TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 In these Terms and Conditions unless the context requires otherwise, the following expressions shall have the following meanings:

“Affiliate”	means any Subsidiaries and Associated Companies;
“Associated Companies”	means any associated company of either party from time to time within the meaning of Section 416 of the Income and Corporation Tax Act 1988 or any subordinate legislation;
"Client"	means a business person, firm or company or Affiliate of the Client whose order for Goods or Services is accepted by the Supplier;
"Contract"	means each agreement for the supply of Goods and/or Services between the Supplier and the Client on these Terms and Conditions;
"Goods"	means the goods including (but not limited to) Hardware and Software, that the Supplier has agreed to supply to the Client in accordance with these Terms and Conditions as specified in the Contract;
"Hardware"	means any Goods which comprise personal computer products, peripherals or other items of computer hardware;
“Order”	a request by the Client to purchase those Goods and/or Services specified therein;
“Premises”	the premises where the Goods are to be delivered or installed;
“Price”	the price for the provision of the Goods and Services contained in the Contract;
"Services"	means any ancillary delivery, installation and/or configuration services in relation to the Goods as specified in the Contract;
"Software"	means any goods which contain in whole or in part a computer program or programs or instructions;
“Special Pricing Agreement”	means a tripartite agreement whereby a manufacturer of Hardware or Software agrees to offer the Supplier a form of subsidised pricing which in turn enables the Supplier to sell Goods to the Client at prices below those normally available in the marketplace;
“Subsidiaries”	means any subsidiary of either party from time to time within the meaning of Section 1159 of the Companies Act 2006 or in any subordinate legislation made under the Companies Act 2006;
"Supplier"	means Kelway (UK) Limited and / or any Affiliate of Kelway (UK) Limited;
“Third Party Supplier”	a third party manufacturer and/or licensor of a Product and/or Software.

1.2 In these terms, references to:

1.2.1 persons include bodies corporate, incorporated associations and partnerships, but for the avoidance of doubt, not individuals;

1.2.2 Clauses are to clauses of these terms;

1.2.3 a "subsidiary" or "holding company" shall be construed in accordance with Section 1159 of the Companies Act 2006 or in any subordinate legislation made under the Companies Act 2006; and

1.2.4 any statutory provision shall include reference to a statutory provision as modified or re-enacted or both from time to time whether before or after the date of these terms or the Contract.

1.3 The headings in these terms or the Contract shall not affect the interpretation of either of them.

1.4 Words denoting the singular include the plural and vice versa; words denoting any one gender include all genders and vice versa, and reference to a person shall include an individual, partnership, body corporate and unincorporated association.

1.5 References to any party shall include its lawful successors in title and permitted assigns.

1.6 The words and phrases “other”, “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible.

2. SCOPE

2.1 These terms and conditions shall apply to all Goods ordered by the Client. A separate agreement for the Goods on these terms and conditions, together with any additional terms agreed in writing by the parties as applicable, shall come into force on the date on which each Order is accepted by Supplier (a “Contract”). No Order shall be binding on Supplier unless and until accepted by Supplier in writing.

2.2 Except as varied by the specific terms of any quotation by the Supplier these Terms and Conditions comprise the terms and conditions under which the Supplier is willing to supply Goods to a Client. Unless otherwise agreed in writing by the Supplier all Contracts are entered into on the basis of these Terms and Conditions to the exclusion of any other terms and conditions set out or referred to in any document or other communication used by a Client or in any other correspondence or implied by trade, custom or course of dealing (whether or not in conflict with these terms and conditions).

2.3 The Client shall provide, promptly and without charge, any assistance, information, facilities or other matters reasonably requested by Supplier to allow the Contract to be performed.

3. DELIVERY

3.1 The Supplier shall use reasonable endeavours to deliver the Goods by the date agreed (if any) and shall not be liable for any cost or damage caused by late or non-delivery. Any delay in delivery of Goods shall not give the Client the right to reject the Goods or treat the Contract as repudiated.

3.2 Notwithstanding Clause 3.1, if delivery by the Supplier of any Goods has not been made 30 days after the advised estimated date for delivery of the Goods, the Client shall be entitled to terminate the Contract in respect of those Goods and any liability of the Supplier however arising, as referred to in Clause 11.5, shall be limited to a credit of the price due for those Goods not delivered. In no circumstances shall the Supplier have any further liability to the Client in damages or otherwise for non-delivery or late delivery of any of the Goods.

