

## SERVICE LEVEL AGREEMENT

Between **Entrust Support Services Limited** whose registered office is Riverway Centre, Riverway, Stafford, ST16 3TH (Registration Number 04440463) ("**Entrust**") and the '**Customer**' who will be any party/entity/school that is purchasing any products, goods and/or services from Entrust.

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### (Entrust and the Customer each being a party and together, the parties)

- A) These terms and conditions constitute the agreement between the parties together with each Schedule that may be attached and/or any agreed document including any Special Conditions that are applicable to any Service Area.
- B) Customers will complete Entrust's online procurement process and by doing so create an online profile for themselves that will allow them to shop for varied Services provided by Entrust. Once the online procurement process is complete, the Customer can select varied Services on the on-line platform and add them to their online shopping basket. Once the Customer confirms that they wish to buy the Service(s) they can proceed to '**Check-Out**' the Service(s), or if so advised, Entrust can do this on behalf of the Customer.
- C) All Services shall be subject to this Service Level Agreement (this "**Agreement**") and be specified by Schedule A and the On-Line Product Description.

## 1 DEFINITIONS & PRECEDENCE

### 1.1 Definitions

**Additional Conditions** – means any bespoke arrangement applicable for any Service Area in-relation to a Customer's requirements, for example, duration of a Service(s), discounted Charges, etc. and as set out in the On-line Product Description.

**Charges** – means the money payable by the Customer to Entrust in accordance with this Agreement for the Service(s), as set out in Schedule A and specified on the On-line Product Description.

**Data Protection Legislation** - means the Data Protection Act 1998 and from the GDPR Effective Date the GDPR or any replacement legislation applicable in England and Wales from time to time (whether or not as a result of Brexit), including where applicable the guidance and codes of practice issued by the Information Commissioner. Within this Agreement the terms "controller", "data subject", "personal data", "personal data breach", "process ("processed" to be construed accordingly) and "processor" shall have the same meanings as in the Data Protection Legislation.

**"Force Majeure Event"** means any circumstance or cause beyond a party's reasonable control including acts of God, flood or other natural disaster, epidemic, pandemic, terrorist attack, civil commotion or riots, war or armed conflict, fire, explosion, contamination (including chemical or biological), loss of access to electricity, power or telecommunications, shortages of materials or equipment, supply chain failures, any labour or trade dispute, strikes, industrial action or lockouts or due to action taken by a government or public authority (including quarantine measures).

**GDPR** - means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.

**GDPR Effective Date** - means 25 May 2018 (or such other date on which the GDPR becomes applicable in England and Wales).

**On-line Product Description** – means the record of Additional Conditions that are agreed and set out in the Customer's online profile.

**Schedule A** - is a combination of schedules. Schedule A shall be bespoke and changing for each Customer depending on the Service Area(s) they choose to receive and as such will consist of one or several distinct Service Areas as selected by the Customer from time to time via the online shopping basket (or by bid and/or direct purchase).

**Schedule B** – sets out the respective obligations of Entrust and the Customer in respect of Data Protection Legislation in so far as they are relevant in respect of the provision and use of the Services.

**Service Area(s)** – means the product, good and/or service that can be purchased by the Customer. For each Service Area, Schedule A shall provide the service description, scope, specification and any Special Conditions that apply to the provision of any particular Service Area. In those instances where a bespoke Service Area is needed (i.e. a Service Area not already offered within the online shopping basket or a variation to an existing Service Area is required), the parties can agree a schedule separately, that will be loaded into the online profile for that Customer.

**Service(s)** – are the services (goods and/or products) that are to be provided by Entrust in consideration of the payment by the Customer of the Charges / price for the delivery of any required products, goods and/or services Entrust shall provide the Customer. The Services are divided into **Service Areas**, which are set out as **Schedule A**, but are divided into individual schedules that relate to the specific individual Service Areas where the service is described.

**Special Conditions** - means those provisions detailed in Schedule A, specific to a Service Area, i.e. the

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bespoke terms and conditions which are particular to a Service Area and which do not fall within the general conditions of the Agreement.

