

# GWD Standard Terms & Conditions

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This document sets out the terms and conditions on which Good With Devices Limited ("GWD") supplies Software and/or Hardware and/or Services under the Contract. Signature of the Contract constitutes agreement between GWD and the Customer for the supply by GWD to the Customer of the Software and/or Hardware and/or Services on the terms and conditions set out below which shall govern the Contract to the exclusion of all other terms and conditions.

## 1. DEFINITIONS

- 1.1. In these conditions the following terms shall have the meanings set out below:
- 1.2. "Contract" means the contract issued by GWD, identifying the Software and/or Hardware and/or Services to be supplied by GWD to the Customer and signed by or on behalf of GWD and the Customer.
- 1.3. "Customer" means the party to whom GWD is supplying the Software and/or Hardware and/or Services under the Contract.
- 1.4. "Data Controller", "Data Processor", "processing": shall have the meanings given to them in the GDPR as enacted in the Data Protection Act 2018;
- 1.5. "Equipment" means the Customer's computer system on which the Software is to function comprising such equipment items as GWD may have approved.
- 1.6. "GWD Software" means the software packages owned by GWD together with any documents and information supplied with such software.
- 1.7. "Hardware" means any of the hardware to be sold or rented to the customer by GWD referred to in the Contract;
- 1.8. "Licence" means the licence granted to the Customer under condition 3.1.
- 1.9. "Normal Working Hours" means the hours between 09:00 and 17:00 on each Working Day.
- 1.10. "Personal Data" shall include all personal data (as defined in the GDPR as enacted in the Data Protection Act 2018) relating to individuals, which is processed by the Data Processor on behalf of the Data Controller in connection with this Contract.
- 1.11. "Rights" means any and all intellectual property rights, including but not limited to, copyright, trademarks, goodwill, trade secrets, registered designs, patents arising in any country.
- 1.12. "Services" means the services which GWD is to provide to the Customer under the Contract.
- 1.13. "Site" means the premises owned and/or controlled by the Customer which have been approved by GWD and at which the Software is to be installed and used.
- 1.14. "Software" means the GWD Software and the Third Party Software.
- 1.15. "Support" means those support services to be provided or procured to be provided by GWD in respect of the Software under the terms of the Contract.
- 1.16. "Support Charge" means the periodic charge for the Support specified in this Contract as increased from time to time pursuant to the relevant clauses of this Contract.
- 1.17. "Term" the licence period set out in the Contract subject to clause 11.
- 1.18. "Third Party Software" means software other than GWD Software referred to in the Contract.
- 1.19. "Working Day" means any weekday other than a statutory, bank or public holiday.
- 1.20. In these conditions:
  - 1.20.1. reference to any statutory provision includes a reference to that provision as from time to time amended, extended or re-enacted;
  - 1.20.2. headings in these conditions shall not affect the interpretation or construction of these conditions.

## 2. CONFIDENTIALITY

- 2.1. Each party shall at all times keep confidential all information that it may acquire from the other in the course of this Contract, use the same exclusively for the purposes of the Contract and disclose the same only to those of its employees, contractors and advisers to whom and to the extent that such disclosure is reasonably necessary for the purpose of the Contract.
- 2.2. The obligation of confidentiality shall not apply to information which is otherwise public knowledge, was already in the recipients possession and at its free disposal or is later received without obligations from a third party source.

## 3. LICENCE OF GWD SOFTWARE

- 3.1. Subject to the Customer paying in accordance with these conditions the fees specified in the Contract, GWD grants to the Customer for the Term (subject to earlier termination) a non-exclusive and non-transferable Licence (without the right to grant sub-licences) to use the GWD Software subject to these conditions and the Customer acknowledges the extent of the licence.



