

# PRODUCTS, SOFTWARE AND SERVICES TERMS AND CONDITIONS

## 1. General

(a) These terms and conditions (the General Terms and Conditions), together with EVO Human Performance's Privacy Policy, any Separate Terms, any further terms and conditions which are incorporated into, appended to, or linked by a hyperlink in, the General Terms and Conditions, an Order or any of the foregoing (together, the Additional Terms and Conditions) and Orders govern the supply and use of the Products, Software and Services. The Additional Terms and Conditions are hereby incorporated by reference in and form part of, these General Terms and Conditions as if set out in full herein. Unless otherwise agreed in writing and signed by a statutory Director of EVO Human Performance ("EVO Human Performance") any Professional Services set out in a Quotation/Work Order or other applicable agreement and/or provided by EVO Human Performance to the Customer shall be provided pursuant to the following terms and conditions (this "Agreement").

### 1/ Definitions

**"Acceptance"** has the meaning detailed in Clause 19.1.4 or 19.2.

**"Conditions"** means these Conditions of Sale.

**"Contract"** means the contract between the Customer and EVO Human Performance (EVO Human Performance hereafter) in which these Conditions are incorporated;

a. for the supply and purchase of the Hardware and/or Services and/or

b. to supply in relation to the Software, a developer's software licence or in the absence of the same a non-exclusive, non-transferable licence to use the Software.

**"Contract Price"** has the meaning detailed in Clause 5.1.

**"Customer"** means the person, firm, or company to which EVO Human Performance is supplying or licensing the Products.

**"Delivery"** means delivery of all or some of the Products and/or Services, included within this Contract, to the Customer's site or any other site notified to EVO Human Performance by the Customer.

**"Hardware"** means physical, tangible materials of the Product(s).

**"Hardware Warranty"** and **"Hardware Warranty Period"** has the meaning detailed in Clause 11.1.

**"PC"** means a personal computer and/or data server, including its hardware, firmware and operating system software.

**“EVO Human Performance”** means EVO Human Performance IKE, its employees, agents or subcontractors.

**“Product”** or “Products” or “Product(s)” means any configuration of hardware and/or software, including documentation, sold or licensed to the Customer within the Contract.

**“Quotations”** means quotations, proposals, tenders or such other similar documents issued to the Customer by EVO Human Performance.

**“Services”** means those services detailed in the Customer’s order which may include, but are not limited to, project management, installation, commissioning and training.

**“Software”** means one or more programs capable of operating on a controller, processor or other hardware (“Device”) and related documentation. Software is either a separate Product (“Unbundled”), included with another Product (“Bundled Software”), or fixed in a device and not removable in normal operation within the Product (“Firmware”).

**“Software Warranty”** and “Software Warranty Period” has the meaning detailed in Clause 11.2.

**“Telephone Network”** means the public switched telephone network and/or leased lines.

---

## 2/ Order Acceptance

---

**2.1** A Customer order for Products and/or Services will not be considered binding on EVO Human Performance until it is officially accepted in writing and evidenced by an order acknowledgement. Order acceptance is subject to EVO Human Performance receiving a satisfactory credit clearance in respect of the Customer.

**2.2** These Conditions may not be modified or varied unless evidenced in writing and signed by a duly authorised representative of EVO Human Performance.

**2.3** These Conditions are the only terms and conditions that apply to the Contract, unless varied in accordance with Clause 2.2. Delivery of all or part of the Products shall be deemed to be an unqualified acceptance of these Conditions.

**2.4** The Customer must accompany an order with sufficient information, to enable EVO Human Performance to proceed with the Contract. EVO Human Performance reserves the right to amend the prices quoted to cover any increase in cost and extend the time of delivery of the Products where insufficient information has been supplied.

**2.5** Any changes in specification, configuration, implementation date, traffic requirements, installation hours or block-wiring requested by the Customer after order acceptance may result in a revised date of implementation of the order and/or a change of Contract Price.

### 3/ Validity

**3.1** Unless otherwise stated in writing, all Quotations are valid for thirty (30) days from date of the Quotation. After expiry of this period, all Quotations shall lapse unless revised or confirmed by EVO Human Performance in writing.

