

GENERAL TERMS & CONDITIONS OF SALE

1. Interpretations

In these Terms and Conditions:-

Expression	Meaning
"Developed Software"	developed for the Customer by the Company pursuant to the Contract;
"Business Day"	a day on which banks in London are open for a full range of banking transactions;
"Company"	EVENTURA LIMITED (company number 04660103) registered address: 45-51 Chorley New Road, Bolton, Lancashire, BL1 4QR, or any of its divisions;
"Consequential Loss"	without limitation pure economic loss, loss of profit, loss of business and any like loss;
"Contract"	a contract for the supply of Hardware or Software or Third Party Software or Maintenance or Services to which these Terms and Conditions apply;
"Customer"	the person, company or other body purchasing the Hardware or Software or Third Party Software or Maintenance or Services from the Company pursuant to the Contract;
"Hardware"	the hardware to be supplied to the Customer;
"Intellectual Property Rights"	rights of any nature whatsoever, whether registered or unregistered including, without limitation, any patent, right in a design, copyright, trade mark, database right and other intellectual property right whether or not capable of registration;
"Maintenance"	the maintenance service to be provided to the Customer by the Company pursuant to the Contract;
"Services"	the services to be supplied by the Company to the Customer pursuant to the Contract, including, without limitation, installation, implementation and consultancy services;
"Software" Customer by	the application software, excluding Third Party Software, to be supplied to the Company pursuant to the Contract;
"Third Party"	any person, company or other body not being the Company or the Customer;
"Third Party Software"	the third party computer software to be supplied to the Customer by the Company pursuant to the Contract;
"Working Day"	any Business Day upon which the Company carries on business; and
"Working Hours"	the hours of 9 a.m. to 5.30 p.m. during a Working Day.

2. General

- These Terms and Conditions shall apply to all tenders, offers, quotations, acceptances, agreements and deliveries relating to the supply of Hardware or Developed Software or Software or Third Party Software or Maintenance or Services by the Company.
- All descriptions, specifications, drawings, photographs, weights, dimensions, capacities, prices, performance ratings and other information quoted or submitted by the Company or included in any sales literature, quotation, price list, acknowledgement of order, invoice or other document or information issued by the Company are to be deemed approximate only (except where stated in writing to be exact) and subject thereto none of such items or any part thereof shall form part of the Contract (other than as approximations).
- No amendment to these Terms and Conditions shall be valid unless confirmed in writing by a director of the Company.
- Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of order, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- The Company reserves the right to make any changes in the specifications of Hardware or Developed Software or Software or Third Party Software which are required to conform with any applicable safety or other legal requirements or which do not materially affect their quality or performance.

3. Pricing and Payment

- The price payable by the Customer for the supply of Hardware or Developed Software or Software or Third Party Software or Maintenance or Services shall be that agreed between the Customer and the Company each time the Customer places an order. For the avoidance of doubt, these Terms and Conditions shall apply to any orders placed by the Customer whether in writing or orally which order shall become binding if accepted by the Company.
- Unless an order has become binding on the Company all prices are subject to change without prior notice.
- Unless otherwise agreed between the parties, invoices will be raised and dated by the Company on the date of delivery of the Hardware or Developed Software or Software or Third Party Software or Maintenance or commencement of Maintenance or the Services. The Customer shall pay each invoice in full, together with any VAT at the appropriate rate and other expenses, to the Company within 30 (thirty) days of the date of invoice ("due date"). The time of payment shall be of essence of the Contract.
- If the Customer fails to pay any monies by the due date or does not comply with an obligation imposed upon the Customer then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to withhold the supply of any Hardware or Developed Software or Software or Third Party Software or Maintenance or Services to be provided to the Customer by or on behalf of the Company until such payment is made.
- The Company reserves the right to charge interest to the Customer on any sums, fees or other charges which are not paid on the due date and such interest may be charged from the date such payment falls due at the rate of three per cent (3%) per annum above the base rate of Barclays Bank Plc from time to time subsisting such interest to accrue on a daily basis.
- Unless otherwise agreed in writing, packaging, delivery and transport charges and insurance and expenses will be charged extra at the Company's then current rates for the same.
- After an order has become binding on the Company, all prices are subject to increase to reflect any increases in cost to the Company including without limitation, costs of materials, labour, transport and services, fluctuations in currency exchange rates and any tax, duty, fee or charge imposed by any government or other authority prior to delivery, any change in delivery dates, quantities or specification for the Hardware or Developed Software or Software or Third Party Software or Maintenance or Services which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.
- The Customer shall not be entitled to make a set-off or counter-claim or claim a lien in respect of any monies owed by the Company and shall pay all amounts due without making a deduction of any kind.

