

CUSTOMER AGREEMENT. CONDITIONS OF SALE OF GOODS AND RELATED WORKS & SERVICES.

PART A – GENERAL TERMS AND CONDITIONS OF SALE.

In these conditions:

"Buyer" means the person or company procuring goods and related works & services from the Company.

"Company" means Spire Building Services Ltd and any subsidiary, associate company, or brand who may form part of its corporate group (from time to time) and is party to the Order Form which incorporates these conditions.

"Manufacturer" means the original manufacturer of the goods purchased by the Buyer.

"Order Form" means the document confirming specification of a purchase of products and/or services (issued by the Company and completed by the Buyer).

"Purchase Order" means any document issued by the Buyer confirming specification of a purchase of products and/or services in conjunction with or as an alternative to the Order Form issued by the Buyer to the Company.

"Third Party" means any person or company who is not party to this Agreement.

"Warranty Period" means the period of validity of the warranties given by the Manufacturer.

"Service Visits" means all services provided by the Company at sites of the Buyer in response to a declaration of service requirements or as specified in the Order Form or Purchase Order.

"Covered Units" means equipment being serviced and/or maintained by the Company.

And:

(I) If there is a conflict between these standard conditions of sale and any other terms of the Buyer, the Company's quotation, tender or acknowledgement of order and these conditions shall prevail.

(II) All quotations and tenders are made, and all orders are accepted, subject to the following conditions. Except as otherwise provided in these conditions, all other terms, conditions or warranties are excluded from any contract between the Company and the Buyer unless expressly accepted in writing by the Company.

(III) Unless otherwise stated in the Company's quotation, proposal or tender submission, quotations shall be available for acceptance for a maximum period of 90 days from date of issue and may be modified or withdrawn by the Company by written or oral notice to the Buyer at any time.

(IV) If any statement or representation has been made to the Buyer by the Company or its officers, employees or agents (other than in the document(s) enclosed with the Company's quotation or acknowledgement of order), upon which the Buyer wishes to rely it shall only be

entitled to do so if the statement or representation is attached to or endorsed on the Buyer's order and then only if the Company subsequently confirms in writing to the Buyer that the Buyer is entitled to rely on the statement or representation. Otherwise the Buyer shall be deemed to have waived its rights in respect thereof.

(V) The Company shall not be liable in respect of claims arising by reason of death or personal injury except in so far as the death or injury is attributable to a failure by the Company to exercise reasonable care.

(VI) Further, under no circumstances whatsoever shall the Company be liable for losses/costs special to the particular circumstances of the Buyer, indirect or consequential losses/costs, delay and/or disruption losses/costs and/or claims by others in respect of delay and/or disruption, work required in connection with the removal of defective goods and/or the installation of repaired or substituted goods, loss of revenue, loss of profits, damage to property or wasted expenditure.

(VII) Without prejudice to Condition VI, where goods and/or services and/or works are supplied for the purpose of a business, the Company's liability (other than in respect of claims for death or personal injury to the extent that the same is caused by a failure of the Company to take reasonable care) whether in respect of one claim or the aggregate of various claims and whether by way of contract, tort, breach of statutory duty or howsoever and whether or not involving negligence on the part of the Company shall not exceed the contract price of the goods and/or services and/or works supplied and (without prejudice to the generality of the foregoing) the Buyer agrees to insure adequately, to cover claims in excess of such amount.

(VIII) The Company shall not be liable for any losses/costs relating to nor be obliged to carry out any works required to remove any pre-existing obstacles and/or any modifications or replacements for unsuitable or inadequate supports or locations for any goods, services or works supplied or to be supplied, unless and to the extent that provision for the same is expressly set out in the Order Form. Further, or in the alternative, the Company shall not be responsible for the structural integrity or load bearing capacity or ambient conditions of any building, structure or location in which the goods are installed, such responsibility is to remain with the Buyer. Further, or in the further alternative, If any relevant buildings, space, structures or equipment are not in a state which reasonably could have been foreseen by an experienced contractor then the Company shall be entitled to a fair and reasonable extension of time to carry out its obligations and to be paid any additional loss or expense incurred as a result of such state.

(IX) In the event that the materials, goods and equipment supplied and (if applicable) installed by the Company require regular maintenance this should be carried out by the Company or its approved agent, utilising only those replacement parts supplied or recommended by the Company or its manufacturer in order to ensure their continued performance to the standards required by these conditions. If maintenance is not undertaken in accordance with this Condition IX, the Company cannot warrant to the Buyer the continued performance of the materials, goods

and equipment so supplied and/or installed, and the Buyer will be deemed to have waived its rights in respect of the same.