**3.2** The validity of our quotation and any resulting Contract, may be subject to the granting of a governmental export licence. In the event that such a licence or end-use statement is required, the Customer shall provide EVO Human Performance with such a document on written request. In case the delivery of the Goods is restricted or forbidden due to export control laws, the rights and obligations of the Customer will be suspended for the duration of such laws, and this Contract may be cancelled.

### 4/ Customer Obligations

**4.1** The Customer shall provide EVO Human Performance with reasonable access to the premises, adequate working and storage space and such other facilities as EVO Human Performance may reasonably require.

**4.2** The Customer shall procure the co-operation of its employees, as may reasonably be required, for EVO Human Performance to carry out the supply of the Products and Services.

**4.3** The Customer shall provide EVO Human Performance with copies of all materials in the Customer's possession that EVO Human Performance may reasonably request to assist EVO Human Performance in the provision of the Products and/or Services. All such materials shall be provided at no charge to EVO Human Performance. EVO Human Performance shall use such materials only in connection with the provision of the Products and/or Services to the Customer. The Customer warrants that it has all the necessary intellectual property rights needed to permit EVO Human Performance to use such materials, and shall indemnify and hold EVO Human Performance harmless from any breach of this warranty. The Customer shall permit EVO Human Performance or its designee access to its Data Network and any other facilities or infrastructure as may be reasonably necessary.

**4.4** The Customer shall appoint a single point of contact who shall be the primary contact point for EVO Human Performance regarding the provision of the Products and/or Services.

**4.5** To ensure that the Products operate and function successfully the Customer shall provide the necessary integration with and/or management of its Data Network in accordance with EVO Human Performance' recommendations. EVO Human Performance will not be responsible for quality of service issues related to the Data Network. The Customer is and remains responsible for the Data Network and all Data Network related issues.

**4.6** The Customer shall be responsible for the connection of the incoming mains electricity supply to the rectifier/battery combination or any uninterrupted power supply unit and shall provide EVO Human Performance with the requisite certification.

**4.7** The Customer shall ensure that it complies with all the appropriate health and safety at work requirements in respect of those representing EVO Human Performance on the Customer's site. Furthermore, if required the Customer will assist EVO Human Performance with its obligations in respect of its health and safety duties.

**4.8** It is the Customer's responsibility to ensure that there is sufficient available capacity within its Telephone and/or Data Network(s) to support any additional products.

**4.9** It is the Customer's responsibility to ensure that the Products remain free from computer viruses.

**4.10** If the Customer fails to meet any of its obligations detailed in this Clause 4 and EVO Human Performance has incurred extra costs due to the same then the Customer will reimburse EVO Human Performance accordingly.

## 5/ Price

**5.1** The contract price shall be that detailed in the Quotation or, if the Quotation has expired, shall be the prices for the Products and/or Services ruling at the date of EVO Human Performance's acceptance of the Customer order (the "Contract Price").

**5.2** In the event that the delivery lead time required by the Customer for any of the Products is more than three months from the date of order acceptance, EVO Human Performance reserves the right to change the Contract Price to take account of any variations in cost.

**5.3** All prices quoted are exclusive of Value Added Tax, which shall be charged in addition at the rate applicable at the time of invoicing.

**5.4** Prices will not be subject to discounts other than as may be specified in the Quotation.

**5.5** Prices do not include the costs of any environmental charges arising out of the Directive 2002/96/EC on Waste Electrical and Electronic Equipment or any similar or derived legislation, and such additional costs will be invoiced to and payable by the Customer.

## 6/ Payment Terms

**6.1** Unless EVO Human Performance agrees otherwise in writing, EVO Human Performance will invoice the Customer for the Contract Price in the following manner:

**6.1.1** Products shall be invoiced for on the date of Product Delivery.

**6.1.2** All invoices must be paid not later than thirty (30) days from date on the invoice.

**6.2** In the event of default in payment by the due date, EVO Human Performance reserves the right to charge compound interest on money overdue accruing at the rate of that stipulated in by the Late Payment of Commercial Debts (Interest) Laws 2940/2001 and 3091/2002 or such legislation that may amend or replace the aforementioned laws until full payment is received. EVO Human Performance further reserves the right to suspend delivery or terminate any contract in respect of Products to be

delivered and/or Services to be provided and/or to terminate any other order received by EVO Human Performance from the Customer.

