



## TERMS AND CONDITIONS

### 1. DEFINITIONS

**"Agreement"** means the attached Quote Form together with these terms and conditions, including all Schedules hereto.

**"Charges"** means the charges payable by the Customer to OLM pursuant to this Agreement, including the Licence Charges, Support Charges and/or Service Charges, as applicable.

**"Confidential Information"** means all information designated as such by either party in writing together with all such other information which relates to the business affairs, finances, products, data, software listings, source or object code, developments, trade secrets, know-how, personnel, customers and suppliers of either party, together with all information which may reasonably be regarded as the confidential information of the disclosing party.

**"Contract Year"** means the twelve month period commencing on the date of this Agreement or any subsequent renewal thereof, during the term of this Agreement.

**"Customer"** means the named customer on the Quote Form.

**"Customer Personal Data"** means Personal Data that is processed by OLM on behalf of the Customer in relation to this Agreement.

**"Documentation"** means the written and/or online descriptions of the Product's features, functions and methods of operation and the instructions provided for its Use.

**"Intellectual Property Rights"** means any patents, trademarks, design rights, applications for any of the foregoing, copyright, database rights, know-how, trade or business names and other similar rights or obligations whether registrable or not, in any country.

**"Module List"** means the list of modules contained in the Quote Form

**"Patch"** means software provided by OLM to resolve a specific reported issue in the Software.

**"Quote Form"** means the attached quote showing the Charges, and details of the Products, Services and Support and Maintenance Services to be provided, which is valid for 30 days from the date shown on it.

**"OLM"** means OLM Systems Limited, with company number 2615716.

**"OLM Software"** means Software where the Intellectual Property Rights are owned by OLM.

**"Personal Data"** has the meaning given to it in the General Data Protection Regulation ("GDPR") (Regulation (EU) 2016/679);

**"Products"** means the items specifically contracted for by the Customer in the Quote Form (if any), and includes the Software, where relevant.

**"Release"** means any release of the Software that does not include any additional major functionality, normally designated by an increase in the 2nd or 3rd digit of the Version number (e.g. V1.1 to V1.2 or V1.2.3 to V1.2.4). Releases include bug fixes, Patches and Service Packs.

**"Services"** means the services specifically contracted for by the Customer in the Quote Form.

**"Service Pack"** means an update of the Software that consolidates all previous Patches and Service Packs. Under some circumstances Service Packs may also include minor functional enhancements.

**"Service Charges"** means charges levied for Services provided under this Agreement.

**"Software"** means the computer programs specified in the Quote Form and any updated version of the Software required by the Customer during the Licence Term, which may include OLM Software and Third Party Software.

**"Software Licence"** means the software licence grant and licence terms referred to herein for each item of Software. Each Software Licence has a corresponding Licence Charge.

**"Support and Maintenance Services"** means maintenance and repair, Releases, Patches, Service Packs, training of Customer personnel and other standard support services as described in the Quote Form (if any).

**"Support Charges"** means charges levied for Support and Maintenance Services provided under this Agreement.

**"Support Period"** means the period during which the Support and Maintenance Services are performed.

**"Third Party Software"** means Software where the Intellectual Property Rights are owned by a third party.

**"Use"** or **"Used"** means in relation to the machine readable portion of the Software, reproduction through any act of loading, displaying, running, transmitting or storing, in whole or in part for the purposes of processing the instructions contained in the Software and any data belonging to the Customer.

**"Version"** means any new version of the Software containing major or significant functional or operational enhancements, normally designated by an increase in the first digit of the Version number (e.g. V1.0 to V2.0). New Versions will consolidate all previous versions of such Software.

Capitalised terms used in these terms and conditions which are not defined above shall have the meanings specified on the Quote Form.

### 2. ORDERS

All Agreements are subject to acceptance by OLM whereupon a binding contract will be formed between OLM and the Customer.

