

Terms & Conditions

For Commercial Maintenance Services

Stannah

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Terms and Conditions

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1. Definitions

Annual Fee means the annual charge for the Services;

Commencement Date means the date from which Stannah shall provide the Services to the Customer as stated in the Service Agreement;

Contract Term means the period as stated in the Service Agreement;

Customer: the person or body described in the Service Agreement;

Customer's Representative means the Customer's representative appointed in accordance with clause 4.1, or such assistant who the Customer's Representative delegates the Services and notifies Stannah;

Documents includes, in addition to any Stannah document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form created and/or supplied by Stannah;

Environment means the natural and man-made environment including all or any of the following media: air (including air within buildings and other natural or man-made structures above or below the ground), water, land, and any ecological systems and living organisms (including man) supported by those media;

Equipment means the equipment specified in the Service Agreement;

Harm means harm to the Environment, and in the case of man, this includes offence caused to any of his senses or harm to his property;

Hazardous Substances means any material, substance or organism which, alone or in combination with others, is capable of causing Harm, including radioactive substances and materials containing asbestos;

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

Mediation Agency means CEDR (or such body or organisation that may supersede or replace CEDR from time to time);

Mediation Notice has the meaning given in clause 27.5;

Model Procedure means the standard mediation procedure (and standard mediation agreement) of the Mediation Agency (meaning, in the case of CEDR, its Model Mediation Procedure or any procedure that supersedes or replaces such procedure from time to time);

Pre-existing Materials means all Documents, information and materials provided to Stannah which existed prior to the commencement of this agreement, including service log, repair log (if different to service log), inspection records, operation and maintenance manual, reports and specifications;

Services: the services to be provided by Stannah under this agreement as set out in the Service Agreement;

Service Agreement: the services agreement set out Sections A to E including these Terms and Conditions;

Stannah: Stannah Lift Services Limited incorporated and registered in England and Wales with company number 1189799 whose registered office is Watt Close, East Portway, Andover, Hampshire SP10 3SD;

Stannah's Equipment: any equipment, including tools, systems, cabling or facilities, provided by Stannah or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2. Clause, Section and paragraph headings shall not affect the interpretation of this agreement.
- 1.3. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.4. The Service Agreement including Sections A to E form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Service Agreement.
- 1.5. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.8. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.10. A reference to **writing** or **written** includes fax and e-mail (unless otherwise stated in this agreement) provided always that faxes and emails sent to Stannah must be sent to the fax number and/or email address stated in the Services Agreement.
- 1.11. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.12. References to clauses are to the clause of these Terms and Conditions and references to Sections are to Sections A to D of the Service Agreement and references to paragraphs are to paragraphs of the relevant Section.

- 1.13. Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. COMMENCEMENT AND DURATION

- 2.1. Stannah shall provide the Services to the Customer on the terms and conditions of this agreement.
- 2.2. Stannah shall provide the Services to the Customer from the Commencement Date.
- 2.3. The Services supplied under this agreement shall be supplied initially for the Contract Term and will automatically renew in accordance with clause 14.1, unless this agreement is terminated in accordance with the provisions in clause 14.2.