- 3.2. The Customer may use the GWD Software only at the Site or such alternative location as it shall first have agreed with GWD in writing and, if Hardware is rented or sold by GWD to the Customer, on such Hardware.
- 3.3. The Customer shall use the GWD Software for processing its own data for its own internal purposes only. The Customer shall not permit any third party to use the GWD Software in any way whatsoever nor use the GWD Software on behalf of or for the benefit of any third party in any way whatsoever.
- 3.4. The Customer shall keep exclusive possession of and control over the copies of the GWD Software provided to it and shall effect and maintain adequate security measures including proprietary notices to safeguard the GWD Software from access or use by any unauthorised person.
- 3.5. The Licence is limited to the installation of the GWD Software only on the Equipment agreed with GWD. The Customer acknowledges that an additional licence fee is payable for additional Equipment the GWD Software is used or installed upon.
- 3.6. The GWD Software and all Rights therein (including Rights in any modifications carried out by or on behalf of the Customer) shall remain the property of and vest with GWD at all times. The Customer shall notify GWD immediately if it becomes aware of any unauthorised use of the whole or any part of the GWD Software by any person. The Customer will permit GWD to check the use of the GWD Software and any rented Hardware by the Customer at reasonable times and for that purpose GWD, its employees and agents shall be entitled to enter any of the Customer's premises.
- 3.7. The Customer may only make so many copies of GWD Software as are reasonably necessary for back up purposes.
- 3.8. Save to the extent and in the circumstances expressly permitted by law, the Customer shall not alter, modify, adapt or translate the whole or any part of the GWD Software in any way whatsoever nor permit the whole or any part of GWD Software to be combined with or become incorporated in any other computer programs nor decompile, disassemble or reverse engineer the same nor attempt to do any of such things.
- 3.9. GWD shall use reasonable endeavours to provide the Services and/or the Hardware and to meet any performance dates specified in the Contract but any such dates shall be estimates only and time shall not be of the essence for such performance.

#### 4. RISK AND TITLE

- 4.1. Risk shall pass to the Customer upon delivery by GWD of GWD Software and the Customer warrants that it will insure GWD Software in the event of loss or damage.
- 4.2. For those parts of the Software supplied to GWD on licence only or with any form of restricted title, the Customer shall only have and use such licence or title in such parts as GWD is granted by the supplier of such parts. The Customer shall prior to delivery enter into such licence or other arrangement denoting any restriction on title or otherwise required by the supplier of such parts and shall abide by the terms of such arrangement. For Third Party Software which is licensed to the user by virtue of the user removing the packaging from such software or by the user downloading such software onto a computer system, or any such other act or thing (the "Act") as may be specified by the producer of such software the Customer irrevocably appoints GWD to be its agent to undertake the Act and enter into such licence and the Customer shall abide by the terms of such licence as if it had undertaken the Act itself. The Customer shall fully indemnify GWD against all costs, expenses or other liabilities which GWD may incur or suffer as a result of the Customer's non-compliance with this clause.

#### 5. CUSTOMER OBLIGATIONS

- 5.1. The Customer shall at its own expense:
  - 5.1.1. ensure that any room or other location in which Hardware and/or Equipment is to be placed has the power supply, equipment and environmental conditions which comply with the requirements of the Hardware and/or the Equipment manufacturer.
  - 5.1.2. provide promptly such office accommodation, computer equipment, office machinery and other facilities, staff and documentation as GWD may from time to time reasonably require in connection with the provision of the Software and/or the Hardware and/or the Services.
  - 5.1.3. co-operate with GWD in all matters relating to the Services and the provision of the Hardware;
  - 5.1.4. provide promptly all information, data and assistance which GWD reasonably considers and/or the Hardware necessary in connection with the provision of the Services including, without prejudice to the generality of the foregoing, details of volumes of transactions, numbers of users, timescales relating to a requirement for processing data, proposed methods and sequences of operation and ageing requirements for data.
  - 5.1.5. ensure prior to the date on which GWD anticipates starting any Services at the premises of the Customer that:
    - 5.1.5.1. such premises provide access and adequate working space and facilities as GWD's employees, contractors or agents may reasonably require to carry out such Services; and
    - 5.1.5.2. such premises are safe and all GWD employees, contractors and agents are protected from all reasonably foreseeable dangers, the Customer effecting and maintaining throughout the provision of such Services full insurance cover for the benefit of GWD, its employees, contractors and agents against such risks.