## **1.2 Order of Precedence**

1.2.1 If there is any conflict at any time between the provisions of this Agreement and any other document which is referred to in or attached to this Agreement and the Schedules, then the conflict shall be resolved in accordance with the following order of priority:

1.2.2 On-line Product Description;

1.2.3 Schedule A - the schedule for the Service Area in which the dispute has arisen;

1.2.4 This Agreement;

1.2.5 Any other agreed Schedules or documents.

## **2 SCOPE OF SERVICE(S), CHARGES & PAYMENTS**

2.1 **Services** shall be provided by Entrust using reasonable skill and care and in accordance with . Entrust shall comply with all statutes, orders, regulations and/or rules of law (including Safeguarding) which shall apply to the due and adequate performance of this Agreement in the delivery of all Service Area(s).

2.2 **Charges** shall be paid by the Customer to Entrust for the Services provided. For additional services, that are out of scope, the price (the Charge) payable shall be the amount stipulated on Entrust's invoice, and the following shall apply:

2.2.1 Entrust may increase the Charges on an annual basis by the annual percentage increase in the Retail Price Index published in October each year (as measured by the increase in the RPI published in October of the previous year to RPI published in October of the present year) provided that the rate of increase shall always be 0% or greater. Entrust shall publish a price list for any Charges that are to be varied pursuant to this clause by the end December each year. The varied Charges shall be payable by the Customer from 1 April in the following contract year.

2.3 **Payments** - Unless otherwise agreed, the following shall apply:

2.3.1 All Charges quoted on the on-line system shall be excluding VAT, and payable with the VAT (where VAT is applicable) to be charged and shown on Entrust's invoices at the appropriate rate. For clarity, the Customer shall pay VAT where applicable. The Customer shall pay each undisputed invoice within thirty (30) calendar days of receipt of the invoice, to the bank account specified in such invoice.

2.3.2 For Staffordshire maintained schools, Entrust will provide a consolidated invoice detailing the Charges payable by each maintained school, each month, to Staffordshire County Council. Staffordshire County Council will be responsible for making the appropriate payment on behalf of Staffordshire County Council's maintained schools. For the avoidance of doubt, Staffordshire County Council shall be responsible for allocating the Charges to each maintained school's cost centre as appropriate.

2.3.3 Entrust reserves the right to levy an interest charge of 4% over the Bank of England base rate applicable at the time for invoices that are overdue. If interest is levied, it will be charged from the first day the invoice becomes overdue up until payment is received and will form part of the overall debt due to Entrust.

2.3.4 Billing for the Services shall be on an annual basis. The Customer shall be invoiced annually in advance for the Services provided.

2.4 **Warranty Exclusion.** All warranties, conditions and other terms implied by statute or common law are excluded to the extent permitted by law. Entrust does not warrant or represent that the Services (or anything supplied to Entrust by any third party on which all or part of the Services depend) will be delivered free of any faults, inaccuracies, interruptions, delays, omissions or errors ("Faults"). Entrust shall not be liable for any losses resulting from any such Faults. Further, Customer accepts that it shall assume sole responsibility and entire risk:

2.4.1 as to the suitability, selection and use of the Services to meet its requirements or business needs; and

2.4.2 in respect of the results obtained and/or conclusions drawn from the use and application of the Services to its business.

## **3 CUSTOMER OBLIGATIONS**

3.1 The Customer warrants that it shall:

3.1.1 comply with and use the Services in accordance with (i) all operating specifications and instructions provided to it by Entrust in respect of the Services; and (ii) all relevant and applicable laws;

3.1.2 ensure that any information it provides is reasonably complete and accurate in all material respects;

3.1.3 comply with all obligations and reasonable requests, including, but not limited to, dependencies applicable to each applicable schedule;

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- 3.1.4 co-operate, so far as is reasonable, with Entrust in all matters relating to the Service(s) and provide any information and/or assistance as may be reasonably required by Entrust in order to provide the Service(s) pursuant to this Agreement;
- 3.1.5 where relevant, obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the provision of the respective Service(s) is to start; and
- 3.1.6 provide Entrust, its employees, agents, consultants and sub-contractors, with rights of access to the Customer's premises, office accommodation, other facilities and use of Customer owned assets as reasonably required by Entrust to fulfil its service obligations provided always that such access is not unreasonably disruptive to the Customer's operations.