3. STANNAH'S OBLIGATIONS

- 3.1. Stannah shall use reasonable endeavours to provide the Services, to the Customer, in accordance with Section D in all material respects.
- 3.2. Stannah shall use reasonable endeavours to meet any 'call-out' visits as expeditiously as possible, whether the 'call-out' is specified in the Service Agreement or not, but any response time given by Stannah shall be provided as an estimate only and time for performance by Stannah shall not be of the essence of this agreement. Stannah will not be held liable for any consequences of any delay in responding.
- 3.3. On or shortly after the commencement of this agreement a maintenance visit shall be carried out, to include a site and risk assessment and dilapidations survey of the Equipment. Following the maintenance visit Stannah shall provide a dilapidations survey report to the Customer. Any works that are identified in the dilapidations survey report as outstanding from the previous maintenance provider or any works required shall be at the Customer's cost and liability for such works and the effect on the Equipment shall remain with the Customer until rectified by Stannah. Stannah will not be responsible to the Customer for any costs, charges or losses sustained in connection with such outstanding works.
- 3.4. Stannah shall have no responsibility or liability for any work relating to the surveying for Hazardous Substances including, but not limited to:
- 3.4.1. If upon completion of a survey by a third party, asbestos is discovered, Stannah shall have no responsibility or liability for any subsequent work by a third party to remove or make safe the asbestos.
- 3.4.2. Stannah shall have no responsibility or liability with regards the costs of surveying for or any subsequent work (if applicable) in relation to asbestos.
- 3.4.3. In the event that Stannah discovers or suspects the presence of asbestos during the course of the Works, or in the event that a party other than Stannah discovers or suspects asbestos during the course of the Works, Stannah shall immediately suspend the Works and inform, or ensure that the relevant party informs, the appropriate authority of their discovery or suspicions. Stannah shall only recommence Works upon formal receipt in writing that the asbestos (if any) has been removed or made safe and, if applicable, supplied with a clearance certificate.
- 3.4.4. Any delay in Stannah completing the Works as a result of the events in this clause 3.4 shall entitle Stannah to an extension of time to complete the Works commensurate to the delay.

- 3.5. Stannah shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer's premises and that have been communicated to it under clause 4.1.4, provided that it shall not be liable under this agreement if, as a result of such observation, it is in breach of any of its obligations under this agreement.

4. CUSTOMER'S OBLIGATIONS

4.1. The Customer shall:

- 4.1.1. co-operate with Stannah in all matters relating to the Services and appoint the Customer's Representative in relation to the Services who shall have the authority contractually to bind the Customer on matters relating to the Services;
 - 4.1.2. provide, for Stannah, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to and make available the Customer's premises, office accommodation, Equipment, data and other facilities as reasonably required by Stannah;
 - 4.1.3. be responsible (at its own cost) for maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any Hazardous Substances from its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing Stannah of all of the Customer's obligations and actions under this clause 4.1.3;
 - 4.1.4. inform Stannah of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer's premises;
 - 4.1.5. keep the Equipment in good working order in a suitable environment and in accordance with any instructions, manuals or other directions or instructions issued by or on behalf of Stannah from time to time in written form;
 - 4.1.6. not to interfere with the Equipment without the prior written approval of Stannah;
 - 4.1.7. at the earliest opportunity give written notice to Stannah if, during the Contract Term, the Customer discovers or has a reasonable cause for suspicion of a fault, malfunction or defect with the Equipment howsoever arising and irrespective of the effect of such fault, malfunction or defect; ;
 - 4.1.8. inform Stannah forthwith if they use or intend to introduce a power reduction system.
- 4.2. If Stannah's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, Stannah shall not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay.
- 4.3. If the Customer fails to perform any of its obligations set out in clause 4.1 above or any of its obligations under this agreement, Stannah (without prejudice to its other rights):
- 4.3.1. may suspend performance of the Services until the Customer remedies its default;
 - 4.3.2. will not be liable for any costs, charges, losses, claims or damages sustained or incurred by the Customer as a result of such suspension and/or failure to perform.

- 4.4. Subject to clause 10, the Customer shall be liable to pay to Stannah, on demand, all reasonable costs, charges or losses sustained or incurred by Stannah (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this agreement, subject to Stannah confirming such costs, charges and losses to the Customer in writing.

5. CHANGE CONTROL

- 5.1. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing to the address stated in the Service Agreement.
- 5.2. If either party requests a change to the scope or execution of the Services, Stannah shall, within a reasonable time, provide a written estimate to the Customer of:
- 5.2.1. any necessary variations to Stannah's charges arising from the change; and
 - 5.2.2. any other impact of the change on this agreement.
- 5.3. If the Customer wishes Stannah to proceed with the change, Stannah has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services and any other relevant terms of this agreement to take account of the change and this agreement has been varied in accordance with clause 17.
- 5.4. Notwithstanding clause 5.3, Stannah may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. Stannah may, from time to time and subject to Customer's prior written consent, which shall not be unreasonably withheld or delayed change the Services, provided that such changes do not materially affect the nature or quality of the Services.
- 5.5. Stannah may charge for the time it spends assessing a request for change from the Customer on a time and materials basis in accordance with clause 7.