## 6. PRICES AND PAYMENT

- 6.1. The Customer shall make payments for the provision of the Software and/or Hardware and/or the Services to GWD at such time or times as are set out in the Contract and without any deduction or set-off whatsoever. Where no such time or times are so specified payment for any such provision shall be made within 30 days of the date of GWD's invoice.
- 6.2. The Services costs provided are estimates unless stated as fixed price and if additional Services are required they can be purchased at GWD's then normal daily rate.
- 6.3. Services pricing contained in the Contract is for work carried out during Normal Working Hours unless otherwise stated. Services are only provided on Working Days. A chargeable day equates to 7 hours excluding lunch breaks.
- 6.4. Services costs exclude expenses. Travel and subsistence expenses (i.e. meals, hotels etc.) for on-site activities will be charged to the Customer. Rail and air travel (where applicable) will be charged at standard and economy class rates respectively. Motor vehicle expenses will be charged at GWD's current rate.
- 6.5. All prices are quoted exclusive of value added tax or any replacement tax thereof ("VAT") and the Customer shall pay VAT at the appropriate rate from time to time in force in addition to payment of all other sums.
- 6.6. GWD will charge for any Services cancelled by the Customer, where at least 4 clear Working Days' notice is not given.
- 6.7. If GWD is prevented (otherwise than due to its own default) from commencing the Services or supplying the Hardware (whether by sale or rental) for over 90 days (or from completing the Services within one year) from the date of the Contract it may at its option by written notice to the Customer increase the price for the Services and/or the sale and/or rental of the Hardware to GWD's current rate.
- 6.8. For the avoidance of doubt the GWD Software is provided on a rental basis only and the Licence granted is subject to the Customer paying the fees specified in this Contract.
- 6.9. If the Customer fails to make any payment to GWD under the Contract on the due date then, without prejudice to any other right or remedy available to it, GWD may suspend performance or further performance of any of its obligations under the Contract without liability to the Customer (GWD's obligations under any timetable being amended accordingly to reflect such suspension) and, charge the Customer interest (both before and after any judgement) on any sum outstanding on a daily basis at the rate of 4% per annum above the base rate of National Westminster Bank plc from time to time in force, such interest to be calculated from the due date for payment to the date of actual payment compounded quarterly. Any interest payable shall be paid by the Customer on demand by GWD.

## 7. HARDWARE

- 7.1. Where Hardware is sold to the Customer under the Contract the following provisions shall apply:
  - 7.1.1. the Hardware is at the risk of the Customer from the time of delivery;
  - 7.1.2. ownership of the non-hired Hardware shall not pass to the Customer until GWD has received in full (in cash or cleared funds) all sums due to it in respect of the Hardware and all other outstanding sums which are due to GWD from the Customer on any account;
  - 7.1.3. until ownership of the Hardware has passed to the Customer, the Customer shall hold the Hardware on a fiduciary basis as GWD's bailee, identify the Hardware as GWD's property and maintain the Hardware in satisfactory condition and keep it insured on GWD's behalf for their full price against all risks to the reasonable satisfaction of GWD producing the policy of insurance to GWD on request;
  - 7.1.4. GWD shall be entitled to recover payment for the Hardware notwithstanding that ownership of any of the Hardware has not passed from GWD; and
  - 7.1.5. the Customer shall take delivery of the Hardware within 7 days of GWD giving it notice that the Hardware is ready for delivery but any dates specified by GWD for delivery of the Hardware are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 7.2. Where Hardware is rented by the Customer:
  - 7.2.1. GWD will carry out any repairs necessary to keep the Hardware in good working order, provided that the Customer does not breach any terms of the Contract or such repairs are not needed as a result of any wilful damage, negligence, mishandling, tampering or any other unauthorised repairs by or on behalf of the Customer, its employees or agents;
  - 7.2.2. it is the Customer's responsibility to make sure that the Customer and all other parties who use the Hardware during the term of the Contract are properly instructed in its safe and correct use and that they are in possession of all instructions supplied by GWD. Any fault or breakdown of the Hardware must be notified immediately to GWD and the Customer should not attempt to repair the Hardware unless authorised in writing to do so by GWD. The Customer must use its best endeavours to ensure that the Hardware are not misused or vandalised and that any labels indicating that the Hardware belong to GWD are not removed;
  - 7.2.3. unless otherwise agreed in writing by GWD and the Customer, the Customer will be responsible for the safe return of the Hardware at the end of the Contract;
  - 7.2.4. the Customer must not sell or otherwise part with control of the Hardware;