## **4 COMPLIANCE WITH LAW**

- 4.1 Both parties agree and accept their obligations to meet all statutory and regulatory requirements as an express obligation of this Agreement.
- 4.2 Where there is a change of law that has an impact on the Services, the parties will work together so that they can both comply and maintain compliance with all statutory and regulatory requirements, should there be a requirement to change the Charges, as a consequence of the change in law, then the Customer shall be advised of the same by Entrust.

## **5 SERVICE RENEWAL**

- 5.1 Unless otherwise agreed in writing, the online mechanism will automatically renew each Service Area on the anniversary of the Services commencing. The renewal, unless otherwise agreed, shall be for 12 months. For convenience, Entrust shall complete the Check-Out process for all renewals. Should the Customer wish to opt out of the renewal process, then the Customer shall advise Entrust in writing pursuant to Clause 6.1 below.
- 5.2 Where there is, for example, an Additional Condition that the Service(s) shall be supplied for more than one year at a discounted price, upon renewal of the Service(s) the On-line Product Description will change to one year and any agreed discount to Charges shall revert to the applicable annual rate for the Service(s) and Services shall continue to be supplied by Entrust.
- 5.3 Where a MAT package has been specified in the Service Area Entrust reserves the right to review the MAT package Charges on annual basis.

## **6 TERMINATION & CONSEQUENCES**

- 6.1 Should the Customer not wish to renew any Service Area then the Customer shall provide Entrust with no less than three (3) months written notice prior to the renewal date. For example, where the Customer elects for the Services to be supplied for 3 years and does not wish to renew the Service the Customer shall provide Entrust not less than three (3) months written notice which shall be not less than 3 months prior to the third anniversary of the Services commencement date.
  - 6.2 Should the Customer choose to terminate a Service Area or all Services pursuant to clause 6.1 and/or where the Customer fails to provide notice in accordance with Clause 6.1 then Entrust, may, at its sole discretion invoice the Customer for:
    - 6.2.1 the charges relating to any notice period calculated on a pro-rata monthly basis, unless otherwise stated as a Special Condition; and
    - 6.2.2 the balance of any outstanding investment sums made by Entrust and not recovered by Entrust prior to the date of termination; and
    - 6.2.3 the savings granted (past, present and future) to the Customer by Entrust for commitment to a multi-year service period and any other discounts provided; and
    - 6.2.4 all the consequential losses and costs of including, but not limited to, unamortised costs, sunk costs, exit costs, staffing costs, pensions or redundancy costs; and
    - 6.2.5 loss of profit incurred by Entrust as a consequence of the termination.
  - 6.3 Either party may terminate these terms and conditions on giving written notice to the other if the other party is in material breach of this Agreement and has failed to rectify such breach (in the case of a breach capable of being remedied) within 30 days of receiving a written notice requiring it to do so. Failure by the Customer to make timely payment against properly submitted invoices shall constitute a material breach of these terms and conditions and, without prejudice to any other rights, Entrust, in addition to Clause 2.3.3, reserves the right to suspend services immediately and without penalty.
  - 6.4 These terms and conditions may be terminated in the event that either party shall have a liquidator, administrator, or receiver appointed, or it passes a resolution for winding up other than for the purposes of a bona fide, solvent reorganisation or restructuring, or if it becomes subject to an administration order.
  - 6.5 Upon termination of this Agreement for any reason:
    - 6.5.1 the Customer shall immediately pay to Entrust all of Entrust's due, valid and unpaid invoices and interest (if applicable), in respect of Services supplied but for which no invoice has been submitted, Entrust shall submit an invoice, which shall be payable by the Customer immediately on receipt;
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- 6.5.2 the Customer shall promptly and in an orderly manner return all of Entrust's materials and documents which have not been fully paid for at Entrust's bequest (to a location to be advised by Entrust). Until Entrust's materials and/or documents have been returned or paid for, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement;
- 6.5.3 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination.