(X) Any Third Party shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act") to enforce any of these conditions. Any right or remedy of a Third Party which exists or is available apart from the Act is not affected.

(XI) The parties agree that any disputes arising or in any way connected with the subject matter of this Agreement (whether of a contractual or tortious nature or otherwise) shall be subject to the laws of England and in the case of proceedings issued against the Company shall be subject to the jurisdiction of the English courts only.

PART B – CONDITIONS OF SALE FOR SUPPLY OF GOODS AND INSTALLATION WORKS.

1. APPLICATION OF THESE CONDITIONS

1.1 In cases where the Company will supply goods and carry out installation works for the Buyer, the Parties agree that the following conditions shall apply and that, in the event of a discrepancy or conflict between these conditions, they shall be interpreted in the following order of priority:

1.1.1 the Order Form;

1.1.2 Conditions I to XI of Part A together with conditions 10, 13.5, 14, 15.2, 18.1, 20 and 24 of Part C; and

1.2 The rest of the terms and conditions contained in Part C (with the exception of conditions 10, 13.5, 14, 15.2, 18.1, 20 and 24) shall not apply to the supply of goods and installation works by the Company to the Buyer.

PART C - CONDITIONS OF SALE FOR SUPPLY OF GOODS AND SERVICES WITHOUT INSTALLATION

2. APPLICATION OF THESE CONDITIONS

2.1 Where the Company will supply goods and carry out non-installation services for the Buyer, the Parties agree that the following conditions shall apply and that, in the event of a discrepancy or conflict between these conditions, they shall be interpreted in the following order of priority:

2.1.1 the Order Acknowledgment;

2.1.2 Conditions I to XI of Part A; and

2.1.3 Conditions 2 to 24 of Part C.

2.2 The terms and conditions contained in Part B (above) do not apply to the supply of goods without installation services by the Company to the Buyer.

3. PRICES

3.1 Prices are quoted by the Company on the basis of the limitations of liability set out in these conditions.

3.2 Notwithstanding anything stated to the contrary in the Buyer's tender documents, the Company's quotation, tender or acknowledgement of order and these conditions (together with any agreed amendments or qualifications, clarifications and or exclusions) shall prevail if there is any conflict with the Buyer's tender.

3.3 Unless otherwise expressly stated in the Company's quotation, proposal or tender submission, the price quoted shall not include prices for:

3.3.1 supervision of installation services;

3.3.2 all electrical works related to the goods and/or services;

3.3.3 interconnecting works including lines and ductwork between the equipment and fans (or such other equipment);

3.3.4 all service supply pipework;

3.3.5 all building and civils works (including any cutting of holes for the fitment of the goods);

3.3.6 any out of hours working, meaning any services to be carried out outside the hours of 9am-5pm (Monday to Friday) (excluding public holidays);

3.3.7 removal of objects which prevent the Company from carrying out any of the services including but not limited to any works or objects becoming present since pre-quotation site survey by the Company; and

3.3.8 modifications to existing electrics and pipeworks (including any protective measures to existing flooring, ceilings and walls).

and an additional charge shall be payable for such services.

3.4 Unless otherwise agreed in writing, all prices for goods are quoted as kerbside delivery and exclusive of VAT. If the Company agrees to deliver the goods otherwise than this then the Buyer shall pay all packaging, transportation and insurance costs and other charges incurred by the Company in making or arranging such delivery.

3.5 Where the Company delivers or arranges delivery of the goods, the Buyer shall be liable to the Company for carriage costs and any demurrage costs incurred by the Company if vehicles are unduly delayed at the place of delivery.

3.6 The Company reserves the right to make an additional charge to cover any increase in transport costs occurring before the date of delivery and will make reasonable efforts to communicate this to the Buyer in advance.

4. PAYMENT

4.1 Unless otherwise agreed by the Company in writing, payment terms are 30 days EOM (so payment shall be due and payable on or before the final day of the calendar month upon which 30 days after the date of invoice falls), or in accordance with such milestone payment dates as

agreed in writing between the Company and the Buyer and shall be made without any set-off, counterclaim or deduction whatsoever. The time for payment shall be of the essence of the contract. Underpayment at any time and/or late payment can be deemed by the Company as breach of the contract.

