



## WEISS TECHNIK UK LIMITED

### TERMS AND CONDITIONS OF SALE

The following terms and conditions shall apply to all Contracts concluded by Weiss Technik UK Limited ("the Company" or "the Seller") in respect of the supply of the goods listed or in the separate quotation attached (herein called "the Goods") to the exclusion of all other terms and conditions whether express or implied and no person in the employment or acting otherwise as agent of the Company or purporting so to do has authority to accept orders or supply goods on any other conditions or to vary these terms in any way whatsoever. No variation of, or addition to the contract or these conditions shall be binding upon the Company unless in writing under the hand of a duly authorised official of the Company. No Contract shall come into effect until the Purchaser's order has been accepted by the Company in writing.

Previous dealings between the Company and any customer shall not vary or replace these terms or be deemed in any circumstances whatsoever so to do. This Contract shall be governed and construed according to English law and any dispute arising out of or in connection with the same shall be submitted to the exclusive jurisdiction of the English Courts. Acceptance of goods from the Company shall be conclusive evidence before any Court or arbitrator that these terms apply.

#### 1. QUOTES

- (a) No quotation shall constitute an offer and all quotations are to be regarded as estimates only and subject to written confirmation on receipt of the Purchaser's order.
- (b) Unless otherwise agreed in writing quotations can only remain open for a period of 30 days from the date of quotation. Thereafter the quotation shall be subject to change at the discretion of the Seller. Verbal and budgetary prices shall not be deemed as firm or fixed.

#### 2. PRICES

- (a) The prices stated are subject to alteration at any time to take account of any circumstances that affect the cost to the Company of fulfilment of the contract to the Purchaser. However, prices given by the Company are provided in good faith and every endeavour will be made by the Company to maintain the prices quoted. All prices are exclusive of V.A.T. which will be added at the rate in force from time to time.
- (b) All increases in export and import duties are for the Purchaser's account, unless expressly provided for otherwise.
- (c) All costs of freight and transport are for the Purchaser's account unless stated to the contrary overleaf.

#### 3. PAYMENT TERMS

Payment terms shall be as stated on the quotation and are a fixed condition of the contract. All prices are exclusive of VAT which will be added to the total invoice amount.

- (a) Unless otherwise expressly agreed in writing invoices are due and payable within thirty (30) days of issue of the invoice failing which interest will be payable by the Purchaser on the balance of any invoiced amounts for the time being outstanding at the rate of 3 per cent per annum over and above the base rate for the time being of HSBC Bank.
- (b) If the Purchaser shall fail to make payment in full in accordance with 3 (a) of this condition then (without prejudice to any other rights of the Company) the Company shall be entitled to suspend all or any other deliveries to be made under this or any other Contract with the purchaser. In such event the Purchaser shall not in any respect be released from its obligations to the Company under this or any such other Contract.



(c) Where delivery is made by instalment, each delivery shall be deemed to be and treated as a separate Contract and the failure of any delivery shall not **vitiare** the Contract as to other deliveries. Payment of each invoice on the due date is to be a condition precedent to future deliveries.

(d) Where the Company is unable to render a complete and final account for the goods to be delivered, the purchaser shall pay for the goods on the basis of a provisional invoice (if rendered), but the Company shall render a complete and final account with the least possible delay, and on receipt of same by the Purchaser, any difference shall be adjusted by the parties in cash.

#### **4. STORAGE**

If for any reason the Purchaser is unable or refuses to accept delivery of the goods, the Company reserves the right to charge any costs incurred for storage, additional handling and transport charges. The goods shall be invoiced on the day they are put into store and for the purpose of payment by the Purchaser shall be deemed to be delivered on that day.

#### **5. CANCELLATION**

Cancellation will only be agreed to by the Seller on condition that all costs and expenses incurred by the Seller up to the time of cancellation, and all loss of profits and other loss or damage resulting to the Seller by reason of cancellation will be reimbursed by the Buyer to the Seller forthwith.

#### **6. RETENTION OF TITLE**

(a) Goods the subject of any agreement by the Company to sell shall be at the risk of the Purchaser as soon as they are delivered by the Company to his vehicles or his premises or otherwise to his order.

(b) Such goods shall remain the sole and absolute property of the company as legal and equitable owner until such time as the Purchaser shall have paid to the Company the agreed price, together with the full price of any other goods the subject of any other Contract with Company.

(c) The Purchaser acknowledges that he is in possession of goods solely as bailee for the Company until such a time as the full price thereof is paid to the Company, together with the full price of any other goods the subject of any other Contract with the Company.