3.3 Unless otherwise expressly agreed, delivery of Goods shall be made at the Client's expense to the Premises. The Client shall be liable for any applicable duties, taxes and charges relating to the Goods and/or Services. The Client shall inspect Goods immediately upon delivery and inform the Supplier of any damaged, faulty or incorrect Goods or of any short deliveries in accordance with Clause 16.

3.4 The Supplier reserves the right to deliver Goods in instalments, and these Terms and Conditions shall apply to each such delivery and each delivery of the Goods shall be separately invoiceable and payable.

4. LICENCE OF SOFTWARE

4.1 All Software is owned by Third Party Suppliers, who determine the terms upon which Software is licensed. The Supplier hereby either (a) grants to the Client with effect from the actual date of delivery a non-exclusive, non-transferable licence to use the Software for its own internal purposes only and in accordance with the Third Party Supplier's standard licensing terms, and for operation in an environment deemed suitable under the Third Party Supplier's standard licensing terms (which are available to the Client on request), or (b) shall procure the grant of a licence directly from the Third Party Supplier to the Client to enable the Client to use the Software (on terms which shall be specified by the Third Party Supplier).

4.2 The Client hereby indemnifies the Supplier in respect of any loss (of any kind) which the Supplier may suffer as a result of the breach by the Client of a licence granted under or pursuant to Clause 4.1.

5. TITLE AND RISK

5.1 Risk of loss or damage to the Goods shall pass to the Client when delivered to the Premises or to a third party at the Client's direction) and the Client shall be responsible for insuring the Goods thereafter.

5.2 Title to the Hardware shall not pass to the Client until the Supplier has received in full (in cash or cleared funds) all sums due to it in respect of the Hardware; and all other sums which are or which become due to the Supplier from the Client on any account (including those sums which have not yet fallen due for payment).

5.3 The Client may resell the Hardware before ownership has passed to it solely on the following conditions:

5.3.1 any sale shall be effected in the ordinary course of the Client's business at full market value; and

5.3.2 any such sale shall be a sale of the Supplier's property on the Client's own behalf and the Client shall deal as principal when making such a sale.

5.3.2 the Client, under the agreement for sale, retains title in the Hardware until it (the Client) has been paid in full by the third party to whom it is agreeing to sell on the same;

5.3.3 the Client has complied with all its obligations (including its payment obligations) under all its contracts with the Supplier.

5.4 For the avoidance of doubt, title to the Software (and all documents relating to the Software) shall remain with the Third Party Supplier at all times.

5.5 The Client's right to possession of the Goods shall terminate immediately if:

5.5.1 the Client has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, 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 Client or notice of intention to appoint an administrator is given by the Client or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Client or for the granting of an administration order in respect of the Client, or any proceedings are commenced relating to the insolvency or possible insolvency of the Client; or

5.5.2 the Client suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Supplier and the Client, or is unable to

pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Client ceases to trade; or

5.5.3 the Client encumbers or in any way charges any of the Goods.

5.6 At any time the Supplier shall be entitled to recover the Goods ownership in which remains with the Supplier and for that purpose the Client hereby grants to the Supplier, its agents and employees an irrevocable licence to enter any premises where the Goods or any of them are stored or located in order to repossess the same, and (in the event that any Goods have been incorporated or affixed to other products) to dismantle such other products or detach the Goods from those products and repossess them.

5.7 On termination of the Contract, howsoever caused, the Supplier's (but not the Client's) rights contained in this condition shall remain in effect.

6. WARRANTIES

6.1 Each party warrants that it is entitled to enter into the Contract.

6.2 The Supplier warrants that:

6.2.1 it shall use its reasonable care and skill in carrying out any Services; and

6.2.3 all employees or sub-contractors used by the Supplier for the purposes of carrying out the Supplier's obligations hereunder will have the necessary expertise and skills to perform the Supplier's obligations hereunder.

6.3 The Supplier shall procure for the Client the benefit of any standard end-user warranties in respect of the Goods from the Third Party Supplier(s) (whether by assignment from the Supplier or granted directly by the Third Party Supplier(s)). Details of these warranties are available upon request. Where a direct warranty is given to the Client by a Third Party Supplier, the Supplier does not give any express warranties except as set out in Clause 6.1.

