

1. Introduction

1.1 In these Terms:-

| | |
|----------------------------|---|
| "Change Control Request" | means the Change Control Form of Ultima on which a written request can be made by the Customer to change, vary or request additional Services, Products or the Specification and/or the SLA |
| "Change Control Procedure" | means the mechanism for agreeing any and all changes under or in connection with any Contract |
| "Commencement Date" | means the date provided in the Order for commencement of the Services/supply of Products |
| "Contract" | means the performance of Services and/or the supply of Products in accordance with these Terms |
| "Customer" | means the person or entity who is identified as the Customer in the Order |
| "Customer Contact" | means those persons identified in the Order as the contact for each Contract and with whom the Change Control Procedures will be dealt. |
| "Force Majeure" | means in relation to either party any circumstances beyond the reasonable control of that party including without limitation any strike, lock out or other industrial action |
| "Hardware" | where appropriate means the Customer's computer hardware in respect of which Managed Services are to be provided |
| "Location" | means that location at the Customer's premises where Services or Products are to be supplied |

| | |
|-------------------|--|
| "Managed Service" | means Ultima’s management of the Customer systems as more specifically detailed in the SLA relating thereto |
| "Order" | means the Order for Products and Services signed by Ultima and the Customer detailing the Services and Products to be supplied under the Contract and referencing the applicable schedules/ documentation relating thereto |
| "Products" | means any Products which Ultima has agreed to supply under any Contract |
| "Quote" | means any offer, quote or proposal made by Ultima for the provision of Services or supply of Products |
| "SLA" | means the Service Level Agreements which are supplied by Ultima to the Customer setting out the performance levels applying to specific Services |
| "Services" | means those services to be performed by Ultima under any Contract entered into between Ultima and the Customer |
| "Solutions" | means any software supplied or provided by Ultima for the provision of a Managed Service |
| "Specification" | means the agreed details attached to Ultima’s Quote (if any) in respect of Products |
| "Terms" | means these terms of business |
| "Ultima" | means Ultima Business Solutions Limited |

1.2 The headings in these Terms are for convenience only and shall not affect their interpretation

2. Basis of Contract

- 2.1 Ultima shall supply and the Customer shall purchase the Services and Products in accordance with any written Quote of Ultima which is accepted by the Customer as evidenced by the Order
- 2.2 Every Order shall be subject to these Terms which shall govern the performance of the Services and supply of the Products to the exclusion of any other terms and conditions
- 2.3 No variation to the Contract shall be binding unless agreed in writing by an authorised representative of the Customer and Ultima and executed through the Change Control Procedure
- 2.4 Ultima's employees or agents are not authorised to make any representations concerning the Services or the Products unless confirmed by Ultima in writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed
- 2.5 Any advice or recommendation given by Ultima to the Customer or its employees or agents as to the Services to be performed, storage, application or use of the Products which is not confirmed in writing by Ultima is followed or acted on entirely at the Customer's own risk and accordingly Ultima shall not be liable for any such advice or recommendation which is not so confirmed
- 2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price lists, acceptance of Order, invoice or other documentation or information issued by Ultima shall be subject to correction without notice or liability on the part of Ultima
- 2.7 Whilst every effort is made to ensure that the description and illustrations contained in the catalogues, price lists and other advertisements of Ultima are accurate and current they shall not form part of the Contract and Ultima shall not be liable in respect thereof

3. Quotation/Order

- 3.1 Unless otherwise agreed in writing by Ultima no Order submitted by the Customer shall be deemed to be accepted by Ultima unless in acceptance (without variation) of a Quote submitted by Ultima's authorised representative. Quotes will remain open for acceptance for a period of 14 days for Products and Services procured in UK pounds sterling from the date of the Quote after which they shall lapse automatically. Where it is necessary for

Ultima to purchase Products and Services in a foreign currency to fulfil the Quote then that Quote will remain open for a period of 2 days. In this event, Ultima will advise the Customer as such in writing that the Quote is valid for 2 days only.