4.2 The Company shall be entitled to submit its invoice at any time afterwards except that where delivery of the service has been postponed at the request of, or by the default of, the Buyer, the Company may submit its invoice at any time after the goods/service are ready for delivery or would have been ready in the ordinary course but for the Buyer's request or default.

4.3 Where goods or services are delivered by instalments or in accordance with agreed milestones, the Company may invoice wholly upon first delivery, or may invoice each instalment or stage separately and the Buyer shall pay such invoice or invoices in accordance with these conditions.

4.4 No disputes arising under the contract nor delays (other than delays acknowledged by the Company in writing), shall interfere with prompt payment in full by the Buyer.

4.5 Where the contract provides for payment to be made against certification by any third party, payment shall be made in full within 30 days of the issue of the relevant certificate.

4.6 If the Buyer shall default in payment, the Company shall be entitled, without prejudice to any other right or remedy, to do all or any of the following:-

4.6.1 to suspend any or all further deliveries and the performance of services under the contract and under any other contract or contracts between the Company and the Buyer then current, without notice;

4.6.2 to charge interest on any amount outstanding at the rate of 4% per annum above the base rate of Barclays Bank plc, such interest being charged as a separate, continuing obligation not merging with any judgment;

4.6.3 to serve notice on the Buyer requiring immediate payment for all goods supplied and services rendered by the Company under this and all other contracts with the Buyer whether or not payment is otherwise due;

4.6.4 to sue for the price of the goods and services even though (in the case of the goods) title may not have passed to the Buyer.

5. DELIVERY

5.1 In accordance with Clause 3.4, unless otherwise agreed in writing, all prices for goods are quoted as kerbside delivery and exclusive of VAT. If the Company agrees to deliver the goods otherwise than this then the Buyer shall pay all packaging, transportation and insurance costs and other charges incurred by the Company in making or arranging such delivery unless the Company has specifically agreed in writing to arrange transport for the goods elsewhere in which case delivery shall occur when the goods arrive at the designated place of delivery.

5.2 Time for delivery and completion of the services is given as accurately as possible but is not guaranteed. Unless otherwise stated the time for delivery shall be the date stated in the Buyer's order, or the Order Form, or the issue of the Company's acknowledgement of the Buyer's order (whichever is the later). The Buyer shall have no right to damages or to cancel the contract for failure for any cause to meet any delivery or completion time stated nor shall the Buyer be entitled to make, or to purport to make, time for delivery of the essence of the contract.

5.3 The date for delivery or completion of the services shall in every case be dependent upon prompt receipt of all necessary information, final instructions or approvals from the Buyer, and in any event, shall be the date of dispatch of the goods from the Company's premises or commencement of the services stated in the quotation.

5.4 Failure by the Buyer to take delivery of any one or more instalments of goods delivered or services partially performed in accordance with the contract shall entitle but not require the Company to treat the contract as repudiated by the Buyer either in whole or in part.

5.5 The Company will endeavour to comply with reasonable requests by the Buyer for postponement of delivery of the goods or completion of the services but shall be under no obligation to do so. Where delivery or completion is postponed, otherwise than due to default by the Company then, without prejudice to all other rights and remedies available to the Company, the Buyer shall pay all costs and expenses, including a reasonable charge for storage and transportation so occasioned.

6. PACKAGING

6.1 Packaging supplied by the Company, unless otherwise expressly agreed in writing, is intended to provide adequate protection in normal conditions of transit of expected duration.

7. RISK AND TITLE

7.1 Risk shall pass to the Buyer (so that the Buyer is then responsible for all loss or deterioration of the goods or for any damage occurring):-

7.1.1 if the Company is responsible for delivering or arranging for delivery of the goods, at the time when the goods arrive at the place for delivery; or

7.1.2 in all other circumstances, at the time when the goods leave the premises of the Company.

7.2 Title to the goods shall only pass to the Buyer if the Buyer has paid to the Company all sums (including any default interest) due from it to the Company (a) under this contract and under all other contracts between the Company and the Buyer (including any sums due under contracts made after this contract) whether or not the same are immediately payable and (b) under all contracts between the Company and any associate or subsidiary company of the Buyer or any company under the ultimate control of the same parent company as has ultimate control of the Buyer.