**6.3** Should any sum due for payment be in arrears for fourteen (14) days or more EVO Human Performance shall be under no obligation to provide the Products and/or Services.

**6.4** Where the Customer requests a credit and re-invoice for the same value, the amount must be paid within thirty (30) days of the original invoice date.

**6.5** Where any significant project milestone is delayed by the Customer by more than thirty (30) days from the agreed date, EVO Human Performance shall be entitled to invoice the Customer the whole of the Contract Price and to levy an additional charge on the Customer for installation support.

## 7/ Delivery

**7.1** A delivery date shall be treated as being approximate. Whilst EVO Human Performance will use reasonable endeavours to conform to the estimated delivery date quoted, no liability is accepted for delay in despatch or Delivery. Estimated delivery dates quoted will commence from the date of order acceptance.

**7.2** Where there is a requirement for a variation to the initial Products and/or Services ordered (such additional items being referred to as "Enhancement Items"), EVO Human Performance reserves the right to despatch and invoice such Enhancement Items separately and the Customer shall honour all invoices raised in respect of such deliveries in accordance with the payment terms set out in Clause 6.

**7.3** If the Customer;

**7.3.1** fails to take delivery or give adequate instructions, or

**7.3.2** requests EVO Human Performance to hold the Products after the agreed date for delivery,

an invoice will be issued on the date the Products were available for despatch.

EVO Human Performance also reserves the right to charge for any additional costs incurred due to the delay.

**7.4** EVO Human Performance will use reasonable endeavors to agree a delivery date with the Customer. In the event that the Customer delays Delivery for a period exceeding 3 months from placing the order EVO Human Performance reserves the right to invoice the Customer for the full Contract Price.

**7.5** EVO Human Performance shall not be required to provide proof of Delivery.

## 8/ Retention of Title And Risk

**8.1** Immediately upon Delivery, risk in the Products will pass to the Customer.

**8.2** Title in the Products will not pass to the Customer until EVO Human Performance has received full payment for the Products and for any other amounts due from the Customer to EVO Human Performance on whatsoever grounds. Until title passes the Customer holds the Products on behalf of EVO Human Performance as Bailee.

**8.3** In the event of termination under Clause 14 of these Conditions, EVO Human Performance will be entitled;

**8.3.1** to withhold delivery of any undelivered Products, and

**8.3.2** to withhold the performance of any service under this or any other contract between the Customer and EVO Human Performance including but not limited to maintenance services, and

**8.3.3** to cancel, terminate and/or suspend without liability any contract with the Customer.

Nothing in this Clause confers any right on the Customer to return the Products to EVO Human Performance or to create any agency between EVO Human Performance and the Customer.

**8.4** EVO Human Performance will not be liable to the Customer for any loss or damage to the Products that occurs after Delivery, unless such loss or damage is caused directly by EVO Human Performance' negligence or wilful misconduct.

---

## 9/ Damage or Loss In Transit

---

The packaging provided with the Products may not be suitable for storage. Claims for Products damaged or lost in transit must be received in writing by the carrier and EVO Human Performance within 24 hours after Delivery date or after the expected Delivery date. All packaging associated with damaged Products must be retained by the Customer and delivered to either the carrier or EVO Human Performance on demand.

---

## 10/ Cancellation

---

EVO Human Performance may at its absolute discretion allow the Customer to cancel an order or part of any order prior to Delivery but in that event may make an appropriate cancellation charge to cover reasonable costs, expenses and losses incurred, the cancellation charge being a minimum of 20% of the cancelled order. EVO Human Performance will not accept cancellation of an order after Delivery.