- 3.2 The Customer shall be responsible to Ultima for ensuring the accuracy of the terms of any Order SLA or Specification submitted or accepted by the Customer and for giving Ultima any necessary information relating to the Services and/or Products within sufficient time to enable Ultima to supply Services and Products in accordance with its terms
- 3.3 Ultima reserves the right to make any changes (without prior notice) in the Specification, the SLA, Products or the Services which are required to conform with any applicable safety or other statutory requirement which do not materially affect the quality or performance of the Services and Products
- 3.4 No Contract may be cancelled by the Customer except with the agreement in writing of Ultima and on terms that the Customer shall indemnify Ultima in full against all reasonable losses (including loss of profit) costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Ultima as a result of cancellation

4. Price

- 4.1 The price of the Products or Services shall be the price as set out in the Quote or where no price has been quoted (or a quoted price is no longer valid) the price listed in Ultima's published price list current at the date of acceptance of the Order
- 4.2 Unless otherwise agreed in writing between the Customer and Ultima all prices in respect of the Products are given by Ultima on an ex works basis and where Ultima agrees to deliver the Products otherwise than at Ultima's premises the Customer shall be liable to pay Ultima's charges for transport, packaging and insurance
- 4.3 Where at the Customer's request the Products are to be delivered by instalments it shall be liable to pay for all warehousing and insurance costs incurred by Ultima
- 4.4 Price Changes

Ultima reserves the right by giving written notice to the Customer to amend the pricing of Products and/or Services for any delay caused by the failure of the Customer to give Ultima adequate information or instructions

The Customer accepts that any changes to UK taxation (for example VAT) will be applied and imposed as legally required

4.5 Additional Services or Products

Where the Customer during the term of the Contract requests additional Services or Products which are not included in the Order:-

4.5.1 the Customer shall request such additions using a Change Request Form in accordance with clause 10.4 below;

4.5.2 if Ultima agrees to carry out such additions unless the Change Request Form states otherwise these shall be supplied at Ultima's standard price rates from time to time applying or as otherwise agreed between the parties in writing. All such additional supplies of Products or Services shall be subject to these Terms

4.6 All prices are exclusive of any applicable value added tax for which the Customer will be additionally liable

5. Payment

5.1 In respect of the Services, unless otherwise agreed in writing, Ultima shall be entitled to invoice the Customer for the performance of the Services in accordance with the Order or where no payment terms are specified within 30 days of those Services being performed

5.2 In respect of Products, unless otherwise agreed in writing Ultima shall be entitled to invoice the Customer for the price of the Products including any transport packaging warehousing and insurance costs (where applicable) on or at any time after delivery of the Products unless the Products are to be collected by the Customer and the Customer wrongfully fails to take delivery of the Products in which event Ultima shall be entitled to invoice the Customer for the price at any time after Ultima has notified the Customer that the Products are ready for collection or (as the case may be) Ultima has tendered delivery of the Products

5.3 Unless otherwise provided in the Order the Customer shall pay the price of the Services and Products as invoiced in full within 30 days from the date of Ultima's invoice. The Customer shall not be entitled to make any deduction from such payment or exercise any right of set off or contribution howsoever arising (unless confirmed by Ultima in writing). The time of payment of the price shall be of the essence of a Contract. Receipts for payment will be issued only on request

- 5.4 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to Ultima, Ultima shall be entitled to:-
- 5.4.1 cancel the Contract or suspend any further deliveries to the Customer of the Products or further performance of the Services
 - 5.4.2 appropriate any payment made by the Customer to such of the Products and/or Services (or any Products or Services supplied under any other Contract between the Customer and Ultima) as Ultima may think fit (notwithstanding any purported appropriation by the Customer); and
 - 5.4.3 charge the Customer interest (both before and after any judgment) on the amount unpaid at the rate of 4% per annum above National Westminster Bank Plc base rate from time to time until payment in full is made (a part of the month being treated as a full month for the purpose of calculating interest)

