MSA: Schedule 1 – SLA

MAINTENANCE

1.1 The Supplier shall from time to time provide and install: (a) minor improvements, updates, enhancements, error corrections, upgrade scripts, and changes to the Supplier Software (each containing updates to the help files and documentation) ("**Maintenance Releases**"); and (b) new releases, new versions, updates, and modifications to the Supplier Software that do not constitute New Products (as generally available in accordance with the Supplier's timetable for releasing new versions as amended from time to time and available on request including updates to the help files and documentation) ("**New Version**").

1.2 Nothing in this Contract shall entitle the Client to any new version of the Products which from time to time is publicly marketed and offered for purchase by the Supplier in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product ("**New Product**").

SUPPORT

1.3 In response to errors in the Supplier Software reported to the Supplier's helpdesk in accordance with paragraphs 1.8 - 1.9 (below), the Supplier will provide the service levels specified at paragraphs 1.12 - 1.15 (below) provided the errors reported are not Out of Scope.

1.4 "**Out of Scope**" means errors that fall outside the scope of the Supplier's responsibilities under this Contract and/or result directly or indirectly from the Client's: (a) misuse or improper use of the the Supplier Software; and/or (b) combination, merger, or use of the Supplier Software with any hardware or software outside the Client Infrastructure and/or Connectivity Infrastructure.

1.5 The parties may agree that the Supplier will provide certain support and maintenance services in respect of Out of Scope errors as Services under an SOW.

ENVIRONMENT

1.6 The Client is responsible for procuring and maintaining the Client Infrastructure and Connectivity Infrastructure.

1.7 Maintenance Releases and New Versions may require enhancements to the Client Infrastructure and Connectivity Infrastructure. The Supplier will advise the Client if such enhancements are required. The Client is responsible for procuring and implementing such enhancements. The parties may agree that the Supplier will provide assistance with implementation as Services under an SOW.

CONTACTING THE COMPANY

1.8 The Supplier's support operates during the "**Support Hours**": from 09:00 – 17:00, Monday – Friday, excluding public holidays in England).

1.9 The Client may only contact the Supplier in respect of support queries as follows: (a) email: such email address as published by the Supplier; or (b) telephone: such telephone number as published by the Supplier.

1.10 References to hours in this Service Level Agreement do not include hours outside the Support Hours.

1.11 If the Client has contracted to order additional support hours "**Additional Support Hours**", these will be as follows: Monday to Friday 17:00 to 22:00, Saturday 09:00 to 22:00 and Sunday 11:00 to 18:00.

SERVICE LEVELS

1.12 The Supplier will assign a reported incident with a unique support number. If the Supplier determines that the reported incident is a fault or error with the Supplier Software and is within the scope of paragraph 1.3 (above) it will: (a) categorise the incident in accordance with the incident categories detailed at paragraph 1.14 (below); and (b) deliver Solutions in accordance with the response times detailed below.

1.13 "**Solutions**" are fixes or workarounds that eliminate the incident or move the incident into a lower incident category, which are provided remotely and which may (or may not) include the Supplier providing Maintenance.

1.14 If and when a Solution moves an incident into a lower incident category, the response times of that lower incident category shall apply from the moment that the incident is re-categorised.

1.15 Incident categories and responses:

Incident Category	Response
Priority 0 (Mission Critical)	
The system is <u>not operational.</u>	Reasonable efforts to start work within 1 hour.
Priority 1 (Business Critical)	
<u>Material functionality</u> is not available that is <u>critical</u> to the Client's business and there is <u>no</u> temporary / short term workaround.	Reasonable efforts to start work within 1½ hours.
Priority 2 (Serious)	
Priority 1 where there <u>is</u> a temporary / short term workaround. OR <u>Important</u> but <u>non-material</u> or <u>non-critical</u> functionality is not available and there is <u>no</u> temporary / short term workaround.	Reasonable efforts to start work within 2 hours.
Priority 3 (Normal)	
<u>Important</u> but <u>non-material</u> or <u>non-critical</u> functionality is not available and there <u>is</u> a temporary / short term workaround.	Reasonable efforts to start work within 4 hours.
Priority 4 (Minor)	
Any incident that is not Priority 0, Priority 1, Priority 2, or Priority 3.	Reasonable efforts to start work within 4 hours.