### 3. SOFTWARE LICENCE

3.1. In consideration of payment of the Licence Charges (which shall be incorporated within the Support Charges and/or Service Charges and not identified separately), OLM grants the Customer a personal, non-exclusive, non-transferable licence to Use the machine readable portion of the Software (and where appropriate the Documentation) for the applicable Annual Support Terms, for the Customer's own internal data processing purposes and to copy the same solely for back-up purposes, and to possess and refer to the Documentation, provided always that the Customer adheres to the following material conditions:-

- 3.1.1. the Customer uses only one copy of the Software for live operations;
- 3.1.2. the Customer pays the Charges in accordance with this Agreement;
- 3.1.3. the Customer does not delete, amend or otherwise alter any copyright or other ownership notices or legends displayed, contained in, or attached to the Software and Documentation;
- 3.1.4. the Customer does not decompile or reverse engineer the Software, save where the necessary information has not been made available by OLM or as otherwise permitted by law;
- 3.1.5. save as provided, the Customer may not assign, transfer, sell, trade or otherwise deal in, lease, encumber, market, rent, disclose, publish technical details of (including the results of benchmark or other tests), copy, modify, enhance, convert or translate the Software or Documentation;
- 3.1.6. the Customer does not exceed any of the restrictions set out within this Agreement;
- 3.1.7. the Customer reproduces on any back-up of the Software OLM'S or the third party owner's copyright and trade mark notices;
- 3.1.8. the Customer does not permit any third party to Use the Software or Documentation and notifies OLM as soon as it becomes aware of any unauthorised use of the Software by any such person; and
- 3.1.9. the Customer does not Use the Software or Documentation on behalf of or for the benefit of any third party.

3.2. At OLM'S written request, which shall not be more frequent than reasonable, the Customer will furnish OLM with a signed statement verifying that the Software and Documentation are being used pursuant to the provisions of this Agreement. The Customer agrees to grant OLM access, upon reasonable prior notice, to the Customer's site in order to audit the use of the Software and Documentation. If such audit establishes that the Customer has unauthorised copies of the Software or Documentation, OLM reserves the right to charge the Customer for the costs of performing the audit, in addition to recovering the Charges which would have been due to OLM had OLM licensed such copies for use.

### 4. THIRD PARTY SOFTWARE

4.1. If the Customer is taking delivery of any Third Party Software the following terms, in addition to those set out in clause 3, shall apply:

- 4.1.1. Third Party Software is licensed pursuant to the relevant licence terms of the third party supplier; the Customer hereby acknowledges receipt of such terms and agrees to comply therewith;
- 4.1.2. Support and Maintenance Services for Third Party Software will be provided by the relevant Third Party Software supplier on its standard terms in the event that the Third Party Software is provided directly to the Customer by the relevant third party;
- 4.1.3. in the event the support agreement between OLM and the Third Party Software supplier terminates, the Third Party Software Support and Maintenance Services under this Agreement (if any) shall terminate forthwith upon service of written notice by OLM to the Customer. In such circumstances the Customer's sole and exclusive remedy shall be reimbursement of any prepaid Support Charges in respect of the applicable Third Party Software for the remainder of the Support Period;
- 4.1.4. OLM accepts no liability for infringement of third party Intellectual Property Rights in respect of the Use or possession by the Customer of the Third Party Software; and
- 4.1.5. the Customer shall indemnify and hold OLM harmless against any loss or damage which OLM may suffer or incur as a result of the Customer's improper Use of the Software which causes a breach of third party Intellectual Property Rights.

## 5. OWNERSHIP AND CONFIDENTIALITY

- 5.1. All Intellectual Property Rights in the OLM Software, associated Documentation and any deliverables arising from the Services and Support and Maintenance Services shall vest in OLM.
- 5.2. All Intellectual Property Rights in any other Third Party Software or Documentation shall remain with the owner of such rights.
- 5.3. The Customer acknowledges that the Software and Documentation contain the Confidential Information of OLM or, where applicable, the third party owner, that the Software Licence confers no title or ownership and agrees that it will not use any information provided by OLM (or obtained by the Customer during any such reduction permitted by clause 3.1.4) to create any software which is substantially similar to the Software.
- 5.4. The parties agree that any Confidential Information obtained from or relating to the other, its servants or agents is the property of such other party and will treat it confidentially. Neither party shall use or disclose any Confidential Information of the other party except, and to the extent necessary, to those employees, agents and sub-contractors of either party who either need to know or who are engaged in the Use of the Software and/or the Documentation and upon conditions of confidentiality at least equivalent to those herein.
- 5.5. The foregoing provisions shall not prevent the disclosure or use by either party of Confidential Information which was in the lawful possession of the receiving party prior to disclosure, or which is or hereafter becomes, through no fault of that party, public knowledge or lawfully acquired or independently developed or, to the extent permitted, as is required by law.