---

## 11/ Warranty

---

### 11.1 Hardware Warranty

**11.1.1** EVO Human Performance warrants that at the time of Acceptance the Hardware will correspond with its specification and will be free from defects in material and workmanship for a period of twelve (12) months from Delivery (the "Hardware Warranty Period") subject to the following conditions:

**11.1.1(i)** EVO Human Performance shall be under no liability in respect of any defect in the Hardware arising from designs or specifications supplied to EVO Human Performance by the Customer;

**11.1.1(ii)** EVO Human Performance shall be under no liability in respect of any defect arising from the Customer's failure to follow EVO Human Performance' or the manufacturer's instructions in relation to proper use and storage of the Hardware;

**11.1.1(iii)** EVO Human Performance shall be under no liability in respect of any defect arising from fair wear and tear, accident, wilful damage, negligence (other than by EVO Human Performance), unusual physical or electrical stress, failure of power, alteration, modification or repair of the Hardware by any non-EVO Human Performance approved personnel;

**11.1.1(iv)** The above warranty does not extend to materials, parts or equipment not manufactured by EVO Human Performance ("Third Party Products"). The Customer shall only be entitled to the benefit of any Third Party Products warranty or guarantee, which EVO Human Performance is capable of assigning to the Customer.

**11.1.2** Subject to Clause 11.3.6 below, in the event of any material defect in the Hardware arising within the Hardware Warranty Period, and provided that all monies due to EVO Human Performance have been paid in full, the Customer shall be entitled to return the Hardware in appropriate packaging for safe transit to EVO Human Performance at the Customer's own cost. Upon return of the Hardware, EVO Human Performance shall undertake to examine the Hardware alleged to be defective, and if EVO Human Performance confirms that any fault has arisen after proper use of the Hardware (subject to Clause 11.3.3) solely due to defective design, manufacture or installation, EVO Human Performance shall repair or at its discretion replace the Hardware or parts thereof at EVO Human Performance' expense.

**11.1.3** The Customer shall notify EVO Human Performance of a claim for defective Hardware within 24 hours from the date of Delivery or, where the defect was not apparent on reasonable inspection, within 24 hours after discovery of the defect.

## **11.2 Software Warranty**

**11.2.1** The Customer acknowledges that software in general is not error-free and agrees that the existence of such errors shall not constitute a breach of this Contract.

**11.2.2** In the event that the Customer discovers a material error in the Software which substantially affects the Customer's use of the Products and notifies EVO Human Performance of the error within ninety (90) days from the date of despatch of the Software to the Customer (the "Software Warranty Period") EVO Human Performance shall at its sole option either refund the licence fee in respect of the Software or use all reasonable endeavours to correct by a patch or new release (at its option) that part of the Software which does not comply PROVIDED THAT such non-compliance has not been caused by

**11.2.2(i)** any modification, variation or addition to the Software performed by the Customer or other third party, or

**11.2.2(ii)** incorrect use, abuse or corruption of the Software, or

**11.2.2(iii)** use of the Software with other software not approved by EVO Human Performance, or

**11.2.2(iv)** use of the Software on equipment with which it is incompatible.

**11.2.3** EVO Human Performance does not warrant or represent that the Software will be free from all possible methods of access, attack or intrusion.

**11.2.4** Any claim made by the Customer under this Software Warranty shall be sent in writing to EVO Human Performance specifying the nature of the defect. Upon receipt of such written notice EVO Human Performance shall investigate the reported defect.

### **11.3** General Warranty Clauses applicable to both Hardware and Software

**11.3.1** The Customer shall notify EVO Human Performance of any intention to return any of the Products or parts thereof for whatever reason. EVO Human Performance will only accept returned Products when EVO Human Performance has sent the Customer written authorization to return the Products.

**11.3.2** In the event of any claim presented under either the Hardware or Software Warranty being found on investigation by EVO Human Performance either to be outside the scope or duration of the warranty or the fault being unconfirmed then the costs of such investigation shall be borne by the Customer.

