contract, including inter alia an adjustment of the Contract Price to reflect any additional costs to be incurred by WEISS, the time schedules and scope of Services, as necessary in order to compensate for any adverse effects or additional requirements deriving from such changes.

9. Acceptance and Risk of Accidental Damage

9.1 Unless otherwise agreed in writing, an acceptance of the Services is not required. Where the parties have agreed on an acceptance in writing, the Customer shall declare acceptance within 1 week of completion of performance of the Services by WEISS, or of the notice of completion, whichever is earlier. The Customer is not entitled to refuse acceptance due to non-significant defects. Acceptance shall be deemed to have occurred within 1 week of completion of performance by WEISS or if the serviced objects have been put into operation.

9.2 All costs and expenses of the Customer and any third parties (other than those of WEISS' own personnel or contractors) incurred in connection with inspections, tests, approvals, acceptance procedures etc. shall be borne by the Customer.

9.3 The Customer shall bear the risk of accidental damage to or loss of the Services and the serviced objects. Goods and materials included in the Services are delivered EXW (Incoterms 2020).

10. Defects Liability

10.1 WEISS shall be liable for the proper performance of the Services in accordance with this Contract. If WEISS delivers materials and goods in connection with the Services, WEISS shall be liable to the Customer for any non-conformity with express terms of this Contract resulting from circumstances existing at the time of the transfer of risk.

10.2 The Customer shall immediately notify WEISS in writing of any defective Services or defective materials and goods without undue delay. The Customer's claims in respect of defects shall be excluded for any apparent defects if the Customer has failed to do so.

Upon such written notification, WEISS shall be given a reasonable period of time and opportunity to re-perform the Services and/or, at its option, repair or replace defective materials or goods. The Customer shall grant WEISS working access to the defective Services, material, or goods, and shall undertake any necessary disassembly and reassembly, and shall provide access to operation and maintenance data, all at no charge to WEISS. Upon WEISS' request, the Customer shall ensure that the title to the replaced parts/items shall pass to WEISS.

10.3 The defects liability period for any part of the Services shall expire 12 months after provision of the defective Services or acceptance if agreed. For materials and goods, the defects liability period shall expire 12 months after the transfer or risk.

For re-performed Services and replaced or repaired materials and goods, the defects liability period is 6 months from the date of re-performance, replacement, or repair, if the original defects liability period expires earlier. In any event, the defects liability period shall end no later than 24 months from the beginning of the original defects liability period.

10.4 There shall be no warranty claim for insignificant deviations from the agreed quality, of only minor impairments of usability, for normal wear and tear, or impairments due to improper or negligent handling by Customer, unsuitable equipment provided by Customer, non-reproducible software errors or special external influences which are not identified within the Contract. In addition, software errors are only deemed a defect if the defect occurs in the most current software version at the given time.

10.5 If software is defective, WEISS shall only be obliged to provide the Customer with an updated version of the software in which the defect has been remedied when WEISS can be reasonably expected to provide such updated version or, if WEISS is only licensee, such updated version is reasonably available from WEISS' licensor. If the software has been modified or individually developed by WEISS, WEISS shall in addition provide the Customer with a workaround or other interim error correcting solution until the provision of an updated version of the software in which the defect is remedied, if such workaround or interim solution is feasible at reasonable expense and if otherwise the Customer's business operations would be stopped or substantially impeded.

10.6 If WEISS re-performs allegedly defective Services and it is ultimately not established that the Services were defective, the Customer shall pay WEISS for such re-performance.

10.7 Any other liability of WEISS and any claims, rights and remedies of the Customer in case of defective Services or defects shall be excluded except as expressly stipulated in this Clause 10 or – in case WEISS failed at least three times in remedying/re-performing – in Clause 16.2 b). All warranties, representations, conditions, and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Contract.