6. Performance of the Services

- 6.1 Ultima will perform the Services in accordance with the Terms hereof and the applicable SLAs. In the event that the provision of the Services may require staff to transfer employer, then the Transfer of Undertakings (Protection of Employment) regulations shall apply and will be dealt with in the SLA or additional contract terms.
- 6.2 Ultima will supply to the Customer in reasonable time before performance of the Services such information and assistance as may be necessary to enable the Customer to prepare the Location for the performance of Services and to provide proper environmental and operational conditions for the efficient working and maintenance of the Services. The Customer shall at its sole expense prepare the Location and provide such environmental and operational conditions prior to performance of the Services
- 6.3 If in the reasonable opinion of Ultima it is necessary to remove or otherwise disconnect any of the Customers' existing equipment at the Location in order to carry out the Services then the Customer shall permit and obtain all necessary consents for such removal and/or disconnection and shall give Ultima all necessary assistance to enable such work to be carried out
- 6.4 Except in the case where Ultima is providing a Managed Service or Maintenance and Support Agreement:-

- 6.4.1 the Customer shall be responsible for ensuring that all its existing equipment used by Ultima's employees or agents is safe and Ultima accepts no liability (other than for wilful damage) for loss of data, interruption of supply of electricity or telecommunications or interruption of business occasioned as a result of the supply of Services. It is the sole responsibility of the Customer to take all necessary precautions to protect its data and ensure a regular backup arrangement is implemented prior to during and after Ultima's provision of the Services
- 6.5 Ultima shall ensure that Services are carried out by suitably qualified personnel but it cannot guarantee that specific personnel will carry out the Services for the Customer and Ultima reserves the right in its absolute discretion to change the personnel engaged in providing the Services for the Customer without prior notification to the Customer
- 6.6 Where the Services include maintenance of the Customer's equipment there shall be excluded from such services or an additional fee will be levied by Ultima for the following: -
- 6.6.1 The provision of consumables, media and accessories or any item defined by the product manufacturer as a consumable or accessory
- 6.6.2 The supply and installation of patches, fixes, BIOS upgrades or other software related upgrades or modifications
- 6.6.3 Repairs necessitated as a result of any cause other than fair wear and tear resulting from proper use of equipment in accordance with Ultima's or the manufacturer's instructions or repairs necessitated by equipment not being in good working order when the Services are commenced
- 6.6.4 Any modification or alteration to equipment which is the subject of maintenance services except as required to rectify a fault diagnosed by Ultima or the manufacturer
- 6.6.5 Repair or replacement of any equipment the subject of such Services if such equipment is obsolete or beyond economic repair, meaning the cost of repair is not less than 60% of the then current market value of such equipment
- 6.7 Maintenance Services as described in an Ultima 'Maintenance Quotation' may only be terminated after the minimum term of 1 year by either party giving 90 days written notice.

7. Customer's Obligations

The Customer will as from the Commencement Date:-

- 7.1 provide to Ultima details of its Customer Contact from whom all negotiations for the Change Control Procedures or other matters pertaining to the performance of the Contract will be channelled. In the event of any change in the Customer Contact the Customer will provide details of a replacement as soon as reasonably practicable of a person with equivalent qualification and experience
- 7.2 where appropriate make available to Ultima's directors, employees or agents such office and reasonable administrative support as may be necessary for the provision of the Services
- 7.3 ensure its employees co-operate fully with Ultima in providing the Services
- 7.4 promptly provide Ultima with such information and documents as Ultima may from time to time reasonably request
- 7.5 ensure that the Hardware is installed and fully operational at all times
- 7.6 ensure that full backups and security copies of data and programmes are made at all appropriate intervals
- 7.7 provide Ultima and its personnel with reasonable access to the Customer's location during all reasonable hours to enable Ultima to carry out any Services
- 7.8 make available at no expense to Ultima such suitably qualified and experienced operators to provide information to Ultima for the purposes of providing the Services