6.4 The Client shall promptly notify the Supplier in writing of any failure by the Supplier to comply with any of the warranties set out in Clause 6.1, or any failure of the Goods to comply with the relevant Third Party Supplier's standard warranties, as soon as practicable after discovery of the failure, failing which the Supplier shall be entitled to reject the claim if the delay means that the Supplier is unable to make a corresponding claim against a Third Party Supplier, or is otherwise unable to establish the validity of the claim. The notice from the Client to the Supplier shall identify and, where possible, substantiate the breach.

6.5 The Client shall provide the Supplier with all assistance, co-operation and information required by the Supplier in performing and completing the Services, including without limitation, where Services are carried out at the Client's premises, suitable access and facilities.

6.6 Where the Services specified in the Contract include installation services, the Client shall provide a suitable environment for the installation and operation of the Goods as specified in any installation instructions issued by the manufacturer of the Goods.

6.7 Except for the express warranties and conditions contained or referred to in these terms, or in the Contract, the Supplier makes no other warranties or representations regarding the Goods and Services and all warranties, conditions and other terms express or implied statutory or otherwise in respect of compliance with descriptions, the satisfactory quality or the fitness for purpose of the Goods and Services which are not expressly set out in these terms or the Contract are excluded to the fullest extent permitted by law.

7. PROPRIETARY RIGHTS AND INDEMNITY

7.1 The copyright and all other intellectual property rights of whatever nature in the Goods shall be and remain vested in the Third Party Supplier(s).

7.2 The Client shall not remove any notices of copyright or other intellectual property rights contained on or in the Goods.

7.3 The Supplier shall either (a) procure for the Client the benefit of any standard end-user warranties and/or indemnities from the Third Party Supplier(s) (whether by assignment from the Supplier or granted directly by the Third Party Supplier(s)) in respect of any alleged infringement of intellectual property rights by the Goods or (b) grant the Client the same warranties and/or indemnities that the Supplier receives from the Third Party Supplier(s) in respect of the Goods. Details of these warranties and indemnities are available upon request.

7.4 The Client shall promptly notify the Supplier in writing of any allegations of infringement of which it becomes aware and shall not make any admission without the Supplier's prior written consent.

7.5 The provisions of this Clause 7 shall survive the termination of the Contract in so far as it relates to events occurring before the date of termination of the relevant Contract.

8. PRICE AND PAYMENT

8.1 The Client shall pay the Price as invoiced.

8.2 Subject to Clause 8.3, all prices and any other charges for Goods must be paid by the Client in full within thirty (30) days of the invoice date.

8.3 If demanded by the Supplier, the Client shall make payment by cleared cheque, bank transfer or credit card to the Supplier for Goods or Services prior to delivery or collection or performance as the case may be.

8.4 All quotations provided by the Supplier shall lapse thirty (30) days after issue but may be withdrawn at any time before acceptance, unless the quotation is based on a manufacturer’s Special Pricing Agreement, in which case the quotation will lapse in accordance with that agreement.

8.5 Where the Supplier supplies Goods which have been priced under a Third Party Supplier’s Special Pricing Agreement, the Client agrees to:

8.5.1 comply with the relevant Special Pricing Agreement Terms and Conditions and, in particular, not to order in excess of the quantities of Goods allowed by the Special Pricing Agreement from the Supplier and/or other sellers of similar equipment

8.5.2 co-operate with any request from the Third Party Supplier to undertake an audit or End User Verification process in order to substantiate that the Client has retained the Goods purchased under the Special Pricing Agreement for their own use

8.6 All the Supplier's prices are exclusive of Value Added Tax, custom charges and duties which shall be paid by the Client in the amount and manner prescribed by law.

8.7 The Supplier reserves the right, by giving notice to the Client at any time before delivery or performance, as the case may be, to increase the price of the Goods and/or of the Services to reflect any increases in the cost to the Supplier which is due to any factor beyond the control of the Supplier, whereupon the Client may cancel its order for the Goods or Services in question.

8.8 Any expenses or ad-hoc costs necessarily incurred by the Supplier as a result of a request by the Client for the Supplier to visit the Client will be met by the Client who will reimburse the Supplier in full within 30 days of receipt of an invoice provided that such expenses are reasonable.

8.9 Unless otherwise agreed in writing with the Client, the Supplier is entitled to allocate payments received to settle (in full or in part) any sums due from the Client under any Contract, in any order or manner the Supplier determines, and in particular shall be entitled to apply any part payment to settle outstanding interest on overdue amounts, ahead of principal.