11. Intellectual Property

11.1 If a third party asserts legitimate claims against the Customer that the Services infringe an IPR owned by such third party, then subject to the following provisions of this Clause 11, WEISS shall, at its option and expense, either

- a) obtain a right to use the relevant IPR in connection with the Services;
- b) modify the works forming part of the Services so as not to infringe the relevant IPR; or
- c) replace the infringing part of the Services.

If, in the opinion of WEISS, none of the foregoing is reasonably possible, WEISS may take back the relevant part of the Services and reimburse the price for such part.

11.2 WEISS' obligations in Clause 11.1 are subject to the following conditions:

- a) The Customer has immediately notified WEISS in writing of the third party's claim and furnished WEISS with a copy of each communication, notice or other action relating to the alleged infringement,
- b) the Customer does not acknowledge an infringement and provides WEISS with the authority, information and assistance reasonably required by WEISS to defend or settle such claim, and
- c) WEISS is given sole control of the defence (including the right to select counsel), and the sole right to settle such claim.

If the Customer ceases to use the works forming part of the Services or any relevant portion thereof, it shall notify the third party in writing that its cessation of use is not an admission of IPR infringement.

11.3 Any claims of the Customer shall be excluded if the Customer (including its agents, employees or contractors) is responsible for the IPR infringement. The Customer shall be deemed responsible for the claimed IPR infringement if, without limitation, it was caused by (i) specific demands of the Customer, (ii) use of the works forming part of the Services for a purpose or in a manner not foreseeable by WEISS, (iii) a modification of the works forming part of the Services by the Customer, or (iv) use of the works forming part of the Services in connection with other equipment.

11.4 This Clause 11 sets forth WEISS's entire liability for infringement of third party IPRs. Any other claims, rights, and remedies of the Customer shall be excluded.

12. Liability

Unless explicitly stipulated in this Contract, this Clause 12 shall exclusively govern the liability of WEISS for damages, costs and expenditures, regardless of the legal theory upon which it is based, including, but not limited to liability in Contract, in tort (including negligence), misrepresentation, indemnity, under warranty or otherwise.

12.1 WEISS shall be liable for bodily injuries and for intentional acts or omissions pursuant to the applicable law.

12.2 WEISS shall in no event be liable, whether pursuant to any indemnity or in contract, tort (including negligence and statutory duty) or otherwise for loss of profit or revenue, loss of production, interruption of operations or loss of use, cost of capital, loss of interest, loss of information and/or data, for claims arising from Customer's contracts with third parties, or for any indirect or consequential damage.

12.3 WEISS' total liability, whether pursuant to any indemnity or in contract, tort (including negligence and breach of statutory duty) or otherwise arising by reason of or in connection with the Contract shall not exceed 50% of the Contract Price, if a lump sum has been agreed, or 50% of the fees paid in the 12 months preceding the month in which the claim arose if no lump sum has been agreed.

12.4 Any limitations of liability set forth in this Contract shall also apply for the benefit of WEISS' Affiliates, subcontractors, employees, agents or any other person acting for WEISS.

12.5 Any and all liability of WEISS under this Contract shall cease with the expiry of the defects liability period of the Services.

12.6 Any rights, and remedies of the Customer against WEISS that are not expressly stipulated in the Contract shall be excluded.

13. Assignment and Sub-contracting

13.1 The Customer may not assign this Contract or any part thereof without WEISS' prior written approval.

- 13.2 WEISS may transfer, assign, or novate the Contract or any part of it to an affiliated company ("Affiliate"), being any legal entity ("Company") which directly or indirectly is controlled by WEISS, controls WEISS or is controlled by a Company which directly or indirectly controls WEISS.
- 13.3 WEISS shall further be entitled to assign the whole Contract or a part of it to any third party, in the event of a sale or other transfer of the business or a part of the business of WEISS to a third party.
- 13.4 WEISS may sub-contract parts (but not all) of the Services.