## 6. SUPPORT AND MAINTENANCE

- 6.1. Subject to the payment of the Support Charge(s) and reasonable expenses for travel, travel time, administration, equipment and out of pocket expenses, OLM shall provide the Support and Maintenance Services specified in the Quote Form (if any).
- 6.2. Subject to Clause 4.1.3, the Support Period in this Agreement is a fixed term and cannot be terminated on notice until expiry. In the absence of any specific extension or renewal, OLM will continue to provide the Support and Maintenance Services subject to payment by the Customer of the applicable Support Charges in advance on an annual basis.

## 7. SUBSTANTIVE LEGISLATIVE CHANGES, VERSIONS AND RELEASES

- 7.1. OLM will use reasonable commercial endeavours to accommodate the introduction of substantive legislative changes. Unless otherwise stated in the Quote Form, OLM expressly reserves the right to charge for the provision of any such substantive legislative updates where; (a) the development of the update is in the reasonable opinion of OLM technically complex; and (b) the costs of developing the update are in the reasonable opinion of OLM sufficient to warrant a charge for the provision of the update.
- 7.2. Unless otherwise stated in the Quote Form, OLM reserves the right to charge for new Versions of the OLM Software. Releases shall be provided as part of the Support and Maintenance Services at no additional cost where the Customer has contracted for such Support and Maintenance Services.

## 8. SERVICES (including training)

- 8.1. If OLM is providing Services to the Customer the following shall apply in respect of block bookings;
  - 8.1.1. Except where a date has already been agreed in the Quote Form, delivery of service days pursuant to a block booking is subject to reasonable advance notice of days to be agreed between the parties; and
  - 8.1.2. Where a block booking for a number of days Services is made, such days must be utilised within 12 months of the date of the relevant purchase order, any days not utilised may not be carried forward and will be lost.
- 8.2. Pursuant to Clause 8.3, OLM will attempt to accommodate rescheduling of Services at the Customer's request. However if the Customer cancels Services within:
  - 8.2.1. six to ten working days of the booked date for delivery, the Customer will be liable to pay 50% of the relevant charges in full; or
  - 8.2.2. five working days or less of the booked date for delivery, the Customer will be liable to pay the relevant charges in full.
- 8.3. If the Customer cancels Services at any time where OLM has booked a flight or incurred other reasonable expenses which are non-refundable, the Customer will still be liable to pay the cost of such flight or other expenses.
- 8.4. The parties may request a change in the Services in writing, whereupon, acting in good faith, both parties will discuss a change of Services and, if possible, OLM will respond with a quote form for the revised Services, which the Customer may formally accept, acting reasonably and without undue delay. The amended quote form will state the effect on charges, delivery and

other aspects of Services. Upon acceptance by the customer the revised quote form will become a new Agreement.

## 9. CUSTOMER RESPONSIBILITIES

- 9.1. Except where OLM has specifically agreed to provide such Services the Customer will:
  - 9.1.1. be responsible for the selection, installation, management, operation and use of the Software and any associated Documentation and the results obtained from these;
  - 9.1.2. be responsible for and validate regular backup copies of its data used in connection with the Software and keep the back-up copies and media safe and secure;
  - 9.1.3. supply OLM with any information and assistance reasonably necessary for OLM to perform its obligations under this Agreement; and
  - 9.1.4. provide OLM's personnel with full and safe access to its site where required to enable OLM to perform its obligations under this Agreement, and the Customer agrees to indemnify OLM for any loss caused to OLM following personal injury suffered by OLM's personnel whilst on the Customer's site.
- 9.2. Where OLM has agreed to provide any Services to assist with the installation and/or integration of the Products, the Customer will accept the Products upon completion by OLM of such Services. Acceptance shall occur automatically if the Product(s) is/are used by the Customer in live operations. Where the Customer has not requested any Services to assist with the installation and/or integration of the Products, acceptance shall occur automatically if the Customer has failed to advise OLM within 14 days of delivery of the Products of any non-trivial non-compliance with the Documentation affecting the Product(s). Where the Customer has advised OLM of any defect and/or non-compliance within the 14 day period specified above, OLM shall either replace the defective Product or rectify the relevant defect and/or non-compliance, using all reasonable endeavours to meet any previously agreed delivery or lead times.