6. DANGEROUS EQUIPMENT

- 6.1. If Stannah determine that the Equipment is or is likely to be in a dangerous condition then Stannah may isolate the Equipment and/or take such other measures as are reasonably necessary providing that within a reasonable time thereafter Stannah shall notify the Customer of its decision with details of how the Equipment is or may be dangerous.
- 6.2. If Stannah write to the Customer advising the Customer that Stannah considers the Equipment is or is likely to be in a dangerous condition, then the Customer shall not use the Equipment until otherwise advised by Stannah in writing.
- 6.3. Isolation of the Equipment under the provisions of clause 6.1 and/or written notice under clause 6.2 entitles Stannah to suspend its obligations under this agreement and Stannah will not be liable for any losses, costs, expenses, damages, claims or liabilities as a result of taking such action.

7. CHARGES AND PAYMENT

- 7.1. The Annual Fee shall be as stated in the Service Agreement.
- 7.2. The Annual Fee and any other costs quoted are based on cost current at the date of this Agreement and shall be varied in accordance with any rise or fall of such costs on 1 January annually. This variance will not apply if the Commencement Date is agreed within three months prior to this date in the first year of the Contract Term but shall apply with effect from each subsequent 1 January.
- 7.3. The Annual Fee will be subject to further variation in respect of any additional costs, taxes or other expenditure arising by virtue of:-
 - 7.3.1. any statute, regulations or orders issued by any Government departments or other duly considered authority, and
 - 7.3.2. any security arrangements of any Government department or other body.
- 7.4. Should the Customer require any additional Services or works of improvement, Stannah reserves the right to require a deposit to be paid by the Customer prior to ordering materials.
- 7.5. VAT will be charged by Stannah and paid by the Customer at the then applicable rate
- 7.6. Stannah shall invoice the Customer on the terms set out in the Service Agreement and the Customer shall pay the amount invoiced without deduction or set-off within 30 calendar days from the date of the invoice.
- 7.7. Without prejudice to any other right or remedy that it may have, if the Customer fails to pay Stannah on the due date:
 - 7.7.1. the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount; and
 - 7.7.2. Stannah may suspend all Services until payment has been made in full.
- 7.8. The parties agree that Stannah may review and increase the charges set out in this agreement, provided that such charges cannot be increased more than once in any 12 month period. Stannah shall give the Customer written notice of any such increase 10 calendar days before the proposed date of that increase.
- 7.9. All sums payable to Stannah under this agreement shall become due immediately on its termination, despite any other provision. This clause 7.9 is without prejudice to any right to claim for interest under the law, or any such right under this agreement.
- 7.10. All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8. INTELLECTUAL PROPERTY RIGHTS

As between the Customer and Stannah, all Intellectual Property Rights and all other rights in the Documents shall be owned by Stannah. Stannah licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Documents and the Services. If this agreement is terminated, this licence will automatically terminate.

9. CONFIDENTIALITY AND STANNAH'S PROPERTY

- 9.1. The Customer undertakes that it shall not at any time disclose to any person technical or commercial know-how, prices, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by Stannah, its employees, agents, consultants or subcontractors or of any member of the group of companies to which Stannah belongs and any other confidential information concerning Stannah's business or its products which the Customer may obtain, except as permitted by clause 9.2.
- 9.2. The Customer may disclose Stannah's confidential information:
 - 9.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information complies with this clause 9; and
 - 9.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.3. The Customer shall not use Stannah's confidential information for any purpose other than to perform its obligations under this agreement.
- 9.4. All materials, plant, spare parts and tools, drawings, specifications and data retained by Stannah at the Customer's premises shall, at all times, be and remain the exclusive property of Stannah, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to Stannah, and shall not be disposed of or used other than in accordance with Stannah's written instructions or authorisation.