## **7 CONVERSION TO ACADEMY STATUS**

- 7.1 Where the Customer is a local authority who has purchased any Services for the maintained school/s within their jurisdiction, the Customer with the co-operation of the subject school shall help Entrust to facilitate the novation of this Agreement from the relevant maintained school to its new 'Academy Status' or into any other legal entity. For the avoidance of doubt, the change in the legal status of the maintained school to the Academy Status is in no way grounds for termination of this Agreement or any part thereof.
- 7.2 Unless otherwise stated in the Special Conditions, charges relating to the period from the commencement of the service to the date of conversion will be calculated on a pro rata monthly basis and invoiced to the maintained school in accordance with clause 2.3.2. At the same time, the on-line record will be adjusted to reflect the charges payable as a maintained school and the service(s) shall be terminated as at the date of conversion.
- 7.3 Entrust will create an on-line profile for the new academy using information from <https://www.get-information-schools.service.gov.uk/>.
- 7.4 Entrust will create and Check-Out the continuing service(s) on the academy's new on-line profile. Unless otherwise stated in Special Conditions, the charges for continuing service(s) will be calculated on a pro-rata monthly basis and invoiced to the academy in accordance with clause 2.3.1.

## **8 LIMITATION OF LIABILITY**

- 8.1 Neither party excludes nor limits its liability to the other party for death or personal injury caused by negligence, or for fraud or fraudulent misrepresentation.
- 8.2 Subject to clause 8.1, Entrust shall not be liable under or in connection with this Agreement whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise for:
- 8.2.1 any loss of profits, business, revenue, opportunities, goodwill, anticipated savings, goods, contract or use;
- 8.2.2 any loss or corruption of data or information; or
- 8.2.3 any special, indirect, consequential or pure economic loss, damages, charges or expenses.
- 8.3 Subject to clause 8.1 and clause 8.2, in respect of all other claims the liability of Entrust under or in connection with this Agreement whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance of the Services shall in all circumstances be limited to 100% of the Charges paid and payable in aggregate across Schedule A in the year in which the incident occurred.
- 8.4 Entrust shall in no circumstances be liable for loss or damage caused by any default, act or omission on the part of the Customer and the Customer agrees to indemnify and keep Entrust harmless in respect of any claims (including claims by third parties) which are caused by or arise from any reasonable act by Entrust carried out pursuant to instructions and/or expectations of the Customer.
- 8.5 Insurance - Throughout the duration of this Agreement, both Parties shall ensure that they and any respective sub-contractor effect and maintain, with a reputable insurance company a policy or policies of insurance (which in the case of a school may be satisfied by the school subscribing to the Academies Risk Protection Arrangement) to provide an adequate level of cover in respect of insurable risks which may arise out of or in connection with this Agreement, including death or personal injury, loss of or damage to property or any other loss. Parties shall provide proof of cover to each other on request.
- 8.6 This section 8 shall survive termination of the Agreement.

## **9 INTELLECTUAL PROPERTY RIGHTS & KNOWHOW**

- 9.1 Customer acknowledges that any copyright, patent, registered design, trademark and/or other intellectual property right of whatever nature subsisting anywhere in the world ("**Intellectual Property Rights**") used or embodied in or in connection with the provision of the Services are and shall remain the sole property of Entrust or any third party as may be identified, by Entrust, therein or thereon as the owner. Customer shall not during or at any time after the termination of these terms and conditions dispute the ownership by Entrust or the owner of any such Intellectual Property Rights. In the event that new knowhow evolves or is generated or arises in the provision of the Services, the Customer acknowledges that the same and all Intellectual Property Rights therein shall belong to Entrust.
- 9.2 Customer shall grant to Entrust a non-exclusive, royalty free licence to use any software, documentation
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or other materials which are licensed or owned by the Customer and are required for the purposes of providing the Services.

- 9.3 Each party shall at all times during and after the duration of this Agreement, indemnify and keep indemnified the other party against all losses, damages, costs or expenses and/or other liabilities (including legal fees and expenses on an indemnity basis) incurred by, awarded against or agreed to be paid by such party arising from any Intellectual Property Rights claim arising from any breach or perceived breach in the use of any Intellectual Property Rights. Such indemnification shall not apply to the extent a claim is based upon (a) use of any version of intellectual property other than a current, unaltered version, if infringement would have been avoided by a current, unaltered version; (b) combination, operation or use of intellectual property with other materials which, if such infringement could have been avoided by not combining, operating or using intellectual property with such other materials or (c) any unauthorised modifications to the intellectual property.

