

MANAGED SERVICES TERMS

1. INTERPRETATION & DEFINITIONS FOR MANAGED SERVICES

- 1.1 These Managed Services Terms form an integral part of the Agreement and are incorporated into the Agreement.
- 1.2 Except as expressly defined in these Managed Services Terms, all capitalised terms in these Managed Services Terms have the meaning given to them in the Agreement.
- 1.3 In these Managed Services Terms, the following terms have the following meanings:

Charges Discount: the discount to be applied to the Charges (if any), as calculated in accordance with, and further set out in, the provisions of the applicable SOW.

Customer's Operating Environment: the Customer's computing environment (consisting of hardware and software) that is to be used by the Customer in connection with its use of the Managed Services and which interfaces with Ultima's System in order for the Customer to receive the Managed Services, but excluding the Customer-side Equipment.

Customer-side Equipment: any equipment located or to be located on a Customer Site but controlled or to be controlled exclusively by Ultima as part of the Services.

Go Live Date: the go live date set out in the SOW.

Hardware: all physical telecommunications, networking and computer equipment (including switches, routers, cables, servers, racks, cabinets and peripheral accessories) provided and used by Ultima to deliver the Managed Services to the Customer.

Local System Components: equipment supplied by the Customer such as routers, switches, PCs, thin client devices, smart phones, wireless controllers and access points.

Scheduled Downtime: the total amount of time during which the Customer is not able to access the Managed Services due to planned maintenance. Ultima may schedule system downtime, with prior agreement of the Customer. Scheduled Downtime periods do not count against the Service Level calculation detailed in such Statement of Work.

Ultima's System: the system to be used by Ultima in performing the Managed Services, including the Hardware, any Third-Party Services, the Customer-side Equipment and communications links between the Hardware and the Customer-side Equipment and the Customer's Operating Environment.

Unscheduled Downtime: the total amount of time during which the Customer is not able to access the Managed Services due to unexpected system failures or other reasons other than Scheduled Downtime.

2. PROVISION OF MANAGED SERVICES

- 2.1 Ultima will provide the Managed Services in accordance with the Statement of Work and the terms of the Agreement with all due care, skill and ability.
- 2.2 Ultima will use reasonable endeavours to provide the Services in accordance with any applicable Service Level Arrangements.
- 2.3 The Customer remains responsible for the use of the Managed Services under its control.
- 2.4 The Customer must not provide the Managed Services directly or indirectly to third parties without the prior written consent of Ultima.
- 2.5 The Customer acknowledges that certain conditions outside of Ultima's control may adversely impact the ability of Ultima to perform functions of the Managed Services (including in relation to SLAs). Ultima will not provide the Managed Services, and bears no liability, in respect of delays, defects or errors:
 - (a) resulting from any modifications or enhancements of Third-Party Services not made by Ultima;
 - (b) resulting from incorrect use of Third-Party Services in scenarios other than those intended by Microsoft or other third parties;
 - (c) for any reason external to Third-Party Services including, but not limited to, failure of electrical supplies or natural disasters;

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- (d) resulting from the inter-relationship between the Third-Party Services and any other software not supported by Ultima;
- (e) resulting from failure of Customer Hardware, software or operating system;
- (f) resulting from partial or full failure of Third-Party Services;
- (g) resulting from network connectivity issues between Local System Components and Ultima's platform or network connectivity issues between Local System Components and its third party's servers,

and, for clarity, Ultima shall not be deemed in breach of any SLA as a result of any of the occurrence of any of the issues listed above.

2.6 Ultima reserves the right to:

- (a) modify Ultima's System, its network, system configurations or routing configuration; or
- (b) modify or replace any Hardware or Software in its network or in equipment used to deliver any Managed Service over its network,

provided that this has no adverse effect on Ultima's obligations or performance under this Agreement and its provision of the Managed Services or the Service Level Arrangements. If such changes will have an adverse effect, Ultima shall notify the Customer and the Parties shall follow the Change Order process.