10. LIMITATION OF LIABILITY

- 10.1. Nothing in this agreement limits or excludes Stannah's liability for:
 - 10.1.1. death or personal injury caused by its negligence;
 - 10.1.2. fraud or fraudulent misrepresentation; or
 - 10.1.3. breach of any obligation as to title implied by Section 12 of the Sale of Goods Act 1979 or breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 10.2. Subject to clause 10.1, Stannah shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:
 - 10.2.1. loss of profits;
 - 10.2.2. loss of sales or business;

- 10.2.3. loss of agreements or contracts;
 - 10.2.4. loss of anticipated savings;
 - 10.2.5. loss of or damage to goodwill;
 - 10.2.6. loss of use or corruption of software, data or information;
 - 10.2.7. any indirect or consequential loss.
- 10.3. Subject to clause 10.1 and clause 10.2, Stannah's total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to £1,000,000.00 (one million pounds) in the aggregate in any consecutive 12 (twelve) month period, starting on the Commencement Date.
- 10.4. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

11. GENERAL DATA PROTECTION

- 11.1. The terms 'personal data', 'process', 'Controller', 'Processor', variations thereof and other terms which are ascribed defined meanings under the General Data Protection Regulation EU/2016/679 and the Data Protection Act 2018, shall be interpreted in accordance with the definitions of that Regulation.
- Stannah Lift Service Limited as data Processor will only process personal data in accordance with the General Data Protection Regulation EU/2016/679 (GDPR) and the Data Protection Act 2018.
- 11.2. Personal data obtained in respect of the Customer, its customers or users of the products included in this contract, and employees of the Customer will be retained and processed only for the following specific purposes:
- 11.2.1. For administering this Agreement and meeting the terms set out herein. Personal data necessary for invoice processing and credit control activities only will be passed to an associated company, namely, Stannah Management Services Limited. The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency.
 - 11.2.2. To ensure the health and safety of Stannah employees and third parties specifically contracted by Stannah to provide services to Stannah in relation to this contract.
- 11.3. Any sensitive personal data received by Stannah, from whatever source, will only be retained for as long as Stannah believes it to be relevant to the purposes set out above.
- 11.4. Stannah have a legitimate interest in retaining certain personal data after termination or expiry. This is to enable us to respond to future product safety concerns, retrofits, liability claims etc. Such data will not be used for any purpose other than under this legitimate interest
- 11.5. If the Customer provides information about another person in connection with this Agreement, the Customer shall confirm to Stannah that the other person has appointed the Customer to act on their behalf and has agreed that the Customer can give consent on their behalf to the processing of their personal data (including explicit consent for any sensitive personal data) and that the Customer can receive on their behalf any data protection notices.

11.6. A copy of Stannah's GDPR Policy is available here: [Stannah Group GDPR policy](#)

12. ACTS OF PARLIAMENT

12.1. Stannah Lift Services Limited shall comply with Acts of Parliament, any instrument, rule or order made under any Act of Parliament including

12.1.1. the Bribery Act 2010 relating to anti-bribery and anti-corruption, and

12.1.2. the Modern Slavery Act 2015 relating to slavery, servitude and forced or compulsory labour.

13. SUSPENSION

13.1. Without prejudice to any other right or remedy, Stannah may, on giving the Customer written notice, suspend the performance of any or all of its obligations under this agreement for any of the following circumstances:-

13.1.1. if the Customer fails to pay any monies by the due date;

13.1.2. Stannah is prevented from performing any of its obligations by a cause beyond its control;

13.1.3. where, without Stannah's prior consent, any work on Equipment is carried out by anyone other than Stannah or its servants or agents;

13.1.4. where, after notice from Stannah of a need for work and/or replacement parts to be installed and which are not part of this agreement, the Customer refuses or fails to instruct such work and/or replacement parts;

13.1.5. where, in the opinion of Stannah the Equipment is being unreasonably used by the Customer; and

13.1.6. where Stannah is required to immobilize the Equipment under clause 6 above.

13.2. If any of the above mentioned circumstances continue for a period of more than 30 calendar days without being remedied, Stannah may, by written notice forthwith terminate this agreement under clause 14 below and thereupon shall cease to have any further liability whatsoever under this agreement or otherwise or be responsible for any further work.

14. TERMINATION

14.1. Stannah shall provide the Services to the Customer from the Commencement Date and shall continue for the Contract Term and thereafter for periods of one year, unless terminated by either party giving three months prior written notice of termination to expire at the end of the Contract Term or each subsequent period.