8. Delivery of Installation of Products

- 8.1 Where Ultima is to install products it will supply to the Customer in reasonable time before delivery of the Products such information and assistance as may be necessary to enable the Customer to prepare the Location for installation of the Products. Any cost incurred in such preparation shall be for the account of the Customer
- 8.2 Delivery of the Products shall be made by the Customer collecting the Products at Ultima's premises or by Ultima if it has agreed to deliver the Products
- 8.3 Where Ultima has agreed to deliver the Products:-

- 8.3.1 Ultima shall deliver the Products to the Location but moving the Products to the individual office locations shall be undertaken by the Customer at its own expense
- 8.3.2 Ultima shall not carry out or be responsible for the removal of doors widening of entrances or of any other structural work of any description for the purposes of moving the Products to the Location. Such costs should be paid by the Customer in addition to the Contract price
- 8.4 Ultima quotes dates for the delivery of Products based upon the availability information provided by the manufacturer or distributor of the equipment. Delivery from the supplier to Ultima and from Ultima to the Customer is achieved by the use of various delivery agents. Ultima is not responsible for delays caused as a result of the supplier or delivery agent failing to meet their committed date, but in the event of such delay will make every effort with the supplier and/or delivery agent to expedite delivery.
- 8.5 Ultima shall not be liable in the event that the Products have been short delivered, or do not match the quantity on the Purchase Order where the Customer fails to notify Ultima of the discrepancy within seven days of the delivery date.
- 8.6 If Ultima is satisfied that Products have been short delivered Ultima shall at its option:-
- 8.6.1 make up any short delivery by dispatching to the Customer such Products as Ultima is satisfied were not delivered; or
- 8.6.2 allow the Customer credit in respect thereof
- 8.7 Where Products are to be delivered in instalments each delivery shall constitute a separate Contract and defective delivery by Ultima of any one or more of the instalments in accordance with these Terms shall not entitle the Customer to cancel any future instalments
- 8.8 If Ultima fails to deliver the Products (or any instalment) for any reason (other than arising out of the Customer's fault) Ultima's liability (if any) shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar Products to replace those not delivered over the price of the Products
- 8.9 If the Customer fails to take delivery of the Products or fails to give Ultima adequate delivery instructions at the time stated for delivery (otherwise than by reason of Ultima's fault) then without prejudice to any other right or remedy available to Ultima then Ultima may:-

- 8.9.1 store the Products until actual delivery and charge the Customer for the reasonable costs (including handling and insurance) of storage; or
- 8.9.2 sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price payable by the Customer or charge the Customer for any shortfall below the price

9. Returns of Products

- 9.1 Where Ultima has agreed to the return of Products (or any part thereof) Ultima will issue a returns and authorisation number and send to the Customer the appropriate returns form for completion. The Customer shall return such Products (or part) carriage paid if the Customer is at fault for the return and at the Customer's risk in the same condition as supplied by Ultima. If Ultima incorrectly ships the goods then Ultima will bear the cost and risk of the return however the Customer must ensure suitable packing for transit. Only Products pre-authorized will be accepted for return
- 9.2 In the event that the Customer is responsible for the return then an administration fee and any re-stocking fee incurred by Ultima will be charged to the Customer
- 9.3 Where Products (or part thereof) are returned incomplete or damaged due to the Customer's negligence Ultima shall be entitled to charge the Customer for the missing or damaged Products or revise any credit note issued in respect of such return

10. Change Control Procedures

- 10.1 The Customer shall by a Change Request Form delivered to Ultima have the right to request changes to any Contract
- 10.2 No change requested by the Customer shall be effective nor binding on Ultima unless specifically agreed to in writing by Ultima
- 10.3 If a change requested by the Customer and agreed to by Ultima results in a delay in Ultima's delivery of the Products or performance of the Services or an increase or decrease in the cost of the Services and/or Products to the Customer Ultima shall notify the Customer and negotiate an equitable adjustment in the delivery schedule or the price of such Services and Products or both. Ultima shall submit all of its claims for equitable adjustments to the