4. Customer's Obligations

- The Customer shall:-
 - pay all sums, fees and other charges due under the Contract by the due date, time of payment being of the essence;
 - if a Service is delayed other than through the Company's fault, pay any sums required by the Company in respect of idle-time incurred for the delay, including delay as a result of the Customer's agents or sub-contractors. Any agreed time schedules shall be deferred to a reasonable period of time or no less than the period of the delay;
 - take all reasonable precautions to protect the health and safety of the Company's personnel whilst at any location of the Customer;
 - allow the Company to exercise a right of entry over all premises in the possession of or under the control of the Customer in order for the Company to fulfil its obligation under the Contract and to determine whether the Customer is complying with its obligations by virtue of these Terms and Conditions;
 - be responsible for ensuring that its premises are ready to receive the items concerned;
 - promptly furnish the Company with any information required by the Company in order to provide the Hardware or Developed Software or Software or Third Party Software or Maintenance or the Services and shall ensure its employees or agents co-operate with the Company;
 - in the event that the Customer fails for any reason to complete any purchase of any Hardware or Developed Software or Software or Third Party Software or Maintenance or Services within the period notified to the Customer at any time by the Company, the Customer shall indemnify the Company against any loss, damage or other cost of whatsoever nature suffered or incurred by the Company reasonably relating to such failure on the part of the Customer.
- The Customer shall promptly provide the Company, on request, with all information and assistance that the Company may reasonably require.
- The Customer acknowledges that he is relying solely upon his own skill and judgement and not that of the Company in determining the suitability of any Hardware or Developed Software or Software or Third Party Software or Maintenance or Services and the fitness for any general or specific purpose of any Hardware

or Software or Third Party Software or Maintenance or Services.

- The Customer warrants that its representatives who enter into the Contract have the Customers authority to do so and that the Customer will take responsibility for any employee, ex-employee or other person who holds themselves out to be the authorised representative of the Customer.

5. Documentation

The Customer shall not copy or reproduce in any way the whole or a part of the user manual or any other documentation relating to any Hardware or Developed Software or Software or Third Party Software or Maintenance or Services which is supplied to the Customer under the Contract, without receiving the Company's prior written consent.

6. Delivery and Inspection

- All dates supplied by the Company for the delivery or installation or implementation or testing of an element of Hardware or Developed Software or Software or Third Party Software or the provision of any Maintenance or any Service shall be treated as being approximate only.
- The Customer shall inspect the Hardware or Developed Software or Software or Third Party Software and notify the Company of any damage or fault or non-delivery within 5 Working Days of delivery.
- Delivery will not be prevented and the Company will not remedy any minor faults which do not affect the performance of the Hardware or Developed Software or Software or Third Party Software in question. Any complaints in relation to Hardware or Third Party Software must be directed at the first instance by the Customer to the manufacturer (with regards to Hardware) and to the Third Party licensor (with regards to Third Party Software).
- Where the Company agrees to remedy any fault or damage pursuant to clause 6.2, the Company may, at its option, replace the Hardware or Developed Software or Software or Third Party Software in question in which event the Customer will immediately return the damaged or faulty Hardware or Developed Software or Software or Third Party Software in question to the Company.

7. Provision of Hardware, Developed Software, Software and Third Party Software

- Unless otherwise agreed in writing between the Customer and the Company, the price of each item ordered does not include the cost of delivery to the Customer's premises and installation (where applicable) for which the Customer shall be liable in addition.
- Risk in the Hardware or Developed Software or Software or Third Party Software passes to the Customer on delivery to the Customer or to the Customer's order (whichever is the sooner). With effect from delivery and until title in the Hardware passes to the Customer, the Customer is responsible for insuring the Hardware against loss or damage for the full cost of its replacement.
- Except as stated elsewhere in these Terms and Conditions, the liability of the Company in respect of the Hardware or Third Party Software is limited to assigning to the Customer (in so far as the Company is legally permitted to do so) the benefit of any warranties with which such items have been supplied to the Company.