MSA: Schedule 2 – Data Processing

1 DEFINED TERMS

1.1 For the purposes of this Schedule:

(i) "**Data Controller**", "**Data Subject**", "**Personal Data**", "**Data Processor**", and "**Process**" shall have the meaning specified in the Data Protection Legislation; and

(ii) "**Data Protection Legislation**" means the Data Protection Act 2018, the Privacy and Electronic Communications Regulations 2003 and any related act or regulation in the UK, including statutory modification or re-enactment of it.

2 DATA PROCESSING TERMS

2.1 In relation to the Processing of any User Data which constitutes Personal Data, the parties agree that the Client and/or its user(s) is/are the Data Controller and the Supplier is the Data Processor.

2.2 This Schedule sets out the subject matter, duration, nature and purpose of the processing by the Supplier, as well as the types and categories of Personal Data and the obligations and rights of the Client.

2.3 The Supplier shall in respect of such Personal Data:

(i) process that Personal Data during the term of this Contract only on the documented written instructions of the Client (which include this Contract) unless the Supplier is required by Laws to otherwise process that Personal Data. Where the Supplier is relying on Laws as the basis for processing Personal Data, the Supplier shall promptly notify the Client of this before performing the processing required by the Laws unless those Laws prohibit the Supplier from notifying the Client;

(ii) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the Personal Data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

(iv) not transfer any Personal Data outside of the UK and/or European Economic Area unless the prior written consent of the Client has been obtained and there are appropriate safeguards in relation to the transfer;

(v) assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach, notifications, impact assessments and consultations with supervisory authorities or regulators;

(vi) notify the Client without undue delay on becoming aware of a Personal Data breach;

(vii) ensure that provisions which are equivalent to those set out in this paragraph 2.3 are imposed upon any subprocessor engaged by the Supplier (acknowledging that the Supplier shall remain primarily liable to the Client for the subprocessor's compliance with such provisions);

(viii) inform the Client of any intended additions to or replacements of the Supplier's subprocessors;

(ix) subject to Clause 9.2(e) of the Contract, at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the Contract unless required by Laws to store the Personal Data; and

(x) maintain complete and accurate records and information to demonstrate its compliance with this Schedule and allow for audits by the Client on reasonable notice and (but without thereby assuming the primary liability of the Client to only issue lawful instructions) immediately inform the Client if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

2.4 The Supplier shall not give access to or transfer any Personal Data to any third party without the prior written consent of the Client, such consent not to be unreasonably withheld or delayed. The Client consents to the Supplier's use of the subprocessors identified at www.clearcourse.co.uk/dataprocessing/subprocessors

3 DATA

3.1 Subject matter and duration of the processing of Personal Data: set out in this Schedule and is further detailed in the Supplier's privacy policy (freely available on request).

3.2 The nature and purpose of the processing of Personal Data: such processing, in accordance with the Client's instructions, as is necessary to provide the services pursuant to the Contract, which may include: the collection of data; recording of data; organisation of data; storage of data; alteration of data; retrieval of data; consultation with regard to data; use of data; disclosure of data to permitted third parties; combining data; and/or erasure of data.

3.3 The types of Client Personal Data to be Processed: the Client may submit Personal Data in the course of using the Services, the extent of which is determined and controlled by the Client in its sole discretion, which may include, but is not limited to Personal Data relating to the following: name; personal contact details; professional contact details; IP addresses; cookie data; login credentials; and traffic data including web logs.

3.4 The categories of Data Subject to whom the Client Personal Data relates: the Client may submit Personal Data to the Supplier, the extent of which is determined and controlled by the Client in its discretion, and which may include, but is not limited to, Personal Data relating to the following categories of data subjects: the Client's customers, employees, business partners and suppliers.

3.5 The obligations and rights of the Client: set out in this Schedule and is further detailed in the Supplier's privacy policy (freely available on request).

4 CLIENT RESPONSIBILITIES

4.1 The Client agrees that, in its role as Data Controller, it:

(i) shall ensure that only lawful instructions are issued to the Supplier in respect of the Processing of the Personal Data;

(ii) shall obtain and maintain throughout the term of the Contract all necessary permissions, consents and authorisations to enable the Supplier to process the Personal Data in accordance with the provisions of the Contract;

(iii) has reviewed and approved the Supplier's technical and organisational measures as being suitable for the Client's purposes before entering into the Contract;

(iv) has granted to the Supplier general authorisation to sub-contract its Processing of Personal Data to third parties on the terms set out in paragraph 2.3(vii);

(v) may be considered to have no objections if it has not advised otherwise in writing within ten (10) days of notification under paragraph 2.3(viii); and

(vi) shall promptly issue its instructions in writing to the Supplier, regarding return or deletion of the Personal Data, upon termination or expiry of the Contract (acknowledging the provisions of Clause 9.2(e) of the Contract).