(d) Until such a time as the Purchaser becomes the owner of the goods he will store them in a manner which makes them readily identifiable as the goods of the Company.

(e) The Purchaser's right to possession of the goods shall cease if he not being a company commits an available act of bankruptcy or if he being a company does anything or fails to do anything which would entitle a receiver to take possession of any assets or which would entitle any person to present a petition for winding up. The Company may for the purpose of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

(f) In the case of goods bought for resale substantially as they are purchased subject to the terms hereof the Purchaser is licensed by the Company to agree to sell on the Company's goods subject to the express condition that such an agreement to sell shall take place as agents save that the purchaser shall not hold himself out as such and bailees for the Company whether the Purchaser sells on his own account or not and that the entire proceeds thereof are held in trust for the Company.

#### **7. DELIVERY, INSTALLATION AND COMMISSIONING**

(a) Whilst the Company will quote any delivery date in good faith and will make every reasonable endeavour to keep to any stated despatch or delivery date it accepts no liability whatsoever for any loss or damage whether direct or indirect resulting from delay.

(b) Unless otherwise expressly agreed delivery to the Purchaser shall be deemed to have been effected upon delivery of the goods to the Purchaser's vehicles, premises or otherwise to his order. The Purchaser shall be expected to provide such assistance and equipment that are reasonably necessary to effect delivery in accordance with the Contract unless previously agreed otherwise in writing.



(c) If the goods are not delivered or upon delivery are found to be short or damaged the Company shall not in any event be liable unless:-

(i) In the case of non delivery both the Company and any Carriers receive written notice within six days of the date of delivery as notified.

(ii) In the case of short or damaged delivery the goods have been signed for as “incomplete” or “damaged” or “not examined” and both the Company and the Carriers are sent a written complaint within six days of receipt of the goods and the goods as well as packing material are made available for inspection.

(d) The Company shall be entitled to make part deliver under the Contract. In the event of the completed delivery being delayed by any cause occasioned by the Purchaser then the Company shall be entitled to payment upon the part delivery.

(e) Unless previously agreed in writing it is the customer’s responsibility to provide handling equipment and insurance, once equipment has arrived through customer’s perimeter. The full delivery address will be stated at the time of order. Any additional cost incurred by the Seller in delivering Goods to a different address than the one quoted shall be borne by the Purchaser. Where included in the contract, commissioning of the Goods will take place immediately following installation, unless agreed otherwise in writing and subject to reasonable notice. Any delays in commissioning caused by the Purchaser shall not delay payment to the Seller or any outstanding account.

#### **8. BREACHES**

(a) Without prejudice to any other provision hereof, if the Purchaser makes default in taking delivery or paying for any instalment or commits an act of bankruptcy or becomes insolvent or becomes subject to any law relating to insolvency or bankruptcy or has a receiver appointed in respect of any assets the Company may treat the Contract as repudiated by the Purchaser and may cancel further deliveries without prejudice to any right to damages.

(b) Goods not taken by the Purchaser during the duration of this Contract as herein specified are not to be thereafter claimed by him but may be sold for its own account by the Company.

#### **9. FORCE MAJEURE**

(a) If the Company is prevented or hindered from giving part delivery or complete delivery of the goods sold herein or any one or more instalments by reason of hostilities or prohibition of export in the country or origin or by any Government restriction or by fire, frost, tempest, strikes, lockouts, riots or by shipwreck or delay in manufacture, shipment or transport or by any cause whatsoever beyond the Company’s control or by the happening of any event which could not reasonably have been foreseen at the date of the Contract, the Company may at its option at any time either cancel the Contract entirely or suspend delivery until a reasonable time after removal of the cause preventing or hindering delivery.

(b) The Company expressly declares that it relies for the performance of this Contract on the due performance of purchase contracts from its suppliers (where applicable). For the purpose of this clause the Company’s written declaration shall be accepted by the Purchaser as official proof of prevention or hindrance and shall be accepted as final.

(c) Any changes in the EEC Commission directives which will cause significant alternations in the basic principles of the Contract price calculations may give rise to the renegotiation of this Contract.

#### **10. INDEMNITY**

The Purchaser hereby undertakes and agrees to indemnify the Company and keep it fully and effectually indemnified against all liabilities costs and expenses incurred by the Company as a result of any claim by any third party whether in contract or otherwise in respect of goods supplied or work and labour undertaken by the Company.

#### **11. U.C.T.A. 1977**



Nothing herein contained shall override any provisions imposed by law pursuant to the Unfair Contract Terms Act 1977 or any statutory modification or re-enactment thereof except insofar as any provision herein contained may lawfully do so.