7.3 The Company may recover goods in respect of which title has not passed to the Buyer at any time and the Buyer irrevocably licences the Company, its officers, employees and agents to enter upon any premises of the Buyer, with or without vehicles, for the purpose either of satisfying itself that Condition 7.4 below is being complied with by the Buyer or of recovering any goods in respect of which title has not passed to the Buyer.

7.4 Until title to the goods has passed to the Buyer under these conditions it shall possess the goods as fiduciary agent and bailee of the Company. If the Company so requires, the Buyer shall store the goods separately from other goods and shall ensure that they are clearly identifiable as belonging to the Company. During such time as the Buyer possesses the goods with the Company's consent, the Buyer may in the normal course of its business sell or install the goods as principal but without committing the Company to any liability to the person dealing with the Buyer and without inhibiting the Company's rights under Clause 7.3.

8. CANCELLATION

8.1 Cancellation will only be agreed to by the Company on condition that all costs and expenses incurred by the Company up to the time of cancellation and all loss of profits and other loss or any damage(s) resulting to the Company by reason of such cancellation will be paid immediately by the Buyer to the Company upon receipt of an invoice.

8.2 Goods returned to the Company without the Company's prior written consent will under no circumstances be accepted for credit.

9. VARIATIONS

9.1 No variations to the goods or services required by the Buyer shall be binding on the Company unless agreed by the Company and the Buyer in writing, including, as part of such agreement, any change to the contract price arising in consequence of the variation to the goods or services. If the Company agrees to any such variation, any dates quoted for delivery and completion of services shall be adjusted accordingly.

10. SPECIFICATION AND PRODUCT INFORMATION

10.1 The Company reserves the right to alter the dimensions or composition of the goods supplied to conform to applicable standards or laws or otherwise within reasonable limits having regard to the nature of the goods.

10.2 The information contained in the advertising, sales and technical literature issued by the Company may be relied upon to be accurate in the exact circumstances in which it is expressed. Otherwise any illustrations, performance details, examples of installations and methods of assembly and all other technical data in such literature are based on experience and upon trials under test conditions and are provided for general guidance only. No such information or data shall form part of the contract unless the Buyer shall have complied with Condition II of Part A

relating to statements and representations and the Company shall have given the confirmation referred to in that Condition.

11. SHORTAGES AND DEFECTS APPARENT ON INSPECTION

11.1 The Buyer shall only be entitled to claim (and then subject to Conditions VI to IX and 13) for shortages or defects in the goods as supplied which are apparent on visual inspection if:-

11.1.1 the Buyer inspects the goods within three working days following the date of their arrival at its premises or other agreed destination; and

11.1.2 a written explanation alongside photographic evidence specifying the shortage or defect is made to the Company (and, where the Company has arranged transport for the goods in accordance with a specific contractual obligation to do so, to the carrier) within seven working days of delivery in the event of shortage, defect, or non-delivery of any separate part of a consignment, or within fourteen working days of the notified date of despatch in the event of non-delivery of a whole consignment or (if applicable), within such shorter period as the carrier's conditions require; and

11.1.3 the Company is given an opportunity to inspect the goods and investigate any complaint before any use of or alteration to or interference with the goods.

11.1.4 the Buyer followed in full the Manufacturer's instructions and/or the Company's instructions for installation. For avoidance of doubt written instructions supersede verbal instructions.

11.2 If a submission is not made to the Company as provided in this Clause 11.1, the goods and services shall be deemed to be in all respects in accordance with the contract (subject only to Clause 12 below) and the Buyer shall be bound to pay for the same accordingly.

12. DEFECTS NOT APPARENT ON INSPECTION

12.1 The Buyer shall only be entitled to claim (and then subject to Conditions VI to IX and 13) in respect of defects in the goods supplied and/or services performed which are not apparent on visual inspection at the time of delivery or completion of performance, if the goods and/or services are subject to final commission testing, which must have been expressly agreed with the Company in writing prior to confirming the Order Form. It is the Buyer's responsibility to provide a relevant witness in attendance at the commission testing who will acknowledge the testing and sign the commissioning report sheets presented by the Company. Should the Buyer fail to commission the goods within 60 days of completion of the installation, the goods shall be deemed free from defect, subject always to the Defects Liability Period.

12.2 The Buyer shall not be entitled to claim in respect of any repairs or alterations undertaken by the Buyer without the prior specific written consent of the Company nor in respect of any defect arising by reason of fair wear and tear or damage due to accident, neglect or misuse nor

in respect of any goods to which alterations have been made without such consent or to which replacement parts not supplied by the Company have been fitted.