MSA: Schedule 3 – Order Specific Additional Provisions

1   INTRODUCTION

1.1   The provisions of this Schedule apply to the extent identified in the Order Form/SOW (as applicable).

2   SUPPLIER DISTRIBUTED SOFTWARE AND SERVICES

2.1   In this paragraph, the following words have the following meanings: (a) "**Supplier-Distributed Service Providers**" means the third party 'Supplier-Distributed Service Providers' described in the Order Form; (b) "**Supplier-Distributed Service Terms**" means the additional terms applicable to the re-supply by the Supplier of services by Supplier-Distributed Service Providers as set out at paragraph 4; (c) "**Supplier-Distributed Software Vendors**" means the third party 'Supplier-Distributed Software Vendors' described in the Order Form; (d) "**Supplier-Distributed Vendor Licences**" means software licensing terms in respect of the re-supply by the Supplier of software supplied by Supplier-Distributed Software Vendors as set out at paragraph 3.

2.2   The Client acknowledges that: (a) in order to make use of the Supplier Software it must agree to Supplier-Distributed Vendor Licences and Supplier-Distributed Service Terms; and (b) any termination of the Supplier-Distributed Vendor Licence(s) and/or Supplier-Distributed Service Terms may prevent it from making substantial use of the Supplier Software, but shall not entitle it to terminate this Contract and/or receive any refund under this Contract, save that if such termination arises as a result of a breach by the Supplier of paragraph 2.4 below the Supplier shall use all reasonable endeavours to mitigate any adverse impact on the Supplier Software, failing which the Client shall be entitled to terminate this Contract and receive a refund of any prepaid fees covering any period of this Contract that has been shortened due to early termination.

2.3   The Client agrees that it will abide by the terms and conditions of Supplier-Distributed Vendor Licences and Supplier-Distributed Service Terms.

2.4   The Supplier shall ensure that the Supplier-Distributed Software Vendor and/or Supplier-Distributed Service Provider (as applicable) does not terminate the Supplier-Distributed Vendor Licence or and Supplier-Distributed Service Terms (as applicable) as a result of the Supplier's breach of paragraph 2.5 below.

2.5   The Supplier shall make payment to Supplier-Distributed Software Vendors and Supplier-Distributed Service Providers in respect of the grant of Supplier-Distributed Vendor Licences and the provision of services under the Supplier-Distributed Service Terms, subject to the Client's: (a) payment to the Supplier of Fees in respect of Supplier-Distributed Vendor Licences and Supplier-Distributed Service Terms; and (b) compliance, in full, with the terms and conditions of the Supplier-Distributed Vendor Licences and Supplier-Distributed Service Terms.

2.6   The Client shall indemnify and hold harmless the Supplier from all Costs arising from a breach of this paragraph 2, including all Costs associated with handling a complaint or allegation which, if substantiated, would constitute a breach by the Client of this paragraph 2.

2.7   The parties acknowledge that the Supplier's Fees are in part dependent on the costs imposed on it by third party technology and/or infrastructure providers which are outside of its control. As such, the Supplier shall be entitled to increase the Fees at any time by giving the Client not less than thirty (30) days' written notice if any Supplier-Distributed Software Vendor and/or Supplier-Distributed Service Provider has increased its fees or charges in a manner that increases the costs imposed on the Supplier under this Contract, provided that such increase shall be limited to the additional cost imposed on the Supplier as may be apportioned to this Contract. Both parties will work collaboratively to mitigate the impact of any such third party costs and will endeavour to keep such increases to a minimum.

3   SUPPLIER-DISTRIBUTED VENDOR LICENCES

3.1   As set out at www.clearcourse.co.uk/thirdpartyterms

4   SUPPLIER-DISTRIBUTED SERVICE TERMS

4.1   As set out at www.clearcourse.co.uk/thirdpartyterms

5   OPEN SOURCE SOFTWARE

5.1   In this paragraph, the following words have the following meanings: (a) "**Open Source Licence**" means a licence in respect of the Open Source Software as described in the Order Form; (b) "**Open Source Software**" means the open source software described in the Order Form, including all new releases, new versions, updates and modifications thereto.

5.2   The Client acknowledges that: (a) in order to make use of the Supplier Software it must enter into Open Source Licences; (b) the Supplier will have no contractual obligations or responsibilities in respect of Open Source Licences and, in particular, will not be providing patches or fixes in respect of the Open Source Software; and (c) subject to paragraph 5.5, any termination of the Open Source Licences may prevent it from making substantial use of the Supplier Software, but shall not entitle it to terminate this Contract and/or receive any refund under this Contract.