## **10 CONFIDENTIALITY AND DATA PROTECTION**

- 10.1 Any information identified by either party as proprietary or confidential, any information which would be reasonably expected to be deemed confidential and any methods or concepts utilised in the performance of providing any Service(s) shall be deemed "**Confidential Information**". Items will not be deemed Confidential Information if (i) available to the public other than by a breach of an agreement between the parties; (ii) rightfully received from a third party not in breach of any obligation of confidentiality; (iii) independently developed by one party without access to the Confidential Information of the other party; or (iv) if proven to have been known at the time of disclosure.
- 10.2 Each party will take all proper steps to keep confidential all Confidential Information of the other which is disclosed to or obtained by it pursuant to or as a result of these terms and conditions, and will not divulge the same to any third party and will allow access to the same to its own staff only on a "need to know" basis, except to the extent that any such Confidential Information becomes public through no fault of that party. Upon termination of these terms and conditions, each party will return to the other any information, equipment and written data (without retaining copies thereof) provided for the purposes of these terms and conditions.
- 10.3 Nothing shall prevent Entrust from using the knowledge and know-how gained in providing the Services in any combination or permutation for any other purpose.
- 10.4 Notwithstanding the termination or expiry of these terms and conditions for whatever reason the obligations and restrictions in this clause shall survive the termination or expiry of these terms and conditions.
- 10.5 **Data Protection Legislation:** Both parties shall comply with the Data Protection Legislation in so far as they are relevant in respect of the provision and use of the Services as set out in **Schedule B**.
- 10.6 **Freedom of Information:** Where Customer is a Public Authority under the Freedom of Information Act 2000, Entrust shall provide at no additional cost reasonable support to assist with responses to Information Requests. Where Customer charges a fee to the entity who is requesting the disclosure, then the Customer shall apportion the fee charged appropriately between Entrust and Customer. Customer shall consult Entrust prior to disclosure of any information relating to the Services and shall duly consider exempting from disclosure any information that could damage the commercial interests of Entrust.

## **11 RELIEF GRANTED TO ENTRUST**

- 11.1 If Entrust's performance under the Agreement is hindered, prevented or delayed by any act or omission of the Customer, its subcontractors or consultants then, without prejudice to its other rights or remedies:
- 11.1.1 Entrust shall be granted an extension of time to perform its obligations equal to the period of delay caused by such act or omission;
- 11.1.2 any failure by Entrust to deliver its obligations in respect of the affected part of the Services shall not constitute a breach of the Agreement; and
- 11.1.3 Customer shall pay Entrust any additional costs, arising from such act or omission, as Entrust reasonably incurs.

## **12 STATUTORY RESPONSIBILITY & SOLICITATION**

- 12.1 The parties shall observe and respect the requirements of the Bribery Act 2010. Any offence by the Customer or its employees or by anyone acting on its behalf under such statutes in relation to this Agreement or any contract with Entrust or Her Majesty's Government shall entitle Entrust to terminate this Agreement and recover from the Customer the amount of any loss resulting from such termination and/or to recover from the Customer the amount of value of any gift, consideration or commission.
- 12.2 The Parties shall not, during the term of this Agreement and for 12 months following the termination of this Agreement either directly or indirectly solicit or entice away (or seek to attempt to solicit or entice away) from the employment of the other Party any person employed by such other party in the provision of the
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Services or (in the case of the Customer) in the receipt and/or administration of the Services.

## **13 CUSTOMER DEPENDENCIES**

Entrust has a number of interdependent contracts and agreements, the Customer shall comply with interdependencies, Entrust will try to specify and advise as to the provision of such dependencies, but in any event the Customer will co-operate and work with Entrust to facilitate all reasonable requests made in-relation to the interdependencies and/or are essential to Entrust in providing the Services in a timely and complete manner.