- 7.2.5. the Customer will not use in any dispensing machine supplied by GWD, any other consumables other than those supplied or approved in writing by GWD;
  - 7.2.6. the Customer will have full responsibility for the care and safekeeping and return in good order of the Hardware and if it is not returned in such a state, the Customer will pay to GWD all costs GWD incurs in rectifying any Hardware returned damaged or unclean. Additionally, the Customer will pay for GWD's financial loss until such rectification is complete;
  - 7.2.7. the Customer must let GWD know as soon as possible if the Hardware has been involved in an accident, which results in damage to the Hardware or property or injury to any person;
  - 7.2.8. the Customer agrees to insure the Hardware whilst the Customer is renting them. The Customer will hold in trust for GWD and pay to GWD on demand all money the Customer receives from an insurance company or from any other source in settlement of any claim relating to the loss, theft or damage of any of the Hardware. The Customer must not compromise any claim without GWD's express consent; and
  - 7.2.9. the Customer will indemnify GWD against any and every expense, liability, financial loss, claim or proceedings whatsoever, and in respect of any death or personal injury whatsoever or damage to or loss of property whatsoever arising out of the delivery, use, non-use, repossession, collection or return of the Hardware or any part of it including all rental costs incurred by GWD to the owner of the Hardware in the event that the Hardware are returned to GWD prior to the end of the rental period between GWD and the Customer. The Customer will pay to GWD the replacement cost of any Hardware which are lost or stolen or damaged beyond economic repair.
  - 7.3. The Customer grants GWD, its agents and employees an irrevocable licence at any time to enter any premises where the Hardware is or may be stored in order to inspect it, or, where the Customer's right to possession has terminated, to recover it.
  - 7.4. In the case of sale of the Hardware which has not been paid for by the Customer and on the case of the rental of the Hardware, the Customer's right to possession of the Hardware shall terminate immediately if the Customer:
    - 7.4.1. fails to pay any amount due under the Contact on the due date for payment; or
    - 7.4.2. has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or convenes a meeting of creditors, or enters into liquidation (whether voluntary or compulsory) or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given in respect of the Customer or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
    - 7.4.3. suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under the Contract or any other contract between GWD and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
    - 7.4.4. the Customer encumbers or in any way changes any of the Hardware.
  - 7.5. If GWD are not supplying by way of sale or rental any part of the Hardware then it is the Customer's responsibilities to ensure that the hardware software and connection network are configured to the published GWD standards. If GWD need to undertake any work to bring any equipment of the Customer's up to the required standard, the additional Services will be invoiced on a time and materials basis at GWD's then normal daily rate plus expenses.
8. DATA PROCESSING
- 8.1. Both GWD and the Customer shall comply at all times with the Data Protection Laws in respect of any Personal Data processed by it in connection with this Contract.
  - 8.2. Our handling of any Personal Data will be undertaken by us in accordance with our Privacy Policy.
  - 8.3. Both GWD and the Customer acknowledge that for the purposes of the Data Protection Laws, the Customer is the Data Controller and GWD is the Data Processor of any Personal Data provided to the GWD in connection with this Contract.
  - 8.4. GWD processes and stores Personal Data on behalf of the Customer in order to provide the Services. GWD also process user data to pursue legitimate interests by ensuring the smooth running of the Customer's business activities.
  - 8.5. GWD stores Personal Data in respect of each Customer and may use it for internal, operational and other lawful purposes. The Customer hereby acknowledges and agrees that GWD may (i) collect and store such Personal Data together with other information about each Customer's use of the Services; (ii) use such Personal Data to conduct statistical analysis or for marketing purposes subject to express consent; and (iii) make such Personal Data available internally within GWD and to other parties to the extent necessary to provide the Services, or if required to do so by virtue of any law or by order of an applicable court or regulatory authority.
  - 8.6. Where the Customer is a member of a federation or larger group, as part of this arrangement, such group may be entitled to obtain data insights. Where this is the case GWD will seek the Customer's consent to participate in such sharing of data insights.
  - 8.7. The Customer will obtain and maintain any required consents necessary to permit the processing of Personal Data under the Contract.