5.3   The Client agrees that it will enter into Open Source Licences and will maintain such Open Source Licences for the duration of this Contract and abide by the terms and conditions of Open Source Licences.

5.4   The Supplier warrants at the Effective Date that the provision of Open Source Software as part of the Supplier Software shall not infringe the terms of the Open Source Licences.

5.5   In the event that any Open Source Licence is terminated, or in the reasonable opinion of the Client or the Supplier, use of the Open Source Software infringes the Intellectual Property Rights of a third party, save in respect of such termination or reasonable opinion arising as a result of a breach by either party of this paragraph 5, the parties shall use all reasonable endeavours to mitigate any adverse impact to the Supplier Software (which may include the sourcing of alternative software components), provided that if notwithstanding such mitigation the adverse impact to the performance or functionality of the Supplier Software is substantial, the Client shall be entitled to terminate this Contract on thirty (30) days' prior written notice. Mitigation arising under this paragraph shall be deemed an Event of Force Majeure.

5.6   The Client shall indemnify and hold harmless the Supplier from all Costs arising from a breach of this paragraph 5, including all Costs associated with handling a compliant or allegation which, if substantiated, would constitute a breach by the Client of this paragraph 5.

6   CLIENT-PROCURED SOFTWARE AND SERVICES

6.1   In this paragraph, the following words have the following meanings: (a) "**Client-Procured Services Agreements**" means contracts entered into between Client-Procured Services Providers and the Client; (b) "**Client-Procured Services Providers**" means the third party 'Client-Procured Services Providers' described in the Order Form; (c) "**Client-Procured Software Vendors**" means the third party 'Client-Procured Software Vendors' described in the Order Form; (d) "**Client-Procured Vendor Licences**" means software licensing agreements entered into between Client-Procured Software Vendors and the Client.

6.2   The Client acknowledges that: (a) in order to make use of the Supplier Software it must enter into Client-Procured Vendor Licences and Client-Procured Services Agreements; and (b) the Supplier will have no contractual obligations or responsibilities in respect of Client-Procured Vendor Licences and Client-Procured Services Agreements, subject to paragraph 6.4 below; and (c) any termination of the Client-Procured Vendor Licence and/or Client-Procured Services Agreements (other than as a result of a breach by the Supplier of paragraph 6.4 below) may prevent it from making substantial use of the Supplier Software, but shall not entitle it to terminate this Contract and/or receive any refund under this Contract.

6.3   The Client agrees that it will enter into Client-Procured Vendor Licences and Client-Procured Services Agreements and will maintain such Client-Procured Vendor Licences and Client-Procured Services Agreements for the duration of this Contract and abide by the terms and conditions of Client-Procured Vendor Licences and Client-Procured Services Agreements.

6.4 The Supplier shall ensure that the Client-Procured Software Vendor and/or Services Provider (as applicable) does not terminate the Client-Procured Vendor Licence or and Client-Procured Services Agreements (as applicable) as a result of the Supplier's breach of paragraph 6.5 below.

6.5 The Supplier shall make payment to Client-Procured Software Vendors and Client-Procured Services Providers in respect of the grant of Client-Procured Vendor Licences and the provision of services under the Client-Procured Services Agreements, subject to the Client's: (a) payment to the Supplier of Fees in respect of Client-Procured Vendor Licences and Client-Procured Services Agreements; and (b) compliance, in full, with the terms and conditions of the Client-Procured Vendor Licences and Client-Procured Services Agreements.

6.6 The Client shall indemnify and hold harmless the Supplier from all Costs arising from a breach of this paragraph 6, including all Costs associated with handling a compliant or allegation which, if substantiated, would constitute a breach by the Client of this paragraph 6.

6.7 The parties acknowledge that the Supplier's Fees are in part dependent on the costs imposed on it by third party technology and/or infrastructure providers which are outside of its control. As such, the Supplier shall be entitled to increase the Fees at any time by giving the Client not less than thirty (30) days' written notice if any Client-Procured Software Vendor and/or Client-Procured Service Provider, has increased its fees or charges in a manner that increases the costs imposed on or incurred by the Supplier provided that such increase shall be limited to the additional cost imposed on the Supplier as may be apportioned to this Contract. Both parties will work collaboratively to mitigate the impact of any such third party costs and will endeavour to keep such increases to a minimum.