14. Confidentiality, Data Protection

- 14.1 The parties shall use any documents, know-how, data or other information provided by the other party ("**Information**") exclusively for the purpose of this Contract and keep the same confidential subject to the following. The parties may disclose Information to employees of the receiving party and to third parties who reasonably need to know such Information for the purpose of the Contract provided such employees and third parties are bound by equivalent confidentiality obligations. The party disclosing Information shall be held liable for a breach of such obligations by its employees or a third party.
- 14.2 This confidentiality obligation shall not apply to Information which
- a) is or becomes part of the public domain other than by fault of the receiving party;
 - b) is disclosed to the receiving party in good faith by a third party who is entitled to make such disclosure;
 - c) is developed independently by the receiving party without reliance on Information;
 - d) was known to the receiving party prior to its disclosure by the other party; or
 - e) is required to be disclosed by law (subject to the receiving party's obligation to notify the disclosing party in a timely manner of such requirement).
- 14.3 The Customer shall only be entitled to take photographs or videos or to otherwise record the performance of the Services with WEISS' prior consent. In addition, only personnel of the Customer who operate the plant shall be entitled to be present during the carrying out of the Services by WEISS.
- 14.4 This confidentiality obligation shall survive the expiration or termination of this Contract for 5 years.
- 14.5 WEISS and the Customer shall comply with the statutory provisions relating to protection of personal data. The Customer is obliged to create the prerequisites required by law (e.g. to obtain declaration of consents) to enable WEISS to perform the Services without any breach of law. The Customer is advised to take appropriate measures – as far as possible – to prevent access of WEISS to personal data or trade secrets of the Customer while providing the Services. In the event that it cannot be prevented that WEISS is granted access to personal data of the Customer, the Customer is obliged to inform WEISS in due time before the Services are performed. The Customer and WEISS shall then agree on the actions to be taken.

15. Suspension

- 15.1 WEISS may suspend performance of its obligations under the Contract, if (i) the Customer is in delay with any payment or in providing any payment security required under this Contract for more than 30 days or (ii) the Customer fails to perform those of its obligations necessary for WEISS to perform the Services, or (iii) the Customer otherwise materially breaches the Contract.
- 15.2 If WEISS suspends the Contract in accordance with Clause 15.1 or in the event the Customer suspends the Contract without the express written agreement of WEISS, the Customer shall become immediately liable to pay WEISS for all parts of the Services already provided. The Customer shall further reimburse WEISS all reasonable additional costs and expenses incurred as a result of such suspension (e.g. payments to subcontractors, cost of waiting time, demobilization and remobilization, etc.). Any contractual dates shall be extended for a reasonable period to overcome the effects of the suspension.

16. Termination

- 16.1 Either party may terminate this Contract with immediate effect by written notice, if the other party becomes bankrupt or insolvent, has a receiving order made against it or compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors or goes into liquidation.
- 16.2 Save as provided under Clause 6.4 and Clause 16.1, the Customer may terminate the Contract only in the circumstances set out below and in each case upon 14 days written notice to WEISS:
- a) in the event of delay, if the maximum liquidated damages under Clause 5.2 are payable, a reasonable additional period of time for performance of the Services has been granted to WEISS and has expired, and WEISS within that time has not provided a commitment to pay further liquidated damages exceeding the before-mentioned maximum liquidated damages in respect of the continuing period of delay, or
 - b) in the event WEISS has materially breached the Contract and has not remedied the breach within a reasonable period after receiving a written notification of the breach from the Customer.
- 16.3 Any termination by the Customer shall not affect those parts of the Services already performed in accordance with the Contract prior to the termination. In the event of termination of the Contract in accordance with Clause 16.2, the Customer shall remain liable to pay WEISS for all parts of the Services already performed prior to termination. The Customer shall be entitled to compensation for the costs incurred in excess of the Contract Price if it had the defective Services completed by a third party. For the avoidance of doubt, Clause 12 shall apply in case of termination.
- 16.4 Notwithstanding any other rights it may have under this Contract, WEISS may terminate the Contract
- a) if the Customer comes under the direct or indirect control of any competitor of WEISS, or
 - b) if the Customer materially breached the Contract and has not remedied the breach within a reasonable period after a notification by WEISS or is in delay in making any payment or in providing any payment security required under this Contract for more than 60 days; or
 - c) if the Contract has been suspended for more than 60 days.
- 16.5 In the event of termination by WEISS, WEISS shall be entitled to recover from the Customer the Contract Price less any saved or avoided expenditure and any additional cost and expenses incurred by WEISS due to such termination.