- 8.8. To the extent that GWD acts as Data Processor on behalf of the Customer under or in connection with this Contract, GWD warrants and undertakes that it shall:
- 8.8.1. process such Personal Data only to the extent, and in such a manner, as is necessary to fulfil its obligations under this Agreement and in accordance with the Customer's express lawful instructions from time to time and shall not process any such Personal Data for any other purpose. GWD will keep a record of any processing of Personal Data it carries out on behalf of the Customer and shall as soon as reasonably practicable provide to the Customer, at the Customer's request, a copy of all Personal Data held by it in the format and on the media reasonably specified by the Customer;
  - 8.8.2. allow the Customer to inspect or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the processing of Personal Data and shall fully cooperate with any such inspection;
  - 8.8.3. take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against accidental loss, destruction, damage, alteration or disclosure of Personal Data, to ensure the Customer's compliance with the Data Protection Laws. As a minimum, the technical and organisational measures required under this clause include, but are not limited to (i) pseudonymisation and encryption of Personal Data (if appropriate to the risk presented by the processing), (ii) measures ensuring the ongoing confidentiality, integrity, availability and resilience of processing systems and services, (iii) measures enabling GWD to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident, and (iv) regular testing, assessing and evaluation of the effectiveness of technical and organisational measures for ensuring the security of the processing;
  - 8.8.4. process the Personal Data in compliance with the Data Protection Laws;
  - 8.8.5. keep the Personal Data confidential;
  - 8.8.6. promptly comply with any request from the Customer requiring GWD to amend, transfer or delete any Personal Data;
  - 8.8.7. notify the Customer immediately if it becomes aware of any unauthorised or unlawful processing or loss of the Personal Data;
  - 8.8.8. immediately inform the Customer if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. GWD shall restore such Personal Data at its own expense;
  - 8.8.9. if GWD receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either Party's compliance with the Data Protection Laws, immediately notify the Customer and provide the Customer with full co-operation and assistance in relation to any such complaint, notice or communication;
  - 8.8.10. notify the Customer as soon as reasonably practicable if GWD (in GWD's reasonable opinion) believes that any instructions it receives from the Customer are not in compliance with any applicable Data Protection Laws;
  - 8.8.11. ensure that access to the Personal Data is limited to those employees who need access to the Personal Data to meet GWD's obligations under this Agreement and to such parts of the Personal Data as are strictly necessary for the performance of that employee's duties. GWD shall ensure that all its employees are informed of the confidential nature of the Personal Data and have undertaken appropriate training relating to handling of Personal Data in accordance with the Data Protection Laws and this Agreement;
  - 8.8.12. notify the Customer within 3 Business Days if it receives a request from a Data Subject for access to that person's Personal Data and shall provide the Customer with full co-operation and assistance in relation to any such request. GWD shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the Customer or as provided for in this Agreement;
  - 8.8.13. not authorise any third party to process the Personal Data without the Customer's prior written consent and provided that any such third party's contract with GWD in relation to such processing is on terms which are substantially the same as those set out in this clause 8.8 and terminate automatically on termination of this Agreement. Notwithstanding any consent given by the Customer under this clause 8, GWD shall remain fully liable for any acts and omissions of any such third party in connection with the processing of Personal Data; and
  - 8.8.14. return or destroy (as directed in writing by the Customer) all Personal Data as soon as reasonably practicable upon termination of this Agreement, in the format and on the media specified by the Customer, unless, and only to the extent necessary to comply with, any applicable Data Protection Laws.
- 8.9. For the avoidance of doubt, this clause 8 shall survive termination of this Agreement and/or any Statement of Work as the case may be.