## 10. WARRANTIES

- 10.1. OLM warrants that:
  - 10.1.1. the OLM Software will operate in material compliance with the relevant parts of the Documentation for a period of six months from delivery;
  - 10.1.2. the Third Party Software will operate in material compliance with the relevant parts of the Documentation for a period of 30 days from delivery; and
  - 10.1.3. the media on which the Software and the Documentation are delivered to the Customer will be free from defects under normal use for a period of 30 days from delivery.
- 10.2. If the Customer notifies OLM within any time periods specified in Clause 10.1 that the Software or the media on which the Software and the Documentation are delivered does not conform with Clause 10.1, and such defect or fault does not result from the Customer, or anyone acting with the authority of the Customer, having amended the Software or used it outside the terms of this Agreement for a purpose or in a context other than the purpose or context for which it was designed or in combination with any other software not provided by OLM, or it has not been loaded onto suitably configured equipment, OLM will repair or, at OLM's discretion, replace, the non-conforming portion of the Software or, where applicable, the media, free of charge, provided the Customer provides all the information that may be necessary to assist OLM in diagnosing and resolving the fault.
- 10.3. OLM does not warrant that the Software:
  - 10.3.1. is free from minor errors or defects;
  - 10.3.2. operates without interruption; or
  - 10.3.3. is designed to meet the Customer's specific requirements, unless this is part of the Services provided.
- 10.4. OLM warrants that it has the authority to licence the Software and to provide the Services upon the terms and conditions of this Agreement.
- 10.5. OLM warrants that any Services will be performed with reasonable skill and care and shall conform to general software industry standards. In the event of any breach of this warranty, OLM will, upon receipt of notice of such breach from the Customer, re-perform the relevant Services so as to comply with the warranty above as soon as reasonably practicable, but in any event within 30 days of notification from the Customer. If correctly undertaken, the re-performance of any Services shall be the Customer's sole remedy for breach of the above warranty, and if OLM does not rectify any defect in the Services, the Customer shall be entitled to a reimbursement of the Charges payable in respect of the defective Services.
- 10.6. In respect of the Products other than Software, OLM warrants to the Customer that it will pass on the benefit of any warranty or guarantee as is given by the manufacturer to OLM and that the Products will correspond

with the Quote Form under the Agreement at the time of delivery provided always that OLM shall not be under any liability pursuant to this warranty unless the Customer notifies OLM in writing of any such claim within 14 days of receipt of the Products, and OLM shall, at its option, make good any shortage or non-delivery and either credit the Customer in full the price paid for the Products found to be damaged or defective or repair such item or supply a replacement thereof free of charge to the Customer.

- 10.7. The Customer will give notice to OLM as soon as it is reasonably able upon becoming aware of a breach of warranty.
- 10.8. OLM reserves the right to terminate this Agreement immediately by notice in writing to the Customer and refund any of the Charges paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Products to the date of termination) where OLM considers it, at its discretion, not viable to replace or repair the Products. The Customer shall return the Products to OLM if this clause 10.8 is exercised.
- 10.9. Except as expressly stated in this Agreement, all other warranties and conditions, whether express or implied, by statute, common law or otherwise, are expressly excluded to the extent permitted by law.

#### 11. PRICE AND PAYMENT

- 11.1. All Charges for Products pursuant to this Agreement shall be due and payable upon delivery, unless stated otherwise on the Quote Form.
- 11.2. All Charges for Services pursuant to this Agreement shall be invoiced monthly in arrears, unless stated otherwise on the Quote Form.
- 11.3. All Charges for Support and Maintenance Services pursuant to this Agreement shall be invoiced annually in advance, unless stated otherwise on the Quote Form.
- 11.4. Payment terms are within 30 days of OLM's invoice date.
- 11.5. Without prejudice to OLM'S other rights under this Agreement, if any payment from the Customer is overdue, OLM may temporarily suspend the provision of the Services and/or Support and Maintenance services (under all Agreements between OLM and the Customer) until such time as payment is received in full.
- 11.6. All Charges payable hereunder are exclusive of Value Added Tax or any similar tax, for which the Customer shall be responsible.
- 11.7. All sums shall be paid in full and free from any deductions, rights of set-off, counterclaim or liens, to the extent legally permissible.
- 11.8. Without prejudice to any other right, OLM may charge interest on sums due under this Agreement which are not paid by the due date, at the rate of 4% above the Barclays Bank plc base rate, accruing daily, before and after judgement, from the due date until payment has been made.