12.3 The Company shall not be liable for (and the Buyer shall indemnify the Company against claims arising from) loss or damage suffered by reason of use of the goods after the Buyer becomes aware of a defect or after circumstances have occurred which should reasonably have indicated to the Buyer the existence of a defect.

13. GUARANTEE

13.1 Except as otherwise provided in these conditions, Sections 13 to 15 of the Sale of Goods Act 1979 and Sections 3 to 5 of the Supply of Goods and Services Act 1982 are to be implied into the contract.

13.2 During any relevant warranty period, being 12 months from the date of delivery ("**Warranty Period**"), if the condition of the goods and/or performance of the services is such as might or would (subject to these conditions) entitle the Buyer to claim damages, to repudiate the contract or to reject the goods or services the Buyer shall not then do so but shall first ask the Company to repair or supply suitable substitute goods and/or rectify the services and the Company shall then be entitled at its option to repair or take back the defective goods and to supply suitable substitute goods or perform works of rectification free of cost and within a reasonable time or to refund the price of the goods and/or services in respect of which the complaint is made limited to the pricing of that or those items on the Order Form.

13.3 If the Company does so repair the goods or supply suitable substitute goods or effect repayment or rectification under Clause 13.2, the Buyer shall be bound to accept such repaired or substituted goods, repayment or rectification and the Company shall be under no liability in respect of any loss or damage of whatever nature arising from the initial delivery of the defective goods or from the initial performance of the services or from the delay before the defective goods are repaired or the substitute goods are delivered or the repayment or rectification is effected.

13.4 The Buyer acknowledges that the goods and services require regular maintenance and revalidation. Such services should only be carried out by the Company or its approved agent, utilising only parts supplied and recommended by the Company to ensure performance in accordance with the Buyer's order. If maintenance is not undertaken in accordance with this Clause, the Company cannot warrant to the Buyer the continued performance of the materials, goods and equipment so supplied and/or installed and the Buyer will be deemed to have waived its rights in respect of the same.

13.5 In the case of goods not manufactured by the Company:-

13.5.1 the Company gives no assurance or guarantee that the sale or use of the goods will not infringe the patent, copyright or other industrial property rights of any other person, firm or company; and

13.5.2 the obligations of the Company relating to defects in such goods are limited to the guarantee (if any) which the Company receives from the Manufacturer or supplier of such goods.

14. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY RIGHTS

14.1 All drawings, documents, confidential records, computer software and other information supplied by the Company, whether produced by itself or a third party, are supplied on the express understanding that copyright is reserved to the Company (or the third party) and that the Buyer will not, without the written consent of the Company, give away, loan, exhibit or sell any drawings, documents, records, software or other information or extracts from them or copies of them or use them in any way except in connection with the goods in respect of which they are issued. In addition, any design right or copyright created in relation to the goods will vest in the Company where the goods are commissioned by the Buyer, whether or not for a separate fee.

14.2 All claims for alleged infringement of patents, trade marks, registered designs, design right or copyright received by the Buyer relating to the goods must be notified immediately to the Company. If requested by the Company, the Company shall be entitled to have conduct of any proceedings relating to any such claim in such manner as the Company thinks fit and the Buyer will provide to the Company such reasonable assistance as the Company may request. The cost of any such proceedings will be borne by the Company.

15. BUYER'S DRAWINGS

15.1 The Buyer shall be solely responsible for ensuring that all drawings, information, advice and recommendations given to the Company, either directly or indirectly by the Buyer or by the Buyer's consultants or advisers, are accurate, correct and suitable unless, and then only to the extent that, the Company agrees in writing signed by a director or other authorised representative to accept responsibility. Examination or consideration by the Company of such drawings, information, advice or recommendations shall not of itself limit the Buyer's responsibility.

15.2 The Buyer shall indemnify the Company from and against all actions, claims, costs and proceedings which arise due to the manufacture of goods or performance of services by the Company being in accordance with drawings or specifications provided by the Buyer if such drawings or specifications are inaccurate or contain design defects or if they infringe or are alleged to infringe a patent, copyright, registered design, design right or design copyright or other right of any third party.