## **14 THIRD PARTY PRODUCTS**

- 14.1 Where the supply of Services by Entrust involves the licensing of third-party products or software (Third-Party Products) to the Customer, the Customer undertakes to comply with the terms and conditions relating to the use of any Third-Party Products.
- 14.2 The Customer agrees to indemnify and keep indemnified Entrust against all losses, damages, costs or expenses and/or other liabilities (including legal fees and expenses on an indemnity basis) incurred by, awarded against or agreed to be paid by Entrust arising from the Customers breach of clause 14.1 of this Agreement.

## **15 GENERAL**

- 15.1 **Notice and Changes:** No communication from one party to another shall have any validity unless made or confirmed in writing. These terms and conditions shall not be varied or amended unless such variation or amendment is agreed in writing by a duly authorised representative of both parties.
  - 15.2 **Third Party Rights:** Nothing in these terms and conditions is intended to confer any right or benefit on any third party or any right to enforce a provision contained in these terms and conditions and the Contracts (Rights of Third Parties) Act 1999 is hereby expressly excluded.
  - 15.3 **Assignment:** Neither party shall assign or novate these terms and conditions or any part thereof without the prior consent in writing of the other party (such consent not to be unreasonably withheld or delayed), provided that Entrust shall not require consent for any solvent assignment within the Capita group of companies.
  - 15.4 **Force majeure:** No party shall be liable to the other party for any delay or failure to perform under the Agreement due to the occurrence of a Force Majeure Event, provided that the affected party shall: (a) promptly notify the other party in writing; (b) use all reasonable endeavours to mitigate during such occurrence; and (c) resume performance of its obligations as soon as reasonably possible. Where the affected party is prevented or delayed by a Force Majeure Event for at least 90 days, then the non-affected party may terminate the Agreement upon serving 30 days' written notice to the affected party.
  - 15.5 **Governing Law:** These terms and conditions and any non-contractual obligations arising out of or in connection with these terms and conditions shall be governed by and construed in accordance with English law. The parties submit to the exclusive jurisdiction of the English courts for all matters relating to this Agreement.
  - 15.6 **Dispute Resolution:** In the event of any disagreement or dispute the parties shall seek to resolve the matter by discussions between the authorised representatives of each party. In the event that they are unable to resolve the disagreement or dispute in a reasonable period of time it shall be escalated for resolution to the parties' senior representatives. If the disagreement or dispute remains unresolved or if either party reasonably believes that it is unlikely to be resolved, the matter shall be referred to Mediation through the Centre for Effective Dispute Resolution (CEDR) Alternative Dispute Resolution (ADR) Process.
  - 15.7 **Entire Agreement:** These terms and conditions and any Schedules or any other agreed document shall together represent the entire understanding and constitute the whole agreement between the parties in relation to its subject matter and the parties agree that there are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of these terms and conditions except as specifically set forth herein and none of the parties has relied or is relying on any other information, discussion or understanding in entering into and completing the transactions contemplated in these terms and conditions.
  - 15.8 **Relationship of the Parties.** Nothing contained in these terms and conditions shall be so construed as to constitute either party to be the agent of the other. These terms and conditions shall not operate so as to create a partnership or joint venture of any kind between the parties hereto.
  - 15.9 **Severability** - If any term or provision in these terms and conditions shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of these terms and conditions but the validity and enforceability of the remainder of these terms and conditions shall not be affected.
  - 15.10 **Non-Waiver** - The failure of either party to enforce any provision of these terms and conditions, or the
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failure of either party to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not prejudice any right of that party under these terms and conditions.

- 15.11 **TUPE** - the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) - Unless expressly stated otherwise as a Special Condition, the parties acknowledge and agree that the TUPE does not apply to this Agreement. If it becomes applicable for any reason OR it is declared by any judicial or other competent authority of relevant jurisdiction that the TUPE does apply, the Customer shall indemnify and hold Entrust harmless against costs, losses, damages, expenses and liabilities otherwise incurred as a result of TUPE and/or any failure to comply with TUPE or any part thereof.
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## SCHEDULE A

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### **A.1 Service Areas**

Schedule A shall consist of one or several distinct Service Areas as selected by the Customer from time to time via the Online Services Tool. The terms and conditions of this Agreement shall apply to all Service Areas selected by the Customer subject to any Special Conditions and Additional Conditions particular to each Service Area.