#### 12. LIABILITY

- 12.1. Neither OLM nor the Customer seeks to limit its liability for;
  - 12.1.1. death or personal injury caused by its negligence;
  - 12.1.2. fraud or fraudulent misrepresentation;
  - 12.1.3. breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - 12.1.4. any other liability which may not be excluded by law.
- 12.2. Subject to Clause 12.1, in relation to the Products and Services, OLM'S total aggregate liability in respect of any claim, loss or damage whether arising from tort (including negligence), breach of contract or otherwise under or in connection with this Agreement shall in no event exceed 150% of the aggregate amount which the Customer is obliged to pay OLM pursuant to this Agreement in respect of such supplies.
- 12.3. Subject to clause 12.1, in relation to the provision of Support and Maintenance Services, OLM'S total aggregate liability in respect of any claim, loss or damage arising or occurring in a Contract Year, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with this Agreement shall in no event exceed 100% of the Support Charges which the Customer is obliged to pay OLM pursuant to this Agreement for that Contract Year.
- 12.4. Subject to Clause 12.1, in no event shall OLM be liable whether in contract, tort (including negligence) or otherwise to the Customer for:
  - 12.4.1. loss of: profits, business, data, software, revenue, goodwill or anticipated savings (whether direct or indirect); or
  - 12.4.2. any other direct or consequential loss or damage.
- 12.5. All references to OLM in this clause 12 shall be treated as including all employees, subcontractors and suppliers of OLM, all of whom shall the benefit of this clause.

#### 13. INDEMNITY

- 13.1. OLM shall defend the Customer against any claim (or at OLM's option settle any claim) and indemnify the Customer against any award of damages or costs or any settlement negotiated by OLM arising from or incurred by reason of any infringement of any third party Intellectual Property Rights by

the Customer's normal operation, possession or Use of the OLM Software, within the European Union, provided that the Customer:

- 13.1.1. notifies OLM promptly in writing of any alleged infringement;
- 13.1.2. makes no admission of liability or otherwise agrees a compromise with the third party; and
- 13.1.3. gives OLM information, assistance and sole control of the defence and all related settlement negotiations, and takes action as OLM reasonably requires (provided reasonable out-of-pocket expenses are reimbursed by OLM).
- 13.2. The indemnity set out in Clause 13.1 shall not apply where the infringement or alleged infringement arises from, or is incurred by reason of:
  - 13.2.1. the Customer's use of a superseded or modified Version or Release of the OLM Software, if the infringement would have been avoided by the use of a current Version or Release;
  - 13.2.2. the combination, or use, of the OLM Software with any equipment or software not supplied or approved in writing by OLM; or
  - 13.2.3. the Customer's use of the OLM Software other than as authorised under this Agreement.
- 13.3. In the event that the OLM Software is held, or is believed by OLM, to infringe the Intellectual Property Rights of a third party, OLM shall have the option, at its expense, to:
  - 13.3.1. modify the OLM Software (without materially detracting from its functionality) so as to avoid the infringement;
  - 13.3.2. obtain for the Customer a licence to continue to use the OLM Software;
  - 13.3.3. replace the OLM Software with non-infringing substitutes provided that such substitutes do not entail a material reduction in functionality; or
  - 13.3.4. terminate the licence for the infringing OLM Software (or part thereof) and refund the Licence Charge paid for such OLM Software, pro-rated over the Licence Term or if no term is specified, over a five year period from delivery.
- 13.4. This Clause 13 constitutes the Customer's sole remedy with regard to infringement of any Intellectual Property Rights by the Use or possession of the OLM Software and is subject to clause 13.

#### 14. TERMINATION

- 14.1. Either party may terminate this Agreement in the event of the other party becoming insolvent, or being in material breach of this Agreement, provided that the breach has not been remedied within 30 days of receipt of written notice from the terminating party specifying the breach and requesting its remedy.
- 14.2. If the Agreement is terminated, the Customer will: (i) immediately cease to Use the Software and Documentation (and Products insofar as they are owned by OLM) in its possession or control and return to OLM or destroy (as requested by OLM) the originals and all copies of the Software and Documentation (and Products insofar as they are owned by OLM) in its possession or control; (ii) upon request by OLM, certify in writing that it has complied with this Clause 14.2; and (iii) pay to OLM any Charges due.
- 14.3. Where OLM, in accordance with the terms of this Agreement, terminates the licences granted under Clause 3, the Support and Maintenance Services and any other Services shall also terminate.
- 14.4. In the event of a material breach of the terms of this Agreement by the Customer, OLM, as an alternative to exercising the right to terminate this Agreement, shall have the right to temporarily suspend the provision of the Services and/or Support and Maintenance Services until such time as the breach is remedied.
- 14.5. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry.
- 14.6. Clauses 5 (Ownership and Confidentiality), 12 (Liability) and 13 (indemnity) and shall survive termination or expiry of this Agreement.