**11.3.3** EVO Human Performance shall not be liable at any time for damage or defects in the Hardware or Software caused by improper use, abuse, mismanagement, accident, unusual physical or electrical stress, or where the Products have been modified or repaired without EVO Human Performance' consent, or by using the Hardware or Software outside the specifications detailed in the manuals and documentation relating to the same.

**11.3.4** These warranties shall not be assigned without the prior written consent of EVO Human Performance.

**11.3.5** The above warranties for both Hardware and Software shall be in lieu of all warranties or conditions, express or implied by law, as to the quality or fitness for any purpose or satisfactory quality in respect of the Hardware and/or Software.

**11.3.6** If the Customer and EVO Human Performance shall have executed a separate maintenance agreement in respect of the Products, any repairs or replacements of defective Products arising during the respective Warranty Periods shall be carried out in accordance with the terms of such separate agreement.



## 12/ Liability

**12.1** The following Clause 12 sets out EVO Human Performance' liability to the Customer in respect of these Conditions, whether in contract or tort, including negligence and are the Customer's sole remedies in respect of any act or default on the part of EVO Human Performance.

**12.2** EVO Human Performance will accept liability for death or personal injury resulting from its negligence and, where applicable, for any breach by it under Part I of the Consumer Protection Law 3844/2010.

**12.3** EVO Human Performance will accept liability for direct physical damage to the tangible property of the Customer to the extent that it is caused by the negligence of EVO Human Performance, subject to the exclusions set out in Clause 12.5 below and up to a maximum limit of € 100.000 in aggregate.

**12.4** Except as provided in Clauses 12.2 and 12.3 above, EVO Human Performance' total liability in respect of any one default will not exceed 125% of the total price paid by the Customer for the purchase of the Product(s) and the supply of a licence for the Product(s) in respect of which EVO Human Performance is in default. If a number of defaults give rise to substantially the same loss or are attributable to the same or similar cause, then they will be regarded as giving rise to only one claim. EVO Human Performance will be given a reasonable opportunity to remedy any default.

**12.5** Except as provided by Section 12.2 above neither EVO Human Performance nor its affiliates, subcontractors or suppliers be liable for any of the following:

**12.5.1** loss of business, revenue, profits, anticipated savings, contracts, goodwill; or

**12.5.2** damages relating to the Customer's procurement of substitute products or services, or

**12.5.3** damages for loss of data, data traffic, software programs (whether or not supplied by EVO Human Performance), interruption in the use or availability of data, stoppage of other work, or

**12.5.4** damages, losses or costs arising from fraudulent use of the Products, or

**12.5.5** special, indirect or consequential loss, even if such loss is foreseeable by or in the contemplation of EVO Human Performance or

**12.5.6** any claim made against the Customer by any other third party.

**12.6** The Customer shall use its best endeavours to mitigate any loss suffered under this Clause 12.

**12.7** Except as expressly stated in this Clause 12 all conditions and warranties implied, statutory or otherwise are excluded to the maximum extent permitted by law.

## 13/ Patents

**13.1** EVO Human Performance at its expense, will defend any suit brought against the Customer if the suit is based on a claim that any Products supplied by EVO Human Performance directly infringe

any GR patent right or other intellectual property right and will indemnify the Customer against any final award of damages and costs, subject to the clauses below and the Customer giving EVO Human Performance prompt notice in writing of any suit for infringement, full assistance and cooperation in that defence and full authority to conduct and settle it. The Customer will neither incur any expense in this regard without EVO Human Performance' written consent nor make admission of liability. Should the Products constitute infringement and should their use be prohibited, EVO Human Performance will either procure for the Customer the right to continue using the Products or it will replace the infringing Products or, on return of the Products, grant the Customer a credit for the price paid for the Products.