## **12. SPECIFICATIONS**

The specifications of good supplied under this Contract are as stated in the appropriate datasheets and product descriptions included with the quotation insofar as the specifications are valid at the time of formation of the contract. All specifications are an approximate guide only to the nature, quality and function of the goods unless all or part of the Specifications is or are expressly stated in the quotation to be an essential term of any contract.

## **13. WARRANTY**

- (a) Unless otherwise expressly agreed in writing the Company will for a period of 12 months from the date of delivery of the goods (in respect of which time shall be of the essence) replace or correct free of charge any defective parts resulting from faulty design, materials or workmanship.
- (b) For defects appearing in the good during the warranty period the company will supply new or repaired parts to the customer and these parts will be free of charge if the purchaser in turn returns the defective part to the Company. For low value items supplied to the purchaser under warranty the purchaser may requested the Company's permission not to return the defective items.
- (c) The replaced and/or repaired parts are under warranty for a period of 6 months for their date of installation (time being of the essence) on the terms and as the goods.
- (d) This Warranty does not cover items which the purchaser himself must be capable of checking and replacing such as fuses and air filters.
- (e) The Company is not responsible for repairs necessitated by the Purchaser failing to comply with the appropriate operating and maintenance instructions nor for repairs necessitated by maltreatment fire or fire fighting or prevention equipment by water or any interruption to of fluctuation in power supplies or the lack of the correct environmental conditions for the operating of the goods, or any cause which cannot be traced to the goods themselves.
- (f) After a fault has manifested itself the Warranty is not valid if power is turned on or the Purchaser attempts to use the goods before the Company has specifically given the Purchaser written permission to do so.
- (g) The warranty is not valid if without written permission from the Company the goods are repaired altered or rebuilt in any way by persons other than the Company's personnel.
- (h) The Warranty is not valid if the Purchaser having discovered or suspecting an error in the goods neglects to notify the Company of the suspected error and continues to use the goods without the Company's specific permission.
- (i) Where the goods referred to in this Contract are additions or changes to goods already supplied under another Contract then the Warranty provided under this Contract refers solely to the goods supplied under this Contract and in no way implies an extension to the Warranty of any goods supplied under previous Contracts.
- (j) Save as provided expressly in this clause all other warranties whether express or implied or provided by statute are hereby expressly excluded.
- (k) Where the goods or any replacement parts are acquired by the Company in made up form from any supplier or subcontractor of the Company then the Customer shall be entitled to the same warranty to which the Company is entitled from its supplier or subcontractor provided that if such warranty is lesser in extent than that provided by these conditions then the lesser warranty shall apply to the items so acquired.



(l) No warranty claim shall exceed in financial value the cost of repair or replacement of faulty or defective parts in no event will the Company be liable for economic loss or damage howsoever caused even if foreseeable by the Company (being loss of profits, business, goodwill, revenue or anticipated savings) or other special indirect or consequential loss or damage or any claim against the Customer by any other party.

#### **14. RIGHTS OF TRANSFER**

This Contract may not be assigned in part or in whole by the purchaser to a third party without the express written agreement of the Company.

#### **15. INTELLECTUAL PROPERTY RIGHTS**

(a) In so far as any information disclosed by the Company to the customer is confidential or is the subject of intellectual property rights vested in the Company or which it has licence to use the Customer will respect the confidentiality or proprietorial nature of the same and will not without the Company's prior written consent disclose such information to any other legal entity.

(b) The Customer acknowledges that any intellectual property rights which arise as a result of the Company's performance of its contract with the Customer shall belong absolutely to the Company.

(c) To the extent that any intellectual property rights referred to either (a) or (b) above are embodied in the Goods the Purchaser is hereby granted non-exclusive non-assignable free licence to use the same in connection with his business.

#### **16. INSOLVENCY OF THE BUYER**

If the Purchaser commits an act of bankruptcy or becomes insolvent or makes any composition or arrangement with his or its creditors or being a limited company is placed in liquidation or suffers a receiver to be appointed, the Seller (The Company) may without liability or notice and without prejudice to its other rights determine any contract with the Purchaser who shall bear any loss resulting from a resale of the Goods comprised herein. In respect of all debts from the Purchaser under this and any other contract, the Seller shall be entitled to a general lien on all goods and property and apply the proceeds towards such debts as it deems fit.

#### **17. SUBCONTRACT**

The Seller reserves the right to subcontract the fulfilment of the order or contract or any part thereof including installation.