Customer in writing at any time prior to delivery of Products or Services

- 10.4 The Customer will on requesting any changes use the Change Request Form supplied by Ultima and observe all Change Control Procedures set out in the relevant SLA (if any)

11. Risk and Property

- 11.1 The risk of loss and damage to the Products shall pass to the Customer immediately on delivery unless the Products are to be collected by the Customer when the risk of loss and damage to the Products shall pass to the Customer on collection
- 11.2 Notwithstanding delivery and the passing of risk in the Products or any other provision of these Terms the property in the Products shall not pass to the Customer until Ultima has received in cash or cleared funds payment in full of the price of the Products and all other Products agreed to be sold by Ultima to the Customer for which payment is then due
- 11.3 Until such time as the property in the Products passes to the Customer the Customer shall hold the Products as Ultima's trustee and bailee and shall keep the Products separate from those of the Customer and third parties and properly stored, protected, insured and identified as Ultima's property
- 11.4 Until such time as the property in the Products passes to the Customer Ultima shall be entitled at any time to require the Customer to deliver up the Products to Ultima and if the Customer fails to do so forthwith to enter on any premises of the Customer or any third party where the Products are stored and repossess the Products
- 11.5 The Customer shall not offer for resale or resell any Products supplied by Ultima, until the price has been paid in full under the Contract
- 11.6 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of Ultima but if the Customer does so all monies owing by the Customer to Ultima shall (without prejudice to any other right or remedy of Ultima) forthwith become due and payable
- 11.7 Other than the right to use Products supplied by Ultima in the normal course of the Customer's business none of Ultima's ownership rights or title in any patents, trade marks, copyrights, inventions, data, trade secrets, proprietary expertise or confidential information shall be sold, transferred, licensed or assigned to the Customer unless otherwise agreed in writing by Ultima

- 11.8 Ultima and the Customer intend that Ultima shall transfer to the Customer only such title as Ultima may have in the Products and Ultima shall have no liability to the Customer in the event of the Products infringing or being alleged to infringe the rights of any third party

12. Warranty

12.1 Products

Subject to the Terms set out below Ultima warrants that the Products will correspond with the Manufacturer's Specification at the time of delivery and will be free from defects in material and workmanship for the same period as specified by the Manufacturer's warranty (commencing from the delivery date).

- 12.2 Any claim by the Customer which is based on any defect in the quality or condition of the Products or their failure to correspond with Specification shall (whether or not delivery is refused by the Customer) be notified to Ultima within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused and the Customer does not notify Ultima accordingly the Customer shall not be entitled to reject the Products and Ultima shall have no liability for such defect or failure and the Customer shall be bound to pay the price of the Products

- 12.3 The above warranties given in clause 12.1 by Ultima are subject to the following:-

12.3.1 Ultima shall be under no liability in respect of any defect in the Products arising from any drawing, design or specification supplied by the Customer

12.3.2 Ultima shall be under no liability in respect of any defect arising from fair wear and tear, neglect, failure to follow Ultima's instructions, misuse or improper installation or alteration or repair of the Products including failure to follow any specific preventative maintenance schedule provided by Ultima

12.3.3 Ultima shall be under no liability if the total price of the Contract has not been paid by the due date for payment

12.3.4 The Customer shall only be entitled to the benefit of any such warranty or guarantee on Products as is given by the manufacturer to Ultima. Ultima will so far as possible assign to the Customer on written request any such warranty