16. INSOLVENCY

If the Buyer shall become bankrupt or shall be deemed to be unable to pay its debts for the purposes of Section 123 of the Insolvency Act 1986 or shall compound with its creditors or if a resolution shall be passed or proceedings shall be commenced for the administration or

liquidation of the Buyer (other than for a voluntary solvent winding up for the purposes of reconstruction or amalgamation), or if a receiver or manager shall be appointed of all or any part of its assets or undertaking, the Company shall be entitled to cancel the contract in whole or in part by giving written notice to the Buyer, without prejudice to any other right or remedy available to the Company.

17. FORCE MAJEURE

The Company shall be under no liability for any failure to perform any of its obligations under the contract if and to the extent that the failure is caused by act of God, governmental restriction, condition or control or by reason of any act done or not done pursuant to a trade dispute, shortages of labour or materials or breakdown of machinery or any other matter (whether or not similar to the foregoing) outside the control of the Company.

18. SPECIALS AND FREE ISSUE MATERIALS

18.1 The Company does not guarantee the suitability of materials or the design of goods made specially to the Buyer's requirements and differing from the Company's standard specifications even if the purpose for which the goods are required is known to the Company.

18.2 The Company does not accept responsibility for the safe-keeping and condition of the Buyer's samples, drawings, tools and the like whilst they are in the Company's possession whatever the circumstances may be in which they are lost, broken or damaged and the Buyer should make its own arrangements to insure these items.

19. ATTENDANCE ON SITE

If the Company attends, or arranges for an attendance to be made, at the Buyer's premises or the premises of any third party for any reason connected with the contract, the Buyer shall provide a safe environment for the Company's employees, agents or otherwise to work and shall indemnify the Company in respect of all claims made or proceedings taken against the Company (and associated legal costs incurred by the Company) by any person, firm or company, including employees of the Company, or of the Buyer or of any contractor employed by the Buyer (or their personal representatives), whether in respect of but not limited to death, personal injury or damage to property arising directly or indirectly from the attendance at such premises.

20. CONSUMER PROTECTION ACT 1987 (THE "ACT")

20.1 In circumstances in which the Company supplies goods to the Buyer for incorporation with, or use ancillary to, any composite or other products to be produced, manufactured, processed or supplied by the Buyer or a third party then:-

20.1.1 the Buyer shall immediately on demand produce for inspection by the Company copies of all written instructions, information and warnings to be supplied by the Buyer in relation to the

composite or other products, provided that such inspection or right to inspect shall not of itself constitute acceptance or approval on the part of the Company of such instructions, information or warnings; and

20.1.2 the Buyer shall indemnify, reimburse and compensate the Company for all losses and damages (including costs, expenses and charges for legal actions in which the Company may be involved) which the Company may incur, or have to bear, if any claim or claims shall be made against the Company, pursuant to the Act or otherwise, relating to the composite or other products in circumstances in which the goods supplied by the Company are either (i) not the defective part of the composite or other product, or (ii) are only rendered the defective part or became a defective product by reason of acts or omissions of the Buyer or a third party (including without limitation the supply of defective free issue materials), or (iii) are only rendered the defective part or became a defective product by reason of instructions or warnings given by the Buyer or other supplier of the composite or other products or (iv) are supplied in accordance with a specification or drawings furnished by, or on behalf of, the Buyer.

20.2 The Buyer acknowledges that it is under a duty to pass on to its customers or any related Third Parties all instructions, information and warnings supplied to it by the Company with the goods.

21. ASSIGNMENT

The contract is entered into between the Company and the Buyer as principals and the Buyer shall not be entitled to assign the benefit or burden of it or of any interest in it without the prior written consent of the Company. The Company shall be entitled to sub-contract the whole or part of its obligations under the contract and to assign its interest in the contract.

22. SEVERABILITY

If these conditions shall be or become void in whole or in part, the other provisions shall remain valid and enforceable and the void provisions shall, where appropriate, be replaced by other provisions corresponding as closely as possible with the void provisions.

23. WAIVER

23.1 A failure by the Company to exercise, or a delay in exercising, any right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies which the Company may otherwise have and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

23.2 Any waiver by the Company of a breach of any of the terms of this Agreement or of any default under this Agreement shall not be deemed a waiver by the Company of any subsequent breach or default and shall not affect the other terms of this Agreement.

24. SERVICE & MAINTENANCE

24.1 The provisions of this Clause 24 shall apply in addition to the other terms and conditions where the Company is providing servicing and/or maintenance in relation to equipment (the equipment that is maintained being referred to as a **“Covered Unit”**).