8.10 Without prejudice to any of its other rights, if the Client fails to make any payment when due the Supplier shall be entitled to:

8.10.1 suspend its obligations under any Contract for so long as any payment due hereunder remains outstanding; and/or

8.10.2 charge interest on the overdue amount at the statutory rate, and otherwise in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

9. WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE) AND WASTE BATTERIES AND ACCUMULATORS LEGISLATION

9.1 The Client shall be responsible for the costs of collection, treatment, recovery and environmentally sound disposal of electrical and electronic equipment (EEE) supplied by the Supplier that the Client discards as waste.

9.2 The Suppliers Battery Producer Registration Number is BPRN00847.

10. STORAGE

10.1 If, in an accepted Order, the Client indicates that it requires that the Supplier holds Goods within the Supplier's warehouse (Storage Facility), the Supplier will provide the Storage Facility in the Supplier's warehouse located at Unit 19, Glebe Farm Industrial Estate, Rugby CV21 1DD ("the Warehouse") for a period of 90 days (or such other period as maybe agreed between the parties) from date of Order ("the Term").

10.2 At any time during the Term, upon 10 days prior written notification, the Client may request delivery of all / part of the Goods ("Request"). Each Request shall set out the following:

10.2.1 the Goods that you require to be provided (the "Selected Goods");

10.2.2 the Premises to which the Selected Goods are to be delivered;

10.2.3 the date on which the Selected Goods are required to be delivered ("Delivery Date").

10.3 The Supplier will acknowledge a Request within 2 working days and will deliver the required Goods in accordance with the terms of this Agreement.

10.4 The Supplier will invoice the Client for the Selected Goods delivered on the actual Delivery Date. The invoice will be payable by the Client in accordance with the terms of this Agreement.

10.5 If, at the end of the Term, the Client has not made a Request of all of the Goods, the Client agrees that risk in the remaining Goods ("Outstanding Goods") will pass to the Client (notwithstanding the fact that the Outstanding Goods remain in the Warehouse).

10.6 The Supplier will issue the Client with an invoice for the Outstanding Goods which will be payable immediately upon receipt.

10.7 Upon payment in full for the Outstanding Goods, title in the Outstanding Goods will pass to the Client.

10.8 Notwithstanding Clause 10.7, the Supplier will continue to store the Outstanding Goods in the Warehouse until a Request for the Outstanding Goods is made in accordance with Clause 10.2.

10.9 The Supplier reserves the right to charge for the provision of the Storage Facility.

11. LIABILITY

11.1 All exclusions and limitations in these terms or any Contract shall only apply so far as permitted by law and in particular nothing shall exclude or restrict liability:

11.1.1 for death or personal injury resulting from the negligence of a party or its employees acting in the course of their employment, or its agents, acting in the furtherance of their duties;

11.1.2 for fraudulent misrepresentation or other fraud;

11.1.3 for any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or

11.1.4 to the extent prohibited by the Consumer Protection Act 1987.

11.2 The exclusions and limitations of liability contained in these terms and each Contract shall apply regardless of whether the loss or damage was foreseeable or whether the Client notifies the Supplier of the possibility of any greater loss.

11.3 Neither party shall in any circumstances be liable to the other for (a) loss of profits; (b) loss of sales or turnover; (c) loss or damage to reputation; (d) indirect loss or damage; (e) consequential loss or damage; or (f) special loss or damage, howsoever arising, and loss includes a partial loss or a reduction in value as well as a complete or total loss.

11.4 Subject to Clause 11.1 the total aggregate liability of the Supplier to the Client for any claims arising out of or in connection with these terms, the Contract, the Goods and/or the Services, however arising will not exceed (a) up to a limit of £100,000 in respect of damage to tangible property of the Client and (b) up to the total value of the contract concerned in respect of other loss or damage.

11.5 The term “however arising” when used or referred to in this Agreement shall cover all causes and actions giving rise to liability of the Supplier arising out of or in connection with these terms, each Contract, the Goods and/or Services (i) whether arising by reason of any misrepresentation (whether made prior to and/or in these terms or a Contract) negligence, breach of statutory duty, other tort, repudiation, renunciation or other breach of contract, restitution or otherwise; (ii) whether arising under any indemnity; (iii) whether caused by any total or partial failure or delay in supply of the Goods and/or Services or by any defect in hardware, software or materials; and (iv) whether deliberate (but not with malicious intent) or otherwise, however fundamental the result.