2.7 If the Customer moves from one Customer Site to another site or makes changes to any Customer Site or opens a new location to be added to the Customer Sites, the Customer must notify Ultima in advance. Ultima may need to carry out an inspection of any cabling and advise the Customer of any work to bring the IT Infrastructure up to standard operating conditions at the new location in order to remain eligible for coverage. Ultima will provide a quotation if it is to provide additional resources or services in the case of any change at the Customer Sites or new Customer Sites for including as part of the Fees.

2.8 Ultima will request approval from the Customer's Representatives before making any significant changes to the Services. Ultima will arrange any Scheduled Downtime in advance with the Customers Representatives. Ultima is not responsible for Unscheduled Downtime that is due to anything outside Ultima's control and Ultima and its subcontractors may suspend some or all of the Services in order to carry out scheduled or emergency maintenance or repairs.

2.9 Ultima reserves the right to take any action that it perceives necessary to protect the Customer's systems (following agreed processes in such an event)) even though this may impact on the Customer's business activities. Ultima will make reasonable endeavours to inform the Customer by telephone or email in advance of such action, but such action will not be dependent on such notification having been given or acknowledged.

2.10 Subject to Clauses 18.1 of the Agreement (Relief Events) and Clause 2.5 of these Managed Services Terms, if Ultima breaches its obligations in Clause 2.1 of these Managed Services Terms Ultima shall, at its expense, use commercially reasonable endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. For clarity, this obligation to correct non-conformance does not apply to SLAs, which are covered by Clause 5 of these Managed Services Terms.

2.11 Notwithstanding the foregoing, Ultima does not warrant that the Client's use of the Managed Services will be uninterrupted or error-free.

3. ULTIMA'S OBLIGATIONS

3.1 Ultima will:

- (a) where provided as part of the Managed Service, staff the Ultima support desk with a team of skilled individuals (whether subcontracted or not) and maintain a team skilled in the platform and with knowledge of the systems developed to deliver the solution;
- (b) maintain a team skilled in the platform and with knowledge of the systems developed to deliver the Managed Services;
- (c) maintain a comprehensive IT service management solution, with integrated knowledge base and how-to guides to reduce the time to issue resolution

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- (d) undertake a regular account review if requested by the Customer, to discuss the Customer's service needs and ensure that the Contract is in alignment with its needs;
 - (e) use commercially reasonable endeavours to follow the instructions of the Customer and will remain courteous during any communications with Customer personnel; and
 - (f) provide the Customer with reasonable co-operation in relation to the Agreement.
- 3.2 Ultima shall be under no obligation to provide the Managed Services to the Customer in the following circumstances (unless specified under the Statement of Work);
 - (a) outside Normal Business Hours, unless otherwise agreed between the Parties in writing;
 - (b) for any other services not covered in the Agreement;
 - (c) for training purposes (including training in the use of any upgrades); and
 - (d) where such support would have been unnecessary if the Customer had implemented update(s) and upgrade(s) supplied or offered to the Customer pursuant to the call for technical support.

4. CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall:
 - (a) make the Client's Operating Environment and Client-side Equipment accessible to Ultima's support staff to the extent required to enable Ultima to provide the Services, enable logons or passwords required for such support staff (who will have their own logons); and provide appropriate hardware interface, software and access authorisation to enable remote diagnosis, should such capability be required;
 - (b) permit Ultima to install the current version of software required to provide the Managed Services from time to time when upgrades or fixes occur and to provide a reasonable level of assistance in implementation and testing, where required under the SOW;
 - (c) virus-check all data supplied to Ultima pursuant to these Managed Services Terms;
 - (d) provide Ultima at least 7 Business Days' notice in advance of any intention or move to change applicable Customer-side Equipment or Customer's Operating Environment or data-feeds that will directly impact the Managed Services. If such notice has not been received on time and where such work is provided under the SOW, Ultima will have to make additional effort to return the Customer's systems to an acceptable state for continued support, and will charge accordingly at its then standard charging rate.
 - (e) take reasonable measures to ensure it does not jeopardise services supplied to third parties on the same platform as notified to the Customer by Ultima in writing. This includes informing Ultima promptly in the case of a denial-of-service attack or distributed denial-of-service attack. In the event of any such incident, Ultima will work with the Customer to alleviate the situation as quickly as possible. The Parties shall discuss and agree appropriate action (including suspending the Managed Services).