7 SALE OF GOODS

7.1 **Definitions**. In this paragraph 8, "**Goods**" means the Goods set out in the Order/SOW (as applicable).

7.2 **Quality and Warranty**. The Goods supplied to the Client by the Supplier under this Contract shall: (a) conform to their published specification; (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier; (c) be free from defects in design, material and workmanship and remain so for six (6) months after Delivery; and (d) comply with the Law on the date of Delivery.

7.3 **Exclusions from Warranty**. The Supplier shall not be liable for a Goods' failure to comply with the warranty set out in paragraph 8 in any of the following events: (a) the Client makes any further use of those Goods after giving notice in accordance with paragraph 8.7; (b) the defect arises because the Client failed to follow the Supplier's oral or written instructions for the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same; (c) the Client alters or repairs those Goods without the written consent of the Supplier; (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or (e) the Goods differ from their published specification(s) as a result of changes made to ensure they comply with Law(s).

7.4 **Delivery**. The Supplier shall deliver the Goods to the Client at the delivery location ("**Delivery Location**") as specified in the Order/SOW ("**Delivery**"). Delivery is completed when the Supplier places the Goods at the Client's disposal at the Delivery Location. Delays in the delivery of Goods shall not entitle the Client to: (a) refuse to take delivery of the Goods; or (b) claim damages; or (c) terminate this Contract. The Supplier shall have no liability for any failure or delay in delivering Goods to the extent that any failure or delay is caused by the Client's failure to comply with its obligations under this Contract.

7.5 **Deemed Delivery**. If the Client fails to take delivery of Goods within three days of the Supplier notifying the Client that Goods are ready for collection, then, except where that failure or delay is caused by the Supplier's failure to comply with its obligations under this Contract or a Force Majeure Event: (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third day following the day on which the Supplier notified the Client that the Goods were ready for collection; and (b) the Supplier shall store the Goods until delivery takes place, and

charge the Client for all related costs and expenses (including insurance).

7.6 **Packaging**. Packaging materials shall remain the Supplier's property and the Client shall make them available for collection at any times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

7.7 **Rejection**. The Client may reject any Goods delivered to it that do not comply with the "Quality and Warranty" provisions above, provided that: (a) notice of rejection is given to the Supplier: (i) in the case of a defect that is apparent on normal visual inspection, within five days of Delivery; (ii) in the case of a latent defect, within a reasonable time of the latent defect having become apparent; and (b) none of the "Exclusions from Warranty" (above) apply. If the Client fails to give notice of rejection in accordance with this paragraph, it shall be deemed to have accepted these Goods.

7.8 **Rights on Rejection**. If the Client rejects Goods in accordance with paragraph 8 then the Client shall be entitled to: (a) require the Supplier to repair or replace the rejected Goods; or (b) require the Supplier to repay the price of the rejected Goods in full. Once the Supplier has complied with the Client's request, it shall have no further liability to the Client for the rejected Goods' failure to comply with the "Quality and Warranty" provisions above.

7.9 **Replacement Goods**. The terms of this paragraph 8 shall apply to any repaired or replacement Goods supplied by the Supplier.

7.10 **Title and Risk**. Risk in Goods shall pass to the Client on Delivery. Title to Goods shall not pass to the Client until the Supplier receives payment in full for the Goods. Until title to Goods has passed to the Client, the Client shall: (a) store those Goods separately from all other goods held by the Client so that they remain readily identifiable as the Supplier's property; (b) not remove, deface or obscure any identifying mark or packaging on or relating to those Goods; (c) maintain those Goods in satisfactory condition and keep them insured on the Supplier's behalf for their full price against all risks with an insurer that is reasonably acceptable to the Supplier.

7.11 **Product Recall**. If the Client is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods from the market ("**Recall Notice**") it shall immediately notify the Supplier in writing enclosing a copy of the Recall Notice. Unless required by Law, the Client may not undertake any recall or withdrawal without the written permission of the Supplier and only then in strict compliance with the Supplier's instructions about the process of implementing the withdrawal.

7.12 **Client's Obligations**. The Client represents, warrants, and undertakes for the duration of the Contract not to use the Goods for any unlawful purpose.

7.13 **Client's Indemnity**. The Client shall indemnify and hold harmless the Supplier from all Costs arising from any claim or complaint made by any third party against the Supplier arising out of in connection with the Client's use of, rights in, and/or exploitation of the Goods, save to the extent that such claim or complaint arises as a result of the Supplier's breach of this Contract.