11.6 In view of the exclusions and limitations of the Supplier’s liability in these terms, the Supplier recommends that the Client considers taking out its own insurance in respect of those risks for which the Supplier excludes or limits liability. Additionally, the Client acknowledges that the price of the Goods and/or Services provided for under the Contract reflects the exclusions and limitations on the Supplier’s liability as set out in this Clause 11, and that the Client had the opportunity to negotiate variations to the exclusions and limitations, upon the agreement of a higher price. Accordingly, the parties agree that such exclusions and limitations are reasonable in all the circumstances.

11.7 Other than in respect of Clause 11.1, neither party shall have any liability to the other in any respect unless it shall have served notice of the same on the other party within 12 months of the date on which it became aware of the circumstances giving rise to any such claim or the date when it ought reasonably to have become so aware.

11.8 Each provision of this Clause 11, limiting or excluding liability, operates separately and shall survive independently of the other provisions.

12. EXCUSED NON-PERFORMANCE

The Supplier shall not be liable for any loss or damage suffered or incurred by the Client arising from the Supplier's delay or failure to fulfil or otherwise discharge any of its obligations under the Contract where such delay or failure is caused by any non-performance of its obligations by the Client, industrial dispute, sudden or substantial depletion of the Supplier's staff, reason of force majeure or any other cause or circumstance beyond the Supplier's reasonable control. The Client undertakes to the Supplier that it will immediately indemnify the Supplier against all proceedings, costs, fees, expenses, payments, liabilities, losses and damages arising out of the breach or negligent performance by the Client of any of its obligations.

13. CANCELLATION AND RETURNS

13.1 Subject to clause 13.2 and at the Supplier’s discretion, the Client may cancel an Order on not less than 24 hours prior to the estimated date for delivery.

13.2 Orders for any specific Goods obtained at the Client's request, which Goods are not included in the Supplier's standard catalogue of goods or which the Supplier has informed the Client are non-cancellable ("Specific Goods") may not be cancelled once accepted by the Supplier.

13.3 The Supplier will accept the return of Goods supplied to the Client where the Supplier's prior written authorisation has been obtained. Such authorisation is given at the Supplier’s absolute discretion and can be obtained from the Client’s account manager.

13.3 Notwithstanding Clause 13.3, the Supplier will accept the return of damaged, faulty (DoA) or incorrectly supplied Goods, subject to (i) the Client signs the carrier’s delivery documentation and (ii) notifies the Supplier within 2 working days of delivery of the Goods.

13.4 If the Client has not received the number of boxes specified on the carrier’s delivery documentation, the Client must sign this documentation accordingly and then notify the Supplier within 2 working days of delivery.

13.5 Where goods have been returned to the Supplier as DOA and no fault is found upon subsequent testing, the Supplier reserves the right to charge the Client (i) £45.00 to cover the costs of shipping and administration and, (ii) a restocking fee if the goods are not returned in pristine condition and in their original packaging (as detailed below).

13.6 The Client may only return Goods which have been delivered according to the Order and which are not damaged, faulty or incorrectly supplied with the Supplier’s prior written authorisation. The

Supplier reserves the right to charge the Client a collection and handling charge of £25.00 (or more as indicated by the Supplier). The original delivery, installation or configuration charges are non-refundable, and a charge for de-configuration will be made where appropriate. *The Supplier reserves the right to refuse return of these Goods if notified later than 10 working days after delivery*.

13.7 A re-stocking charge (up to the full price of the Goods returned) may be made, at the Supplier's discretion, for any Goods that are not returned in a pristine condition. Pristine means unused, complete with all cables, manuals and accessories and in the original packaging, without any writing at all on the boxes.

13.8 Risk in any returned to the Supplier pursuant to this Clause 13 shall remain with the Client until the Goods are delivered to the Supplier's premises and the Client's account is credited.

14. NON SOLICITATION

14.1 During the term of this Agreement and for a period of 6 months from its termination neither party will employ, induce, entice or solicit for employment any member of the other's then current personnel in UK.

14.2 In respect of any breach by the Client of Clause 14.1, the Supplier, in addition to any other remedies available in the Contract or at law, shall be entitled to recover from the Client the costs of recruiting and training a replacement for any member of that party's personnel employed or solicited for employment.