- 12.4 Where any valid claim in respect of any of the Products which is based on any defect in the quality or condition of the Products or their failure to meet Specification is notified to Ultima in accordance with these Terms Ultima shall where the defect is:-
- 12.4.1 reported within 7 days of delivery replace the defective Product;
- 12.4.2 reported after 7 days but before 30 days after the date of delivery inspect the Product and repair and replace the defective Product or part thereof;
- 12.4.3 reported 30 days after the date of delivery provide such remedial action as is appropriate under the warranty provided in clause 12.1 and 12.3.4; or
- 12.4.4 at Ultima's sole discretion refund to the Customer the price of the Products (or proportionate part of the price) but Ultima shall have no further liability to the Customer
- 12.5 If the Products are to be manufactured or any process is to be applied to the Products by Ultima in accordance with instructions submitted by the Customer the Customer shall indemnify Ultima against all losses, damages, costs and expenses awarded against or incurred by Ultima in connection with or paid or agreed to be paid by Ultima in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from Ultima carrying out such instructions
- 12.6 Services
- Ultima warrants that the Services will be provided with all reasonable skill and care provided that Ultima shall not accept any liability for damage sustained by the Customer for any failure to perform the Services by reason of:-
- 12.6.1 the Customer's failure to keep Ultima adequately informed of all matters relevant to the performance of the Services;
- 12.6.2 interference by the Customer, its employees, subcontractors or any third party with the proper performance of the Services or;
- 12.6.3 the Customer's failure to meet its obligations provided in the Contract.
- 12.7 the Customer will give notice to Ultima as soon as it is reasonably able on becoming aware

of a breach of warranty

- 12.8 Subject to clause 12.9 below Ultima shall remedy any breach of the warranties set out in clause 12.6 above by the provision of Services free of charge
- 12.9 Ultima shall have no liability to remedy a breach of warranty where such breach arises as a result of any of the circumstances described in clause 12.6 above
- 12.10 Subject as expressly provided in these Terms all conditions, warranties, terms and undertakings expressed or implied by statute or common law are excluded to the fullest extent permitted by law

13. Limitation of Liability

- 13.1 The following provisions set out Ultima's entire liability (including any liability for the acts and omissions of its employees, agents and subcontractors) to the Customer in respect of any breach of its contractual obligations arising under any Contract
- 13.2 Any act or omission on the part of Ultima or its employees, agents or subcontractors falling within clause 13.1 above shall for the purposes of this clause 13 be known as an "Event of Default"
- 13.3 Ultima's liability to the Customer for death or injury resulting from its own or that of its employees, agents or subcontractors negligence shall not be limited.
- 13.4 Subject to the provisions of clause 13.2 above Ultima's entire liability in respect of an Event of Default shall be limited to damages for one Event of Default or a series of Events of Default resulting in the same or similar loss of an amount equal to £1,000,000
- 13.5 Subject to clause 13.3 above Ultima shall not be liable to the Customer in respect of any Event of Default for loss of profits, goodwill or any type of special, indirect or consequential loss (including loss 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 Ultima had been advised of the possibility of the Customer incurring the same
- 13.6 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under any Contract
- 13.7 The Customer hereby agrees to afford Ultima not less than 30 days (following notification by the Customer) in which to remedy any Event of Default hereunder

- 13.8 Except in the case of an Event of Default arising under clause 13.3 above Ultima shall have no liability to the Customer in respect of an Event of Default unless the Customer shall have served notice of the same on Ultima within 4 weeks of the date on which it became aware of the circumstances giving rise to the Event of Default or the date on which it ought reasonably to have become so aware
- 13.9 Nothing in this clause 13 shall confer any right or remedy on the Customer to which it would not otherwise be legally entitled

14. Non-Solicitation

- 14.1 Each party agrees that throughout the term of the Contract and for a period of 3 months thereafter whether by itself, its officers, employees, agents or otherwise it shall not howsoever directly or indirectly:-
- 14.1.1 Entice or solicit away from the other party any person who was during that period an employee, sub-contractor or agent of the other party with whom it has had material dealings throughout the term of the contract;
- 14.1.2 Offer alternative employment or otherwise engage any employee, sub-contractor or agent of the other party with whom the first party has had material dealings throughout the term of the Contract.
- 14.1.3 If such an offer is made by the Customer to an employee, sub-contractor or agent of Ultima and an engagement results, then the Customer shall pay a one-off recruitment fee of 20% of the individual's basic annual salary to Ultima, or in the case of a temporary engagement 25% of the contract fees payable to the individual. Such fee is intended to enable Ultima to recruit a replacement for this individual and as such Ultima reserves the right to amend the fees if appropriate and will provide documentary evidence to backup said fee amendment.