## 9. WARRANTIES

- 9.1. GWD warrants that, as at the date of delivery to the Customer of any GWD Software which has been modified by or on behalf of GWD, such modifications will permit such software to perform in all material respects those functions stated in GWD's quotation (subject to such modified software having been used on the Equipment and in accordance with GWD's instructions and recommendations made from time to time) provided always that if GWD shall be in breach of this warranty its sole liability shall be limited to making corrections or alterations to such modified software at its own cost in order to ensure that the same comply with the terms of this warranty.
- 9.2. GWD warrants that, as at the date of delivery, unmodified GWD Software will provide, in all material respects, the facilities and functions stated in the relevant product specification provided always that if in breach of this warranty GWD's sole liability



shall be limited to making corrections or alterations to such software at its own cost in order that the same complies with this warranty.

- 9.3. GWD warrants to the Customer that the Services shall be performed with reasonable skill and care.
- 9.4. Except as provided in this clause 9 and where otherwise specifically provided in this agreement all conditions warranties and other terms in respect of the software and/or the hardware and/or the services whether express or implied statutory or otherwise are excluded to the fullest extent permitted by law.
- 9.5. The Hardware (if any) will be supplied by GWD to the Customer with the benefit of any warranties and guarantees received by GWD from the manufacturer of such Hardware but these conditions do not purport to exclude Section 12 of the Sale of Goods Act 1979.

## 10. LIABILITY

- 10.1. The following provisions set out GWD's entire liability (including any liability for the acts and omissions of its employees, agents and sub-contractors) to the Customer in respect of:
  - 10.1.1. any breach of its contractual obligations arising under this Contract;
  - 10.1.2. any representation statement or tortious act or omission including negligence arising under or in connection with this Contract; and the Customer's attention is particularly drawn to the provisions of this clause 10.
- 10.2. Save in respect of death or personal injury caused by GWD's negligence and save as aforesaid, the entire liability of GWD (including any liability for the acts and omissions of its employees, agents and sub-contractors) to the Customer whether in respect of any breach of any term of the Contract or any representation, statement or tortious act or omission including negligence arising under or in connection with this Contract shall be as follows:
  - 10.2.1. in respect of the provision of Support, GWD's liability shall not exceed the Support Charge paid or payable during the preceding 3 month period; and
  - 10.2.2. in respect of the Hardware GWD's total liability in contract, tort (including negligence for breach of statutory duty) misrepresentation, restitution or otherwise arising in connection with the sale or rental or contemplated sale or rental shall be limited to either (in the sole discretion of GWD) the price paid for the defective part of the Hardware or the replacement of such Hardware.
  - 10.2.3. in respect of the Services, GWD's liability shall not exceed the price paid or payable in respect of GWD Software and the Services under the Contract during the preceding 3 month period.
- 10.3. Under no circumstances shall GWD be liable to the Customer in respect of any loss of profits, goodwill or any type of special, indirect or consequential loss (including business interruption, loss of business information or data or damage suffered by the Customer as a result of any action brought by a third party) even if such loss was reasonably foreseeable or GWD had been advised at any time of the possibility of the Customer incurring the same.
- 10.4. Other than as stated in the Contract, GWD shall have no liability (whether for breach of warranty or representation or otherwise) arising from the Customer's use of the Software (or any part thereof) or resulting in particular from:
  - 10.4.1. use of the Software with equipment other than the Equipment;
  - 10.4.2. the Customer's non-compliance with any instruction or recommended procedure of GWD; or
  - 10.4.3. any repair, adjustment, alteration or modification of any part of the Software not undertaken by GWD or the merger, incorporation or use of any part of the Software with any software, hardware or other equipment not supplied or approved in writing by GWD for use in connection with the Software.
- 10.5. Under no circumstances shall GWD be liable to reinstate or assist in the reinstatement of (or be responsible for the cost of reinstatement of) any data lost by the Customer.
- 10.6. GWD shall not be liable in any way whatsoever for the Customer's use of Third Party Software or any repair, adjustment, alteration or modification of any part of the third Party Software