24.2 The Company shall make any such number of **“Service Visits”** at the Company’s discretion in order to carry out the services provided for in the Company’s quotation, proposal or tender submission, or as documented in the Company’s Order Form or the Buyer’s Purchase Order.

24.3 The Company will make a separate charge to the Buyer for any replacement parts and/or materials fitted and related labour during the Service Visits that are in addition to the scope of works and materials provided for in the Company’s quotation, proposal or tender submission, or as documented in the Company’s Order Form or the Buyer’s Purchase Order.

24.4 The Company shall not be liable for the cost of any reinstatement and/or redecoration of the premises made necessary by the inspection, testing, adjustment, repair, or servicing of the Covered Unit.

24.5 The Service Visits shall take place during normal business hours unless otherwise agreed.

24.6 For sites with multiple Covered Units, the Buyer shall (unless otherwise agreed in writing) provide concurrent access to all Covered Units during the service visit.

24.7 When Service Visits are covered as part of a contract in excess of one year’s duration, the Company shall (unless specifically stated otherwise in the Company’s quotation, proposal or tender submission, or as documented in the Company’s Order Form or the Buyer’s Purchase Order) be entitled from time to time to make reasonable adjustments to the prices charged to reflect changes in the cost of providing the services (including but not limited to changes in labour rates and transportation costs).

24.8 The Services offered are limited to those described in the Company’s quotation, proposal or tender submission, or as documented in the Company’s Order Form or the Buyer’s Purchase Order unless the Company shall agree in writing to carry out additional work and in that event the Buyer shall pay on request the extra fee required by the Company for such additional work or for special visits at times or at more frequent intervals than those specified in the Company’s quotation, proposal or tender submission, or as documented in the Company’s Order Form or the Buyer’s Purchase Order. The Buyer shall in any event pay for any loss or extra cost incurred by the Company through the Buyer’s instructions or lack of instructions or failure or delay in giving the Company access to the Covered Unit concerned or delay in making the Covered Unit available for inspection. The Company also reserves the right to make additional charges where:

24.8.1 any weekend or holiday working by the Company’s employees or work outside usual business hours which may be requested and agreed;

24.8.2 an engineer or technician in employment of the Company or subcontracted by the Company is required to attend a meeting or special inspection not included in the agreed service;

24.8.3 access to the Covered Unit cannot conveniently be obtained without the use of tall ladders (i.e. over ten rung) or scaffolding;

24.8.4 after an agreed visit has been confirmed and attended, access is denied by the Buyer, therefore an aborted visit will be charged for.

24.9 The Buyer shall give all necessary access to the buildings, or other premises where the Covered Unit is installed at all reasonable times during usual business hours and at other times as previously agreed between the Company and the Buyer.

24.10 The Buyer will provide adequate working space around the Covered Unit and (if required) adequate facilities for storage and safe-keeping of test equipment and spare parts. The Buyer will also maintain environmental conditions, electrical requirements and site facilities in accordance with the Company's installation recommendations and specifications.

24.11 The Buyer is not to incorporate any additional attachments, features or devices in the Covered Unit, attempt to adjust or repair the Covered Unit or any component part thereof nor remove or replace such parts without the prior written consent of the Company and the Company shall have no liability to the Buyer arising out of or in connection with such amendments and shall be entitled to recoup any additional costs incurred by it in carrying out the services arising out of or in connection with such amendments.

24.12 The Buyer shall ensure that the Covered Unit has been purged of all dangerous substances prior to the arrival of the Company's service engineer and shall provide written confirmation on a form prescribed by the Company and signed by a responsible official that the Covered Unit has been so purged. The Buyer shall indemnify the Company from and against (and shall keep the Company indemnified from and against) all losses, liabilities, costs, charges, expenses, claims, demands, actions and proceedings whatsoever which arise from or as a result of the failure on the part of the Buyer to comply with the provisions of this clause. Without prejudice to the generality of the foregoing, where the Company's service engineer is prevented from carrying out the services undertaken by the Company hereunder as a result of the Buyer failing to ensure that the Covered Unit has been correctly purged, the Company reserves the right to make an additional charge equal to the current annual service charge in respect of the Covered Unit. If there is any delay in the carrying out of the services to be provided by the Company hereunder which is caused by the Buyer not having completed preparatory work, the Company shall be entitled to charge for waiting time at the Company's current rates (the maximum time during which the Company's representative will wait being 1 hour).