EVO Human Performance assumes no liability for:

**13.1.1** infringements of intellectual property rights covering any combination of any Products with any other product, whether or not supplied by the Customer or any method of process in which any Products may be used;

**13.1.2** infringements of intellectual property rights where the Products were subsequently modified by or on behalf of the Customer by a party other than EVO Human Performance; or

**13.1.3** infringements of intellectual property rights where the Products are not used in accordance with the instructions;

**13.1.4** infringements of intellectual property rights of an old version of the Products where a subsequent non infringing version of the Products had been made available and the Customer had failed to use the non-infringing version;

**13.1.4** any patent or intellectual property right infringement arising from compliance with the Customer's design, specification or instruction except to the extent that the infringement arises from the manufacturing process used by the Customer. EVO Human Performance will indemnify the Customer against any final award of damages and costs for any such infringement and EVO Human Performance will reimburse all the Customer's costs in defending any suit provided the Customer gives EVO Human Performance prompt notice in writing and, if requested, full authority to conduct the defence and full assistance and cooperation.

Except as stated in this Clause 13.1 EVO Human Performance will not be liable for any loss or damage of any kind suffered by the Customer or any person in respect of the infringement of any intellectual property right.

**13.2** The sale or license of the Products does not convey any licence by implication, under any proprietary or intellectual property rights covering any combination in which any Products supplied by EVO Human Performance are combined with any other products (whether or not supplied by EVO Human Performance) or any method or process in which any Products may be used.

## 14/ Termination

**14.1** Without prejudice to any other rights or remedies EVO Human Performance may cease to supply the Products and/or Service or, at its option, terminate this Contract with immediate effect:

**14.1.1** if the Customer is in breach of any of its obligations within these Conditions which are incapable of remedy, or

**14.1.2** in the event of a breach capable of being remedied, the Customer fails to remedy the breach within fourteen (14) days of receipt of written notice thereof, or

**14.1.3** if the Customer is in default of any payment, or

**14.1.4** if the Customer or its parent or subsidiary companies makes any voluntary arrangement with creditors or becomes subject to an administration order, or if an individual or a firm becomes bankrupt, or if a company goes into liquidation; or

**14.1.5** if a receiver or administrative receiver is appointed over, or an encumbrancer takes possession of the Customer's property or assets or the property or assets of its parent or subsidiary companies; or

**14.1.6** if the Customer ceases trading or threatens to cease trading; or

**14.1.7** if any distress or execution is levied on the Customer, its goods or assets; or

**14.1.8** if EVO Human Performance has reasonable cause to believe that any of the events in Clauses 14.1.4 – 14.1.7 are about to occur; or

**14.1.9** if the Customer is in breach of any other contract with EVO Human Performance.

**14.2** Payments shall become due immediately upon the commencement of any act or proceedings in which the Customer's solvency is involved. On the appointment of an Administrative Receiver the Customer's power to deal in any way with EVO Human Performance' Products is automatically terminated.

## 15/ Drawings and Specifications

Unless otherwise stipulated all specifications, drawings and particulars of weights, dimensions and performance submitted with the Quotations are approximate only and the description and illustrations contained in catalogues, price lists and other printed matter are by way of general descriptions and approximate only and shall not form part of any contract with EVO Human Performance.

## 16/ Software and Firmware

**16.1** Software provided by EVO Human Performance or its licensors shall not become the property of the Customer regardless of whether it was or was not developed specifically for use by the Customer.

**16.2** Software licenses and dongles remain the property of EVO Human Performance and may not be transferred to any third party without the prior written consent of EVO Human Performance.

**16.3** No rights to any intellectual property residing in the Products, documentation or any data furnished by EVO Human Performance are granted to the Customer except the right to use such intellectual property in conjunction with the Products.

**16.4** Where the Customer is furnished with a developer's software license the Customer's entitlement to use the Software will be in accordance with the said license. In the absence of a developer's software license the Customer is granted a non-exclusive, non-transferrable license to use such Software and/or firmware in conjunction with the Products for which it was supplied only.

**16.5** Except where entitled to do so by law, the Customer may not copy or modify or disclose Software to a third party without EVO Human Performance's written consent.

---

## 17/ Environmental Suitability and Installation

---

Where EVO Human Performance is responsible for installation of the Products: –

**17.1** Before delivery, EVO Human Performance will provide the Customer with details of the specifications required for a suitable environment to accommodate the Products. EVO Human Performance may carry out, or require the Customer to carry out, a generic or specialised survey of the installation site and/or its Data Network, in advance of delivery, in order to ensure suitability. The Customer shall promptly provide free of charge such drawings, plans, and other information pertaining to the site and structures of the site as may be necessary for the survey.