15. CONFIDENTIALITY

15.1 Each party agrees that where the other party has provided information of a confidential or proprietary nature relating to their business the other party it will:

15.1.1 treat it as confidential;

15.1.2 not disclose it to any third party without the prior written consent of the other party; and

15.1.3 use it solely for the purposes of the commercial relationship between the parties.

15.2 Each of the parties acknowledges that the requirements of clause 15.1 shall not apply to any part of the information supplied by the other party which:

15.2.1 is or becomes common knowledge without breach of this undertaking by the first party;

15.2.2 can be shown to have been in the first party's lawful possession prior to receipt from the other party or to have been developed by or for the first party at any time independently of any disclosure by the other party; or

15.2.3 is required to be disclosed by law.

15.3 All documents incorporating any of the information described in clause 15.1 which are received from the other party shall remain the property of the other party (or other owner of them) and the first party shall exercise reasonable care to keep them safe from access by unauthorised persons, and shall return them to the other party on demand.

15.4 The obligations in clause 15 shall survive termination of this Agreement for a period of two years.

16. TERMINATION

16.1 Either party shall be entitled to terminate this Agreement forthwith by written notice to the other if the other party:

16.1.1 commits any material breach of this Agreement that is not capable of remedy;

16.1.2 commits any material breach of this Agreement that is capable of remedy and fails to remedy it within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

16.1.3 is involved in any legal proceedings concerning its solvency, or ceases trading, or commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation, whether compulsory or voluntary (other than for the purposes of an amalgamation or reconstruction), or makes an

arrangement with its creditors or petitions for an administration order or has a receiver or manager appointed over all or any part of its assets or generally becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or any analogous event occurs in any relevant jurisdiction.

16.2 The Supplier shall be entitled to terminate this Agreement forthwith by written notice to the Client if it reasonably apprehends that any of the events mentioned in clause 16.1.3 are about to occur in relation to the Client.

16.3 Either party shall be entitled to terminate this Agreement by giving 3 months' prior written notice to the other party.

17. VARIATION

No variation of these terms or the Contract shall be valid unless it is in writing and signed by or on behalf of each of the parties by a duly authorised officer of each of the parties.

18. DISPUTES

If any dispute arises out of this agreement the parties will attempt in good faith to negotiate a settlement. If the matter is not resolved by negotiation, the parties may refer it to mediation in accordance with the centre for effective dispute resolution ("**CEDR**") model mediation procedure. (see www.cedr.co.uk).

19. NOTICES

All notices and other communications required or permitted to be served or given shall be in writing and sent by post, courier, fax or e-mail to the intended recipient's address as specified in any order or proposal or such other address as either party may notify to the other from time to time. Notices shall be deemed to have been served immediately if they were sent by fax or e-mail (provided proof of transmission can be produced); and on the second business day after posting if served by first class post; and by delivery of the notice through the letter box of the party to be served and shall be treated as served on the first business day after delivery.

20. GENERAL

20.1 The failure to exercise or delay in exercising a right or remedy under these terms or the Contract shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under these terms or the Contract shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

20.2 The invalidity, illegality or unenforceability of any provision of this Agreement or of a Contract shall not affect or impact the continuation in force of the remainder of this Agreement or the Contract.

20.3 Nothing in this Agreement nor in a Contract shall be construed as creating a partnership or joint venture of any kind between the parties or as constituting either party as the agent of the other party for any purpose whatsoever and neither party shall have the authority or power to bind the other party, or to contract in the name of, or to create a liability against, the other party in any way or for any purpose.

20.4 The parties agree that the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.

20.5 These terms, together with the other agreed terms comprising the Contract and any document expressly referred to in any of its terms, contains the entire agreement between the parties relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of these terms or the Contract.

20.5 The Client confirms that, in entering into each Contract, it has not relied on and shall have no remedy in respect of any statement, representation or warranty that is not set out in these terms or the Contract and agrees that the only remedy available to it for breach of any statement, representation

or other term that is expressly set out in these terms or a Contract shall be for breach of contract. Nothing contained in this Clause 20.5 shall however operate to limit or exclude any liability of the Supplier for fraud or fraudulent misrepresentation.

21. LAW AND JURISDICTION

The construction, validity and performance of the Contract shall be governed by the laws of England and any dispute shall be referred to the exclusive jurisdiction of the English courts.