17. Dispute Resolution, Applicable Law

- 17.1 The Contract and any dispute or claim arising out of, or in connection with, it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the substantive laws of Switzerland excluding the choice of law rules. The UN Convention on Contracts for the International Sale of Goods shall not apply.
- 17.2 All disputes arising out of or in connection with the Contract including any question regarding the termination or any subsequent amendment of the Contract shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce (“**ICC**”). If the value of the total matter in dispute, including the value of any counterclaims, is € 1 million or above, the expedited procedure provisions of the Rules shall not apply and the arbitral tribunal shall consist of three arbitrators. If the tribunal consists of three arbitrators, each party shall nominate one arbitrator for confirmation by the ICC. Both arbitrators shall agree on the third arbitrator, within 30 days after their appointment. Should the two arbitrators fail to reach agreement on the third arbitrator within the thirty-day period, the ICC shall select and appoint the third arbitrator.
- 17.3 The seat of arbitration shall be Zurich, Switzerland. The language to be used in the arbitration proceeding shall be English. Any order for the production or disclosure of documents shall be limited to the documents on which each party specifically relies in its submission(s).

17.4 Consolidation of arbitrations pending under the Rules of Arbitration of the ICC into a single arbitration shall only be possible if all parties have agreed to consolidation.

17.5 Upon request of a party, the arbitral tribunal shall order any claiming or counterclaiming party to provide security for the legal and other costs of any other party related to that claim or counterclaim, by way of bank guarantee or in any other manner and upon such terms as the arbitral tribunal considers appropriate.

18. Export Regulations

18.1 If the Customer transfers works forming part of the Services (hardware and/ or software and/ or technology as well as corresponding documentation and/ or works and services, regardless of the mode of provision, and/ or including all kinds of technical support) provided by WEISS to a third party worldwide, the Customer shall comply with all applicable national and international (re-) export control regulations. In any event the Customer shall comply with the (re-) export control regulations of the Federal Republic of Germany, of the European Union and of the United States of America.

18.2 If required to conduct export control checks, the Customer, upon request by WEISS, shall promptly provide WEISS with all information pertaining to a particular end customer, destination and intended use of works forming part of the Services, as well as any export control restrictions existing.

18.3 The Customer shall indemnify and hold harmless WEISS from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any non-compliance with export control regulations by the Customer, and the Customer shall compensate WEISS for all losses and expenses resulting therefrom, unless such non-compliance was not caused by the fault of the Customer. This provision does not imply a change in the statutory burden of proof.

19. Miscellaneous

19.1 Nothing in this Contract shall be deemed to create an employment relationship between WEISS and the Customer or any of their personnel or subcontractors.

19.2 The Customer is not entitled to issue instructions to WEISS' employees. WEISS is free to select and allocate the personnel deployed for the performance of the Services. WEISS alone shall pay for all compensation and social benefits of its employees.

19.3 WEISS shall not be obligated to fulfill this Contract if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

19.4 If any provision of this Contract is prohibited or declared invalid or unenforceable by a court of competent jurisdiction, this shall not affect the validity or enforceability of any other provision. The parties shall use their reasonable efforts to substitute such provision by a legal, valid or enforceable one with the same or a similar result.

19.5 Any amendments, changes or additions to this Contract must be made in writing in the form of a written agreement signed by authorised representatives of both parties.

19.6 No delay or omission by either party in exercising any right, power or remedy provided by law or under this Contract shall affect, impair or operate as a waiver of such right, power or remedy.

19.7 This 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. Each party acknowledges that in entering into this Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Contract.

19.8 This Contract is drawn up in the English language. If this Contract is translated into another language, the English language text shall in any event prevail.