**17.2** The Customer shall be responsible for carrying out at its expense the remedial work detailed in the survey report pursuant to Clause 17.1 in advance of the agreed delivery date, including where necessary the obtaining of the requisite permits, licences, planning permission and way-leaves.

**17.3** The Customer shall be responsible for ensuring that the site and equipment on which the Products are to be installed are prepared and made ready for installation prior to the time scheduled for Delivery and without prejudice to the generality of the foregoing the Customer agrees and undertakes to ensure that:

**17.3.1** the PCs, hardware and communications infrastructure which are to be used in conjunction with the Products have been installed, configured and tested in accordance with the manufacturer's product documentation and in accordance with EVO Human Performance's requirements and recommendations.

**17.3.2** its equipment, software, Telephone Network and Data Network have been dimensioned and configured as recommended by EVO Human Performance.

**17.4** The Customer is advised that any future changes to the structure, fabric, decoration, furniture or any other object within the Customer's site may affect the characteristics of the coverage of any wireless-based equipment supplied. If this is the case and coverage needs to be amended and/or improved to take account of the changes then any subsequent costs will be borne by the Customer.

**17.5** The Customer is further advised that any changes made to either its Telephone Network or Data Network may affect the performance and/or functioning of the Products.

**17.6** Where attachment to the services of a Telephone Network or Data Network provider is necessary for installation, the Customer shall at its expense procure that those services are available in advance of the agreed ready-for-service date. EVO Human Performance shall not be liable for any delay or failure to make such services available in compliance with the agreed specifications and standards.

**17.7** Work such as cutting away and making good wall surfaces, ceilings, floors, furniture, etc., and any redecoration, is excluded from this Contract.

**17.8** Except where expressly otherwise provided, installation prices are quoted on the assumption that work is carried out during normal working hours and proceeds without hindrance to completion. For the purpose of this Contract normal working hours are 0900 to 1700 Monday to Friday, excluding statutory holidays in Greece.

## 18/ Confidentiality and Data Protection

**18.1** EVO Human Performance and the Customer shall use reasonable care not to disclose at any time whether during the continuance of the Contract or after its completion or termination to any person, firm or corporation any confidential or proprietary information belonging to the other party in any manner whatsoever, including information which relates to the other party's know-how, data, drawings or specifications, except:

**18.1.1** to the extent that the receiving party can show that the information is publicly available, through no fault of the receiving party;

**18.1.2** to the extent that the receiving party can show that the information was in its possession prior to the date of disclosure by the disclosing party;

**18.1.3** where the party whose confidential information has been disclosed has previously given its written consent to the disclosing party to disclose the information to the receiving party;

**18.1.4** to the extent that the receiving party can prove that the information has been independently developed within its own organisation;

**18.1.5** where the information is lawfully received from a third party which is lawfully in possession and free to disclose the information.

**18.2** Both parties shall ensure that they comply with all laws and regulations in relation to data protection or privacy to the extent that such laws apply to them in connection with this Contract.

**18.3** Nothing in Clause 18 shall prohibit EVO Human Performance from supplying the same or similar Products to other parties.

## 19/ Acceptance

**19.1** Where EVO Human Performance is responsible for installation:

**19.1.1** EVO Human Performance shall carry out its standard tests on the completion of either an agreed deliverable detailed within the contract and/or the completion of the entire contract (“Completion Tests”) which can be witnessed by the Customer or its authorised representative, to show that the Products perform as specified and signify acceptance of the same. Any tests of the Products other than those normally carried out by EVO Human Performance, which may be requested by the Customer, if agreed to by EVO Human Performance, may be the subject of extra charges.

**19.1.2** The Customer and EVO Human Performance shall commence the Completion Tests at an agreed date and time. If an agreed date cannot be established, then EVO Human Performance will advise the Customer of a reasonable date and time for such tests to take place. Completion Tests will not be delayed in the event that the Customer’s representative fails to attend on the date notified.