14.2. Without affecting any other right or remedy available to it, Stannah may terminate this agreement with immediate effect by giving written notice to the Customer if:

14.2.1. the Customer fails to pay any amount due under this agreement by the due date for payment;

14.2.2. the Customer breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

- 14.2.3. the Customer, without Stannah's prior written consent, allows or contracts for any work upon the Equipment within the scope of this agreement to be carried out by anyone other than Stannah, its employees, servants or agents;
- 14.2.4. the Customer, following written notice from Stannah of the need for work or replacements to be carried out which are not included in the Services, the Customer refuses or fails to carry out the said work or make the said replacement;
- 14.2.5. in Stannah's opinion, the Customer makes use of the Equipment in an unreasonable, irresponsible or incorrect manner.
- 14.3. In any of the circumstances contained in clause 14.2, if Stannah terminates this contract, Stannah shall cease to have any further liability whatsoever or be responsible for any work or Services.
- 14.4. Without affecting any other right or remedy available to it, either party may terminate this agreement by giving written notice to the other party if:
 - 14.4.1. the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 calendar days after being notified to do so;
 - 14.4.2. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - 14.4.3. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the other party;
 - 14.4.4. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the other party;
 - 14.4.5. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
 - 14.4.6. the holder of a qualifying floating charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 14.4.7. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 14.4.8. the other party (being an individual) is the subject of a bankruptcy petition or order;

- 14.4.9. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 calendar days;
- 14.4.10. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.4.2 to clause 14.4.9 (inclusive);
- 14.4.11. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 14.4.12. the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or
- 14.4.13. there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

15. CONSEQUENCES OF TERMINATION

15.1. On termination or expiry of this agreement:

- 15.1.1. the Customer shall immediately pay to Stannah all of Stannah's current and outstanding monies due for payment (including all unpaid invoices) and interest and, in respect of Services supplied but for which no invoice has been submitted, Stannah may submit an invoice, which shall be payable immediately on receipt;
 - 15.1.2. the Customer shall, where applicable return all of Stannah's plant, tools, materials and any other possessions belonging to Stannah at the point of termination. If the Customer fails to do so, then Stannah may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping;
 - 15.1.3. the following clauses shall continue in force notwithstanding termination of this agreement: clause 8 (Intellectual property rights), clause 9 (Confidentiality and Stannah's property), clause 10 (Limitation of liability), clause 15.1, clause 26 (Notices), clause 27 (Dispute resolution), clause 28 (Governing law and jurisdiction).
- 15.2. Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

16. FORCE MAJEURE

- 16.1. Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:
- 16.1.1. acts of God, flood, drought, earthquake or other natural disaster;
 - 16.1.2. epidemic or pandemic;
 - 16.1.3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, act of piracy, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - 16.1.4. nuclear, chemical or biological contamination or sonic boom;

- 16.1.5. any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, [or failing to grant a necessary licence or consent];
 - 16.1.6. collapse of buildings, fire, explosion or accident;
 - 16.1.7. any labour or trade dispute, strikes, industrial action or lockouts;
 - 16.1.8. non-performance by suppliers or subcontractors;
 - 16.1.9. interruption or failure of utility service; and
 - 16.1.10. loss of goods in transit.
- 16.2. Provided it has complied with clause 16.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 16.3. The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 16.4. The Affected Party shall:
- 16.4.1. as soon as reasonably practicable after the start of the Force Majeure Event but no later than 3 calendar days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
 - 16.4.2. use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 16.5. If the Force Majeure Event prevails for a continuous period of more than 3 months, either party may terminate this agreement by giving 14 calendar days' written notice to all the other party. On the expiry of this notice period, this agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this agreement occurring prior to such termination.

17. VARIATION

Subject to clause 5, no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. RIGHTS AND REMEDIES

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20. SEVERANCE

- 20.1. If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 20.2. If any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. ENTIRE AGREEMENT

- 21.1. This agreement 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.
- 21.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 21.3. Nothing in this clause shall limit or exclude any liability for fraud.