5. GO LIVE DATE

- 5.1 Ultima will use reasonable endeavours to resource the Managed Services in order to provide the Managed Services with effect from the Go Live Date.
- 5.2 The Fees for the Managed Services are due with effect from the Go Live Date.
- 5.3 Where the Managed Services are ready for go live but the go live of all or any part of the Managed Services is delayed past the Go Live Date by the Customer then Ultima is entitled to charge liquidated damages equal to 100% of the applicable Managed Services Fees for each week that the Customer delays go live of the Managed Services.

6. SERVICE LEVELS & CHARGES DISCOUNTS

- 6.1 The SLAs are specific to directly-provided Services of Ultima and do not relate to Third Party Services (of which such Third-Party Services will be governed by their own relevant service levels).

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- 6.2 Ultima will promptly investigate failures to meet Service Levels and, unless otherwise set out in the SOW, will report the findings of such investigations to the Customer's Representative at their next service review meeting, together with its written proposals for remedial action. Ultima and the Customer will agree any remedial action, and Ultima will use reasonable endeavours to prevent recurrences.
- 6.3 Ultima will submit a Service Level report to the Customer at intervals set out in the SOW (or as otherwise agreed with the Customer) will report on Ultima's performance of the Services against the Service Levels in the period since the last service review meeting.
- 6.4 The SOW will set out the circumstances in which, and in relation to which specific Service Levels, the Customer is entitled to receive any Charges Discounts for a failure to comply with the Service Levels.
- 6.5 In respect of any Charges Discount due under this Agreement and without prejudice to Ultima's liability for such Charges Discount, the Charges Discount will be shown as a deduction from the amount due from the Customer to Ultima in the next invoice following the month in which the Charges Discount accrued or where the Agreement is terminated Ultima shall promptly raise a credit note for such Charges Discount to the Customer.
- 6.6 Ultima shall not in any circumstances be liable under its obligations in this Clause 4 if it can demonstrate that any failure of the Services was caused or contributed to by any Relief Event.
- 6.7 The Service Level Arrangements are the Customer's sole and exclusive remedy for performance or availability issues for the Managed Services. The Customer will not unilaterally offset any Charges against any performance or availability issues.

7. TERMINATION ASSISTANCE

- 7.1 Save as otherwise agreed in the applicable SOW, upon termination of the SOW Ultima may agree to provide to the Customer and / or to any new supplier selected by the Customer (the "**Successor Service Provider**") such assistance as reasonably requested by the Customer in order to effect the orderly transition of the applicable Services, in whole or in part, to the Customer or to Successor Service Provider (such assistance shall be known as the "**Termination Assistance Services**") during any period of notice of termination (the "**Termination Assistance Period**"). Any services required by the Customer, and which Ultima agrees to provide, for the transition of Services during the Termination Assistance Period shall be provided by Ultima at its then-current time and materials fee rate for such period of time as shall be mutually agreed. Such Termination Assistance Services may include:
 - (a) developing a plan for the orderly transition of the terminated Services from Ultima to the Customer or the Successor Service Provider; and/or
 - (b) such other activities upon which the Parties may agree including any non-proprietary documents to enable a Successor Service Provider to continue to provide services.

8. LIABILITY

- 8.1 Except as expressly and specifically provided in the Agreement, the Customer assumes sole responsibility for results obtained from the use of the Managed Services, and for conclusions drawn from such use. Ultima shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Ultima by the Customer in connection with the Managed Services, or any actions taken by Ultima at the Customer's direction.