**19.1.3** Following any unsuccessful Completion Tests, EVO Human Performance shall have the opportunity to adjust or modify the Products, prior to repeating the Completion Tests, until the Products or replacement Products successfully pass the Completion Tests. In the event of minor failures or omissions or if the failure is due to items provided by the Customer the Completion Tests will still be considered successful.

**19.1.4** The Products shall be deemed to have been accepted by the Customer on

**19.1.4(i)** the successful execution of the Completion Tests with 19.1.1, or 19.1.3, or

**19.1.4(ii)** the date the Products are put into commercial use by the Customer, or

**19.1.4(iii)** three (3) months after Delivery whichever is the soonest.

**19.2** Where EVO Human Performance is not responsible for installation, acceptance of the Products will be deemed to have occurred on Delivery in accordance with Clause 7.

## 20/ Maintenance

EVO Human Performance is under no obligation to maintain any of the Products unless EVO Human Performance and the Customer shall execute a separate maintenance agreement. If the Customer has not signed a maintenance contract on Acceptance, then the Customer shall use the procedure detailed in Clause 11 for any Hardware or Software faults.

## 21/ Market Surveillance

EVO Human Performance is not responsible for elements that are an integral part of the production/delivery system but are not supplied or certified by EVO Human Performance.

---

## 22/ Dispute Resolution Procedure

---

**22.1** This Clause 23 sets out the steps to be followed in the event of a dispute between the Parties (the “Dispute Resolution Procedure”).

**22.2** Where a dispute arises a notice of dispute shall be sent by one Party to the other setting out the material particulars of the dispute and why the person serving the notice believes the dispute has arisen. In such an event, the Parties shall continue to comply with their respective obligations under the Agreement regardless of the nature of the dispute and notwithstanding the referral to the Dispute Resolution Procedure.

**22.3** The Parties to this Agreement will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the Parties who have authority to settle the same.

**22.4** If the matter is not resolved through negotiation within thirty (30) calendar days from the date of the notice, the Parties will attempt in good faith to resolve the dispute using a procedure such as mediation or executive tribunal or other dispute resolution technique.

**22.5** The fees and the costs of such Procedure shall be borne equally by the parties.

**22.6** Nothing in this Clause 22 shall prevent either party from seeking injunctive relief and/or applying for summary judgement at any time.

**22.7** Except in relation to matters referred to in Clause 22.6 neither party shall be entitled to institute court proceedings in respect of a dispute unless and until they have attempted to resolve the dispute in accordance with Clause 22.3.

---

## 24/ Miscellaneous

---

**24.1** No waiver by either party of any of its rights shall prejudice its ability to enforce such rights.

**24.2** The headings of the terms and conditions are for convenience of reference only and do not form part of these Conditions nor affect their interpretation.

**24.3** All notices shall be in writing addressed to the other party at its registered office or principal place of business.

**24.4** Neither party shall be liable to the other for events of force majeure and beyond the reasonable control of the other party or its sub-contractors including but not limited to war, riot, fire, strikes, lockouts or other forms of industrial action.

**24.5** The Contract may not be assigned by the Customer without the prior written permission of EVO Human Performance, which shall not be unreasonably withheld.

**24.6** If any provision of these Conditions is found to be invalid or unenforceable in whole or in part, the validity of the other provisions and the remainder of the provision in question shall not be affected by invalidity or unenforceability.

**24.7** This Contract shall be subject to Greek law and the jurisdiction of the Greek Courts.

**24.9** Any terms and conditions, which by their nature extend beyond expiration or termination of these Conditions shall survive and remain in effect.

**24.10** These Conditions, the Customer's order (excluding any Customer terms and conditions) and EVO Human Performance' acceptance of the order constitute the entire agreement and understanding of the parties with respect to its subject matter. Each of the parties acknowledges that in entering into this agreement it has not relied on any oral or written representation, warranty, or other assurance (except as provided for or referred to in these Conditions) and waives all rights and remedies which might otherwise be available to it, provided always that nothing in these Conditions shall limit or exclude any liability of a party for fraud.