22. CONFLICT

If there is an inconsistency between any of the provisions of this agreement and the provisions of the Service Agreement, the provisions of this agreement shall prevail.

23. ASSIGNMENT

- 23.1. This agreement is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
- 23.2. Stannah may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this agreement, provided that Stannah gives prior written notice to the Customer.

24. NO PARTNERSHIP OR AGENCY

- 24.1. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 24.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

25. RIGHTS OF THIRD PARTIES

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

26. NOTICES

26.1. A notice given to a party under or in connection with this agreement:

26.1.1. shall be in writing and in English or accompanied by an accurate translation into English;

26.1.2. shall be signed by or on behalf of the party giving it;

26.1.3. shall be sent to the party for the attention of the contact and at the address listed in clause 26.2; and

26.1.4. unless proved otherwise is deemed received as set out in clause 26.3 if prepared and sent in accordance with this clause.

26.2. The parties' addresses and contacts are as set out in the Service Agreement.

26.3. The below table sets out:

26.3.1. delivery methods for sending a notice to a party under this agreement; and

26.3.2. for each delivery method, the corresponding delivery date and time when delivery of the notice is deemed to have taken place provided that all other requirements in this clause have been satisfied and subject to the provisions in clause 26.4:

Delivery method	Deemed delivery date and time
Delivery by hand.	On signature of a delivery receipt or at the time the notice is left at the address.
Pre-paid first class recorded delivery post or other next working day delivery service providing proof of postage.	9.00 am on the second Business Day after posting.

26.4. For the purpose of clause 26.3 and calculating deemed receipt:

26.4.1. all references to time are to local time in the place of deemed receipt; and

26.4.2. if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.

26.5. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

27. DISPUTE RESOLUTION

27.1. If any dispute arises in connection with this agreement, Stannah and the Customer's Representative shall, within 28 calendar days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

27.2. If a dispute cannot be resolved by clause 27.1 above, that dispute shall within 28 calendar days of the meeting referred to in clause 27.1 be referred to:

27.2.1. Director of Stannah, or such other person as Stannah may advise from time to time; and

- 27.2.2. Director (or equivalent) of the Customer, or such other person as the Customer may advise from time to time; (together, the Senior Representatives) for resolution.
- 27.3. If a dispute cannot be resolved by the Senior Representatives within a maximum of 28 calendar days after it has been referred under clause 27.2, the parties shall attempt to settle the dispute by referring the dispute for mediation in accordance with clause 27.4.
- 27.4. Referral of a dispute to mediation shall be carried out in accordance with the procedure set out in clauses 27.5 to 27.8 (inclusive).
- 27.5. To initiate a mediation, a party (acting by its Senior Representative) shall give notice (a Mediation Notice) to the other party of the dispute addressed to the other party's Senior Representative requesting a mediation in accordance with this clause 27;
- 27.6. The party initiating the mediation shall refer the dispute for mediation under the supervision of the Mediation Agency (simultaneously notifying the other party of such referral), in which case:
- 27.7. the mediator shall be a registered or panel mediator of the Mediation Agency appointed by the Mediation Agency; and
- 27.8. the procedure in the Model Procedure will (subject to amendment to take account of any relevant provisions in this Agreement or any other agreement which the parties may enter into in relation to the conduct of the mediation) apply.
- 27.9. Unless agreed otherwise, each party shall bear its own costs of a mediation.
- 27.10. Where the dispute remains unsolved following mediation, or 60 calendar days after the service of the Mediation Notice, the parties shall be free to commence proceedings in relation to the dispute in accordance with clause 28.
- 27.11. Work and activity to be carried out, and in particular the provision by Stannah of the Services, and compliance with all other obligations under this agreement, shall not cease or be delayed by the invocation of the Dispute Resolution Procedure.
- 27.12. The parties acknowledge that, notwithstanding the provisions of this clause 27, nothing in this agreement shall prevent any party from bringing proceedings in any court of competent jurisdiction for any interim or interlocutory relief or to protect its assets or the Intellectual Property rights or Confidential Information of that party.

28. GOVERNING LAW AND JURISDICTION

- 28.1. This agreement 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 law of England and Wales.
- 28.2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).