7.1. Provision of Hardware

- Title in the Hardware shall not pass to the Customer until the total price payable for it and any other sums due from the Customer have been received in full in cleared funds by the Company.
- Until title in the Hardware has passed to the Customer, the Customer shall hold the Hardware as bailee for the Company and, whilst it may use it in the ordinary course of its business, it shall not obliterate any identifying mark and will, if required by the Company store the Hardware separately from other hardware. Until title passes, the Company or its authorised representative has the right to enter on to any premises occupied by the Customer to recover possession of the Hardware.

7.2. Provision of Developed Software or Software or Third Party Software

- The title to and the Intellectual Property Rights in the Developed Software or Software or Third Party Software and in the media containing such Developed Software or Software or Third Party Software does not pass to the Customer. The Customer is licensed to use such Developed Software or Software in accordance with these Terms and Conditions or Third Party Software in accordance with the applicable Third Party Software licence terms, and by entering into the Contract the Customer agrees to comply with such terms.

- This licence shall be deemed to incorporate and include all updates of Software which is supplied from time to time to the Customer by the Company.

- The Company hereby grants to the Customer a perpetual non-transferable and non-exclusive licence to use the Developed Software and/or Software subject to the provisions of these Terms and Conditions and the Contract.

- The licence hereby granted in relation to the Developed Software or Software is subject in any event to the following restrictions:

- Subject to clause 7.9.9, the Developed Software or Software shall be used only by the Customer for the purposes of the Customer's own internal business;
- the Developed Software or Software shall only be used by up to the maximum number of users the Customer has purchased from the Company, on those computers at the Customer's premises with the Company;
- the Developed Software or Software may only be transferred from one computer to another with the consent in writing of the Company (such consent not to be unreasonably withheld or delayed);
- the Customer shall not load the Developed Software or Software onto a network server for the purpose of distribution to one or more other computer(s) network or to affect such distribution;
- the Customer shall not alter, modify, copy or adapt the Developed Software or Software or any part thereof;
- the Customer shall not assign, sub-licence, charge or otherwise dispose of or grant rights over or out of the licence hereby granted with the Developed Software or Software, without the Company's prior written consent (such consent not to be unreasonably withheld);
- to the maximum extent permissible in law, the Customer agrees not to attempt to ascertain or list the source programs or source code relating to the Developed Software or Software;
- notwithstanding clause 7.9.1 above, the Customer shall not, without the prior written consent of the Company, use the Developed Software or Software as part of a computer bureau business or for a business which the Customer does not at the date of the Contract carry on; and
- the Customer shall not interfere with or attempt to circumvent the operation of any dongle or other device whose function is to prevent the unlawful copying or use of the Developed Software or Software.

- The Customer acknowledges and agrees that none of the acts which are prohibited by the provisions of these Terms and Conditions (including, without limitation, the prohibitions on copying or adapting Developed Software or Software or Third Party Software for the purpose of correcting errors in the same) are necessary for the purposes of the use of that Developed Software or Software by the Customer in accordance with its intended purpose.

- The Customer shall not modify, alter or in any way interfere with the Developed Software or Software or merge the same with other data, programs or systems. Without prejudice to any other remedy of the Company if the Customer (in breach of this clause) does modify, alter, interfere with or merge the same, no such modification, alteration, interference or merger however extensive shall derogate from the obligations of and restrictions on the Customer under these Terms and Conditions which shall henceforth apply to the Developed Software or Software as so modified, amended, altered, interfered with or merged.
- Notwithstanding a description of the Customer's rights as or by virtue of a sale (and whether made orally or in writing and whether made in their Terms and Conditions or in any other document) the Customer's only right to use the Developed Software or Software is by way of a licence pursuant to these Terms and Conditions and the Contract (and any licence proffered by or on behalf of the owner of the Third Party Software). The Customer acknowledges that all Intellectual Property Rights in or relating to that Developed Software or Software or Third Party Software and in all related documentation shall remain the exclusive property of the Company (or in the case of Third Party Software, the exclusive property of the owner of that Third Party Software).

8. Provision of Maintenance

- Where the Company agrees to provide Maintenance in respect of the Third Party Software supplied to the Customer under the Contract, Maintenance will comprise reasonable assistance in the resolution of queries via a telephone call originated by the Customer during Working Hours for the agreed period (limited to first line support only). Except as provided under clause 8.3, if the query is unable to be resolved during a telephone call the Customer is to contact the owner of the Third Party Software directly.
- Where the Company agrees to provide Maintenance in respect of the Software this shall be provided in accordance with the Company's applicable Maintenance Schedule as provided to the Customer by the Company.
- Any additional maintenance which the Company agrees to supply to the Customer in relation to the Developed Software or Software or Third Party Software shall be provided on a time and materials basis at the Company's then current rates for same unless otherwise agreed.