### **A.2 Bespoke Services**

In those instances where a bespoke Service Area (i.e. a Service Area not already offered within the Online Services Tool) or a variation to an existing Service Area is required, then the following procedure shall apply:

- the proposed Service Area or variation shall be discussed by the Parties. This shall include, but not be limited to, scope, cost, dependencies, timescales and any applicable special conditions.
- once agreed in principle Entrust shall then render the agreed scope and make it available on the Online Services Tool or, in the case of a variation, make the necessary adjustments to an existing Service Area as agreed.

The Customer shall then indicate its formal acceptance of the change by selecting the relevant Service Area through the Online Services Tool in the usual way.

### **Section B – Applies to All Service Areas**

#### **Safeguarding Provisions shall be met in all Service Area by Entrust:**

- B.1** Entrust shall adopt recruitment processes that comply with the law and will ensure that children, young people and vulnerable learners are protected. Entrust will take the necessary actions in order to comply with current vulnerable groups legislation and safeguarding requirements, will register with the Disclosure and Barring Service (“**DBS**”) or equivalent body and make the appropriate checks to ensure that employees have been recruited in compliance with prevailing requirements, minimising risk to vulnerable children and/or adults. Entrust shall carry out any appropriate Safeguarding checks on all overseas applicants and seek additional information about an applicant’s conduct. Entrust will review their records and be able to demonstrate that they have robust record-keeping procedures through checks on record keeping undertaken.
  - B.2** DBS certificates and information must be passed on from Entrust to the Customer on reasonable notice and request by the Customer. Such records may only be disclosed with the prior written consent of the member of staff upon whom the check was carried out.
  - B.3** Entrust shall comply with the privacy obligations regarding the sensitive nature of Safeguarding information and shall fully comply with the prevailing DBS requirements – particularly the Code of Practice and the Explanatory Guide for Registered Persons and other recipients of Disclosure Information.
  - B.4** Entrust shall only use suitably qualified and competent individuals in the execution of the Service.
  - B.5** Entrust shall retain responsibility for making a suitability decision based on the content of any positive DBS disclosure.
  - B.6** Entrust shall ensure that the Customer is immediately notified in writing in the event that any employee of Entrust or other person engaged in the performance of Entrust’s obligations hereunder subsequent to his/her commencement of employment with Entrust, has permission to engage in regulated activity withdrawn and shall immediately withdraw such person from the provision of any Service Areas at the Customer’s premises.
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## Schedule B – Data Protection

Entrust is Data Processor

### Definitions:

The definitions shown below are additional to those in the main body of the Agreement.

**Customer Data** means any personal data which is transmitted by or on behalf of the Customer to or is otherwise processed by Entrust under this Agreement or which is generated under this Agreement.

**Sub-Processor** means “another processor” as defined within Article 28 of the General Data Protection Regulation ((EU 2016/679).

### Data Protection Legislation

1.1 With respect to the Parties' rights and obligations under this Agreement, the Parties acknowledge that in relation to any Customer Data, the Customer is a controller and Entrust is a processor.

1.2 The parties acknowledge their respective obligations under the Data Protection Legislation and shall give each other such assistance as is reasonable to enable each other to comply with such obligations, however, for the avoidance of doubt the Customer agrees that where Entrust has satisfied a contractual obligation under this Agreement, then such satisfaction of the contractual obligation is deemed to satisfy the same or similar requirement under the Data Protection Legislation.

1.3 The Customer warrants, represents and undertakes to Entrust that it has lawful grounds for processing the Customer Data.

1.4 The Parties confirm that the following information will be provided by the Customer after the GDPR application date: subject matter and duration of the processing; the nature and purpose of the processing; the type of personal data; the categories of data subjects; the jurisdictions where the data will be processed and any requirements for the secure and confidential return or destruction of the Customer data.