15. Intellectual Property Rights and Confidentiality

- 15.1 Ultima is the owner of all intellectual property rights vested in any Solutions, information, drawings, specifications, documentation, proposals, designs, software listings, codes or other media generated by it during the course of the provision of Services or supply of Products or prior to the supply of such Services or Products ("Proprietary Information")

15.2 All Proprietary Information which Ultima may have imparted and may from time to time impart to the Customer relating to the supply of Products or Services provided hereunder is confidential and the Customer agrees it shall use the same solely and in accordance with the provisions of these Terms and it shall not at any time during or after the expiry or termination of any Contract disclose the same whether directly or indirectly to any third party without Ultima's prior written consent

15.3 The foregoing provisions shall not prevent the disclosure or use by the Customer of any information which is or hereafter through no fault of the Customer becomes public knowledge

16. Force Majeure

If either party is affected by Force Majeure it shall promptly notify the other party of the nature and extent of the circumstances in question. Notwithstanding any other provision in these Terms neither party shall be deemed to be in breach of the Contract or otherwise be liable to the other for any delay in performance or the non-performance of any of its obligations under this Agreement to the extent that the delay or non performance is due to any Force Majeure of which it has notified the other party and the time for performance of that obligation shall be extended accordingly

17. Insolvency of the Customer

17.1 This clause applies if:-

17.1.1 the Customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

17.1.2 an encumbrancer takes possession of or a receiver is appointed in respect of any of the property or assets of the Customer; or

17.1.3 the Customer ceases or threatens to cease to carry on business; or

17.1.4 Ultima reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly

17.2 If this clause applies then without prejudice to any other right or remedy available to Ultima it shall be entitled to cancel the supply of Services and Products and suspend any further

deliveries under the Contract without any liability to the Customer and if the Products have been delivered or Services supplied but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and Ultima shall be entitled to exercise its rights under clause 11.4 hereof

18. General

- 18.1 Any notice hereunder shall be deemed to have been given if sent by prepaid first class registered post or facsimile to the party concerned at its registered office or principal place of business or such other address as may have been notified pursuant to this Term to the party giving notice. Notices sent by first class registered post shall be deemed to have been given 7 days after dispatch and notices sent by facsimile shall be deemed to have been given on the date of despatch if sent before 4 pm on any business day or on the next business day following the date of despatch if sent after 4 pm
- 18.2 No waiver by either party of any breach of any Contract entered into hereunder shall be construed as a waiver of any subsequent breach of the same or any other provision
- 18.3 If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected
- 18.4 Neither party will be entitled to assign sub-let or sub-let the benefit and or burden of this Contract without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed)
- 18.5 These Terms shall be governed by the laws of England and the parties agree to submit to the non exclusive jurisdiction of the English Courts

19. Export Terms

- 19.1 In these Terms "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires any term or expression which is defined in or given a particular meaning by the provision of Incoterms shall have the same meaning in these Terms but if there is any conflict between the provisions of Incoterms and these Terms the latter shall prevail
- 19.2 Where the Products are supplied for export from the United Kingdom the provisions of this

clause 19 shall (subject to any special terms agreed in writing between the Customer and Ultima) apply notwithstanding any other provisions in these Terms

19.3 The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any duties thereon

19.4 Unless otherwise agreed in writing between the Customer and Ultima the Products shall be delivered FOB the air or seaport of shipment and Ultima shall be under no obligation to give notice under Section 32(3) of the Sale of Products Act 1979

19.5 The Customer shall be responsible for arranging for testing and inspection of the Products at Ultima's premises before shipment. Ultima shall have no liability for any claim in respect of any defect in the Products which would be apparent on inspection and which is made after shipment or in respect of any damage during transit

SIGNED for and on behalf of

By:

Signature:

Title:

SIGNED for and on behalf of ULTIMA BUSINESS SOLUTIONS LTD

By:

Signature:

Title: INCORPORATED DIRECTOR