9. Provision of Services

- Where the Company agrees to provide Services, any estimate or indication by the Company as to the number of man days or man hours required by the Company to undertake a specific task shall be construed as being an estimate only. The Company shall in no circumstances be liable for a delay or for any other loss, damage or other cost of whatsoever nature (including without limitation Consequential Loss) suffered or incurred by the Customer where such estimate or indication is incorrect.
- The charges agreed for the Services do not include travel, accommodation and subsistence expenses, nor the cost of time spent travelling incurred in the provision of the Services for which the Company shall charge its then current rates.
- The Company reserves the right to levy additional charges in respect of any expenses incurred by the Company in the provision of the Services.

9.4. Installation

- The Customer will at its own expense and prior to the delivery of the Hardware or Developed Software or Software or Third Party Software comply with the Company's reasonable requests in order to allow the Company to provide the installation services.

- The Company will normally carry out installation services during Working Hours but may, on reasonable notice, require the Customer to provide access to the Customer's premises at other times. At the Customer's request the Company may agree to work outside Working Hours however this shall be subject to any reasonable additional charge that may be made by the Company for complying with such request. Such charges shall be agreed in

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- writing prior to commencement of any out of hours work.
- 9.6 All personnel required under this Contract for the installation services will be provided by the Company and will be facilitated wherever possible by use of the Customer's own staff, however the Company reserves the right to sub-contract the whole or any part of this Contract to any person or company.
- 9.7 The Company will take all reasonable precautions to ensure that its employees retain in complete confidence any information or trade secrets of the Customer, its business or its clients of which they become aware of as a result of performing their duties under this Contract.
- 9.8 Personnel provided under this Contract will remain under the management and conditions of employment of the Company or its nominated sub-contractor.
- 9.9 **Implementation and Systems Integration**
In implementation of any of the Hardware or Developed Software or Software or Third Party Software the Company shall, following Consultancy when provided, recommend a specific period of parallel running with both the Customer's existing computer system or software. Where this is not possible or otherwise prevented by the Customer, the Customer recognises that there may be circumstances where performance of business systems may be disrupted. In these circumstances the Company will work to remedy such defects at the Customer's reasonable cost within a reasonable period of time subject to prompt and adequate notice of such faults by the Customer.
- 9.10 It is the Customer's responsibility to take adequate copies of data, operating and application software of the system and files so that the same may be restored in the event of corruption or other similar loss howsoever occasioned.
- 9.11 It is the responsibility of the Customer to maintain the latest revision levels of operating and application software where appropriate to facilitate the installation of the Hardware or Developed Software or Software or Third Party Software unless such non-current revision levels are detailed and accepted in writing by both the Customer and the Company.
- 9.12 **Consultancy**
Any consultancy services provided to the Customer shall be detailed in separate documentation provided by the Company prior to commencement of the chosen consultancy services.
- 9.13 The Company shall own and be fully entitled to use in any way it deems fit any Intellectual Property or Intellectual Property skills, techniques, materials, concepts or know-how acquired, developed or used in the course of performing the consultancy services and any improvements made or developed during the course of the consultancy services. For the avoidance of any doubt, this shall include any improvements or modifications to Software or Developed Software during the term of the Contract. Nothing herein shall be construed or shall give effect to any transfer of right, title or interest in the Company's Intellectual Property Rights.
- 9.14 The Company shall subject to clauses 4.1.2 and 12, provide the consultancy services in a timely and professional manner and the Company shall use its reasonable endeavours to provide the same in accordance with any time schedules agreed in writing between the Company and the Customer
- 9.15 The Customer shall indemnify and keep the Company indemnified in respect of any losses, costs, damages, claims and/or expenses incurred by the Company due to any claims by any Third Party arising out of any use, access to or modification of the Customer's computer systems by the Company on the Customer's instructions and/or use of any materials supplied to the Company by the Customer. The indemnity in this clause 9.1.5 shall survive the termination or expiry of this Contract.
10. **Warranties**
- 10.1 The Company warrants it has the right to provide or procure the provision of the Hardware or Developed Software or Software or Third Party Software or Maintenance or Services.