1.5 Where Entrust processes the Customer Data under or in connection with this Agreement, Entrust shall:

- a) save as required otherwise by law, only process such the Customer Data as is necessary to perform its obligations under this Agreement, and only in accordance with the Customer's documented instructions;
  - b) put in place appropriate technical and organisational measures to meet its own obligations under the Data Protection Legislation and which the Customer agrees are appropriate measures;
  - c) ensure Entrust staff who will have access to the Customer Data are subject to appropriate confidentiality obligations;
  - d) be entitled to engage Sub-Processors to process the Customer Data subject to Entrust ensuring that equivalent requirements to those set out in this clause are imposed on any sub-processor(s), Entrust remaining fully liable to the Customer for the performance of the sub-processor's obligations and where applicable, providing to the Customer reasonable prior notice of any addition, removal or replacement of any such Sub-Processors;
  - e) not process or transfer the Customer Data outside the European Economic Area without the prior documented consent of the Customer;
  - f) have in place the appropriate technical and organisational security measures to protect the Customer Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access;
  - g) notify the Customer without undue delay after becoming aware of any personal data breach involving the Customer Data, taking into account the nature of processing and the information available to Entrust.
  - h) take appropriate technical and organisational measures, insofar as is possible, to assist the Customer in responding to requests for data subjects for access to or rectification, erasure or portability of the Customer Data or for restriction of processing or objections to processing of the Customer Data (but Entrust will not itself respond to any such data subject request except on written instructions from the Customer). Furthermore, Entrust will, upon the request of the Customer, provide assistance to the Customer relating to Customer's security; impact assessment; data breach reporting
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requirements; and data protection or data privacy Customer consultation obligations under the Data Protection Legislation taking into account the information available to Entrust. Entrust may charge the Customer its reasonable costs (or the rates otherwise agreed between the parties) for its time spent and expenses incurred in providing the Customer with co-operation and assistance as required by this clause;

i) will make available to the Customer such information as the Customer reasonably requests and Entrust is reasonably able to provide, and, permit and contribute to such audits, including inspections, conducted by the Customer (or the Customer's appointed auditors), as is necessary to demonstrate Entrust's compliance with the Data Protection Legislation. The Customer will give reasonable notice of any audit and will be fully liable for any associated costs (including those of Entrust);

j) save as may be required by law or where the parties have agreed that Entrust may need to retain the Customer Data for a defined period upon expiry or termination of this Agreement, at the Customer's cost and option either delete or return the Customer Data to the Customer on expiry or termination of this Agreement provided always that nothing in this clause shall oblige Entrust to provide assistance which does not relate directly to the services performed pursuant to this Agreement.

1.6 Entrust shall inform the Customer in writing if, in Entrust's opinion, an instruction from the Customer infringes the Data Protection Legislation but only in relation to a breach of General Data Protection Regulation ((EU 2016/679)) and/or other European Union or European Member State data protection provisions and not jurisdictions outside of these areas. However, the Customer acknowledges that:

a) any information Entrust provides is not legal advice or guidance in anyway whatsoever, and that Entrust makes no warranty or representation regarding the information (express or implied); and

b) this clause shall not relieve the Customer of its obligation to ensure that all instructions to Entrust comply with all applicable legislation, including all Data Protection Legislation; and

c) Entrust may charge the Customer its reasonable costs (or the rates otherwise agreed between the parties) for its time spent and expenses incurred in providing the Customer with co-operation and assistance as required by this clause.

1.7 Notwithstanding anything to the contrary in this Agreement, if any of the following occur:

a) any changes/modifications to the Data Protection Legislation (including in connection with the withdrawal of the United Kingdom from the European Union and/or the EEA) including the requirement to amend, update, modify or replace any systems Entrust use to process the Customer Data;

b) any new, clarified or amended guidance or policies issued by a supervisory Customer;

c) any direction or instruction issued by a supervisory Customer (whether relating to Customer or Entrust in respect of the Services (including any processing of the Customer Data);

d) then any increased effort or costs incurred by Entrust in association with the aforementioned shall be additionally chargeable to the Customer.

1.8 The Customer shall indemnify and keep indemnified and defend Entrust at its own expense against all costs, claims, damages, fines, or expenses (including reasonable legal fees) incurred by Entrust or for which Entrust may become liable due to any failure by the Customer or its employees or agents to comply with any of its obligations under this clause 1.

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