#### 15. DATA PROTECTION

- 15.1. The Customer warrants to OLM that it has the legal right to disclose all Personal Data that it does in fact disclose to OLM under or in connection with this Agreement, and that the processing of that Personal Data by OLM for the purposes of, and in accordance with, this Agreement will not breach any applicable data protection or data privacy laws (including the Data Protection Act 1998 and the GDPR).
- 15.2. OLM warrants, to the Customer insofar as it processes Customer Personal Data, that:
  - 15.2.1. it will act only on documented instructions from the Customer in relation to the processing of Customer Personal Data;
  - 15.2.2. it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of

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Registered address as above

Registration in England and Wales No. 2615716 VAT No. 577 661495

- Customer Personal Data and against loss or corruption of Customer Personal Data;
- 15.2.3. it will only process the Customer Personal Data for the purposes of performing its obligations and exercising its rights under this Agreement;
  - 15.2.4. it will process the Customer Personal Data in compliance with all applicable laws; and
  - 15.2.5. it will not by any act or omission put the Customer in breach of any applicable data protection or data privacy laws (including the Data Protection Act 1998 and the General Data Protection Regulation).
- 15.3. OLM shall notify the Customer as soon as practicable (to the extent it possesses Customer Personal Data) if:
- 15.3.1. any of the Customer Personal Data is lost or destroyed, or becomes damaged, corrupted or unusable;
  - 15.3.2. it becomes aware of any actual or likely security breach or unlawful or accidental disclosure of any Customer Personal Data;
  - 15.3.3. it receives any complaint or regulatory notice which relates to the processing of any of the Customer Personal Data; or
  - 15.3.4. it receives a request from a data subject for access to any of the Customer Personal Data.
- 15.4. OLM shall co-operate with the Customer in relation to:
- 15.4.1. any request from the Customer to amend or delete any of the Customer Personal Data;
  - 15.4.2. any complaint or regulatory notification relating to the processing of any of the Customer Personal Data; and
  - 15.4.3. any request from a data subject for access to any of the Customer Personal Data,
- at the cost and expense of the Customer.
- 15.5. OLM shall ensure that access to the Customer Personal Data is limited to those personnel who have a reasonable need to access the Customer Personal Data to enable OLM to perform its duties under this Agreement; any access to the Customer Personal Data shall be limited to such part or parts of the Customer Personal Data as are necessary.
- 15.6. OLM shall take reasonable steps to ensure the reliability of any personnel who have access to the Customer Personal Data. Without prejudice to this general obligation, OLM shall ensure that all relevant personnel are informed of the confidential nature of the Customer Personal Data and are aware of OLM's duties in respect of that Customer Personal Data.
- 16. ASSIGNMENT**
- 16.1. OLM may assign, without the consent of the Customer:
- 16.1.1. this Agreement and the Customer's existing agreement(s) to a purchaser of the whole or part of the OLM business, or to another company within the OLM group of companies.
  - 16.1.2. absolutely or by way of security in whole or in part the benefit of any amounts which are from time to time due and payable by the Customer together with OLM'S rights, title and interests present and future in the Charges. Notwithstanding any such assignment, OLM shall remain responsible for all its obligations under the Agreement.
- 16.2. OLM may assign this Agreement at any other time, with the consent of the Customer.
- 17. GENERAL**
- 17.1. Except for payment of the Charges, neither party shall be liable for delay or failure to perform any of its obligations under this Agreement if such delay or failure results from any circumstance beyond its reasonable control.
- 17.2. A person who is not a party to this Agreement (save for permitted assignees) shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 ("the Act") to enforce any term of this Agreement. Any right or remedy of a third party that exists or is available apart from the Act is not affected.
- 17.3. This Agreement, including the Quote Form, constitutes the entire agreement between the parties and supersedes all previous agreements and representations, written or oral, with respect to the subject matter hereof. This Agreement may not be modified or amended except in writing signed by each party.
- 17.4. All notices required to be given under this Agreement, shall be in writing and delivered by hand or sent by first class post to the address of the other party shown in this Agreement, or as otherwise notified, and shall be deemed received on the earlier of actual receipt or three days after posting.
- 17.5. This Agreement is personal to the Customer and cannot be assigned, subleased or novated by the Customer, in whole or in part, without OLM'S prior written consent.
- 17.6. If any provision of this Agreement is held to be invalid or unenforceable at law, then such provision shall be severed and the remainder of this Agreement shall continue in full force and effect.