- 10.2 The warranties given by the Company to the Customer in respect of the Hardware are those which are given by the manufacturer or owner (as the case may be) of such Hardware to the Company and are subject to any relevant limitations and exclusions imposed by such manufacturer or owner (as the case may be). The Company shall provide the Customer with details of such warranties and remedies for breach of such warranties (if applicable) upon request.
- 10.3 The Company warrants that the consultancy services will conform to the standards generally observed in the industry for similar services and will be provided with reasonable skill and care.
- 10.4 The Company warrants that the Developed Software shall function materially in accordance with the specification agreed between the Company and the Customer for a period of 3 months from delivery.
- 10.5 The Company shall not be liable for a breach of the warranty if:
- 10.5.1 the Customer makes or causes to be made any modifications to the Hardware or Developed Software or Software or Third Party Software without the Company's prior written consent;
- 10.5.2 the Hardware or Developed Software or Software or Third Party Software is used in combination with any software or materials not supplied by the Company or not recommended by the Company;
- 10.5.3 the Hardware or Developed Software or Software or Third Party Software is used incorrectly;
- 10.5.4 an external cause or causes affects the Hardware or Developed Software or Software or Third Party Software including but not limited to failure or fluctuations of electrical power, fire, flood or other natural disasters.
11. **General Exclusions and Limitations of Liability**
- 11.1 To the maximum extent permissible in law all conditions and warranties which are to be implied by statute or otherwise by general law into these Terms and Conditions or relating to the Hardware or Developed Software or Software or Third Party Software or Maintenance or the Services are hereby excluded. Notwithstanding, any Hardware or Developed Software or Software or Third Party Software supplied under these Terms and Conditions will conform substantively to any specifications given in relation thereto and any Services or Maintenance provided under these will be provided with reasonable skill and care.
- 11.2 The Company shall in no circumstances be liable to the Customer for any indirect or Consequential Loss.
- 11.3 The total liability which the Company shall owe to the Customer and in respect of all claims under these Terms and Conditions shall not exceed the price paid by the Customer in respect of the Hardware or Developed Software or Software or Third Party Software or Services or, in respect of Maintenance, for the fees paid in the preceding year.
- 11.4 Nothing in these Terms and Conditions shall limit the Company's liability to the Customer for liabilities which cannot be limited or excluded as a matter of law including:
- 11.4.1 death or personal injury resulting from the negligence of the Company, its employees, agents or sub-contractors; and
- 11.4.2 fraud or fraudulent misrepresentation.
- 11.5 No actions regardless of form arising out of the Contract may be brought by the Customer more than two years after the Customer becomes aware or should reasonably have become aware of the facts constituting the cause of action.
12. **Force Majeure**
Neither party shall be liable to the other party in any manner whatsoever for any failure or any delay or for the consequences of any delay in performing its obligations under these Terms and Conditions (save in respect of any obligation to pay monies) due to any cause beyond the reasonable control of the party in question which for the avoidance of doubt and without prejudice to the generality of the foregoing shall include governmental actions, war, riots, civil commotion, fire, flood, epidemic, labour disputes including labour disputes involving the work force or any part thereof of the party in question, restraints or delays affecting shipping or carriers, inability or delay in obtaining supplies of adequate or suitable materials, currency restrictions and acts of God.
13. **Termination**
- 13.1 In the event of:
- 13.1.1 any distress, execution or other legal process being levied upon any of the Customers assets;
- 13.1.2 the Customer entering into any arrangement or composition with its creditors, committing any act of bankruptcy or (being a corporation) an order being made or an effective resolution being passed for its winding up, except for the purposes of amalgamation or reconstruction as a solvent company, or a receiver, manager receiver, administrative receiver or administrator being appointed in respect of the whole or any part of its undertaking or assets;
- 13.1.3 the Customer ceasing or threatening to cease to carry on business;
- 13.1.4 any breach of these Terms and Conditions by the Customer;
- 13.1.5 non payment by the Customer of any monies due from it to the Company; or
- 13.1.6 the Company reasonably apprehending that any of the events mentioned above is about to occur;
- the Company shall be entitled to terminate the Contract and suspend all or any work on current or future deliveries and instalments of the Hardware or Developed Software or Software or Third Party Software or the provision of Maintenance or any Services and on written notice to the Customer shall be entitled to cancel the undelivered or unperformed portion of the Contract between the Company and the Customer and deem that the whole of the price payable under the Contract or any other agreement shall be payable immediately. In the event of such cancellation the Company shall, for the avoidance of doubt, be entitled to recover as damages from the Customer all loss and damage of whatever kind, including Consequential Loss, which the Company may sustain with such cancellation.