## 11. FORCE MAJEURE

- 11.1. Notwithstanding anything else contained in these conditions, GWD shall not be liable for delay in performing its obligations under the Contract if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by any act or omission of the Customer). and the performance of GWD's obligations shall be suspended whilst the said circumstances persist and such GWD shall be granted an extension of time for performance equal to the period of the delay save that the Customer may if such delay lasts for more than 90 days, terminate the Contract forthwith on giving notice in writing to GWD in which event neither party shall be liable to the other by reason of such termination save for any rights accruing prior to the occurrence of such event of delay.

## 12. TERMINATION

- 12.1. The Customer may terminate the Contract by giving 3 months written notice to GWD:
  - 12.1.1. after the Term specified in the Contract; or
  - 12.1.2. after a minimum period of 3 months from the installation date of the GWD Software; or



- 12.1.3. in the event that the installation did not take place 12 months after the date of the Contract.
- 12.2. GWD may forthwith by written notice to the Customer terminate the Contract if the Customer;
  - 12.2.1. fails to make any payment due to GWD under the Contract or any other agreement between the parties by its due date; or
  - 12.2.2. commits a material breach of the Contract and (in the case of a remediable breach) fails to remedy the same within thirty (30) days of receipt of a written notice from GWD specifying the breach and requiring it to be remedied; or
  - 12.2.3. has a receiver or administrative receiver appointed or has a bankruptcy order made against it or one of its partners or passes a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or becomes subject to an administration order or enters into any voluntary arrangement with its creditors or becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or ceases or threatens to cease to carry on business or suffers any similar or analogous event in any jurisdiction.
- 12.3. Termination for any reason shall not affect either party's rights and remedies accruing up to termination.
- 12.4. If the Contract is terminated, the Customer shall immediately pay any fees outstanding to GWD, cease to use the GWD Software and return to GWD or destroy (as requested by GWD) the originals and all copies of the same. Upon GWD's request to destroy such materials the Customer shall certify in writing that it has done so.

### 13. GENERAL

- 13.1. GWD may subcontract all or any of its obligations under the Contract, in which event all applicable terms of this Contract shall apply.
- 13.2. The Customer may not assign this Contract (in whole or in part) without the prior written consent of GWD.
- 13.3. These conditions shall prevail notwithstanding any variance with the terms of any order or contract submitted by the Customer in respect of the Software and/or the Hardware and/or the Services. No variations to the terms of the Contract shall be binding upon either party unless the same shall have been confirmed in writing by a director of that party.
- 13.4. All notices or other documents to be given under the Contract shall be in writing and either delivered by hand or sent by registered post or facsimile to the party concerned at the address set out in the Contract or such other address as one party may from time to time designate by written notice to the other. Any such notice shall be deemed to have been received by the addressee if delivered by hand, upon delivery; if posted, on the 2nd Working Day following the date of posting; and if sent by facsimile, when the communication is transmitted to the recipient's fax number provided that a copy of the communication is sent by registered post or delivered by hand as soon as practicable thereafter.
- 13.5. The Contract and these conditions shall be governed exclusively by English Law. The parties agree to submit all matters in dispute under or in connection with this Contract to the exclusive jurisdiction of the English courts.
- 13.6. If any provision of these conditions shall be adjudged to be illegal or unenforceable the remaining provisions and the remainder of the provision in question shall continue in full force and effect.
- 13.7. These conditions set out the entire agreement between the parties and supersedes all prior agreements, understandings and arrangements between them, and representations by them, whether oral or written, which relate to the subject matter of this Contract provided that this condition shall not exclude or limit liability for fraud.