- 13.2 In the event of termination, the Customer shall immediately cease use of all Developed Software or Software and Third Party Software (and any updates of same) and at its own expense, remove from all computers under its control all copies of Developed Software or Software and Third Party Software (and updates) and return or destroy them (certifying in writing to the Company that such destruction has taken place).
- 13.3 For a period of six months following termination of the Contract, the Customer shall on not less than two days notice, from the Company, permit authorised representatives of the Company to enter its premises during normal business hours for the purposes of confirming that the Customer has complied with its post termination obligations.
- 13.4 The exercise of the rights conferred by this Clause 13 shall be without prejudice to any other right enjoyed by the Company pursuant to these Terms and Conditions or by law.
14. **Severability**
If a provision in the Contract is held by any competent authority to be invalid or wholly or partly unenforceable such invalidity or unenforceability shall not in any way affect the remainder of the Contract.
15. **Assignment**
- 15.1 The Customer will not be entitled to assign the benefit or delegate the burden of the Contract without the prior written consent of the Company which it may in its absolute discretion refuse.
- 15.2 The Company will be entitled to assign the benefit or delegate the burden of the Contract.
16. **Sub-Contracting**
The Company shall be free to sub-contract any or all of its rights and obligations under the Contract as it sees fit. The Customer will not be entitled to sub-contract all or any part of its obligations under the Contract without the prior written consent of the Company which it may in its absolute discretion refuse.
17. **Confidentiality**
- 17.1 Each party agrees with the other in respect of all information of a confidential nature disclosed in the Contract or discovered further to the operation of the Contract (which includes without limitation, in the case of information to be kept confidential by the Customer, information as to the operation of the business of the Company and information relating to the Hardware or Services or Developed Software or Software or Third Party Software) ("Confidential Information"):
- 17.1.1 to keep the Confidential Information in strict confidence and secrecy;
- 17.1.2 not to use the Confidential Information save for complying with its obligations under the Contract;
- 17.1.3 not to disclose the same to a Third Party; and
- 17.1.4 to restrict the disclosure of the relevant and necessary parts of the Confidential Information to such of its employees and others who of necessity need the same in the performance of their duties as envisaged by the Contract and in such circumstances to ensure that such employees and others are aware of the confidential nature of the Confidential Information;
- provided however that where a part of the Confidential Information is already or becomes commonly known in the trade (except through a breach of the obligations imposed under the Contract) then the foregoing obligations of confidentiality in respect of such part shall not apply or shall cease to apply (as the case may be).
- 17.2 This obligation of confidentiality shall survive the termination of the Contract.
18. **Non-Solicitation**
- 18.1 The Customer will not solicit, induce to terminate employment, or otherwise entice away whether directly or indirectly through another firm or company, any employee of the Company professionally or otherwise directly associated with this Agreement during the term of the Agreement or for 12 months thereafter.
- 18.2 For the avoidance of doubt, there is no restriction on the Customer employing any person who is employed or acting for the Company where such person responds to a *bona fide* public advertisement for employees.
19. **Amendment and Waiver**
- 19.1 No amendment of the Contract shall be binding unless executed in writing and signed by an authorised representative of the Company and by an authorised representative of the Customer.
- 19.2 The failure of the Company at any time to enforce a provision of the Contract shall not be deemed a waiver of such provision or of any other provision of the Contract or of the Company's right thereafter to enforce any provision of the Contract.
20. **Notices**
Any demand, notice or other communication shall be in writing and may be served by hand, prepaid first class post or facsimile.
21. **Entire Agreement and Representations**
- 21.1 These Terms and Conditions (and any licence proffered by or on behalf of the owner of the Hardware or Third Party Software) supersedes all previous written or other documents or agreements (written or oral) relating to the subject matter of the Contract including without limitation all documents proffered by the Customer and relating to the subject matter of the Contract.
- 21.2 The parties acknowledge that in entering into a Contract they have not relied upon any representations other than those reduced to writing in the Contract. The provisions of this clause 21.2 shall not apply to any fraudulent misrepresentation.
22. **Third Parties**
No Third Party may enforce any provision of these Terms and Conditions by virtue of the Contracts (Rights of Third Parties) Act 1999.
23. **Law and Jurisdiction**
The formation, construction, performance, validity and all aspects whatsoever of the Contract shall be governed by English Law and the parties hereby submit to the exclusive jurisdiction of the English courts.