

SOFTWARE MAINTENANCE TERMS

Version Taiwan 2019.7.15

These Software Maintenance Terms apply to any quote, order, and order acknowledgment, and any sale of software maintenance services by KLA Corporation, One Technology Drive, Milpitas, California 95035 ("KLA") to any acquirer ("Customer"). KLA does not accept, expressly or impliedly, and KLA hereby rejects, any additional or different terms or conditions that Customer presents, including but not limited to, any terms or conditions contained or referenced in any order, acceptance, acknowledgment, or other document, or established by trade usage or prior course of dealing, unless KLA expressly and unambiguously agrees to such terms and conditions in a duly signed writing. By ordering, receiving, accepting or using services or otherwise proceeding with any transaction after receipt of these Software Maintenance Terms or after otherwise being notified that such transactions are subject to these Software Maintenance Terms, Customer agrees to these Software Maintenance Terms and KLA's General Terms, which are incorporated by reference herein and are either attached hereto, or available at www.kla.com/terms or on request.

1. SCOPE AND DEFINITIONS

1.1 Scope. These Software Maintenance Terms apply to Software that is to be installed on Third Party Products (governed by KLA's Standalone Software License Terms), for which KLA has agreed in writing to provide Software Maintenance Services. Maintenance Services for computer programs that are pre-installed, or to be installed, on any KLA Hardware are governed by KLA's Hardware Maintenance Terms, which are available at www.kla.com/terms or on request. If KLA performs any services outside the scope of the applicable Standard Services Offering (including, but not limited to, in accordance with Section 3.4 — Other Errors), KLA's then-current Time & Materials Services Terms (which are available at www.kla.com/terms or on request) shall apply; provided, however, that KLA shall not be obligated to perform any services outside the scope of the applicable Standard Services Offering. KLA's obligations under these Software Maintenance Terms shall solely be to undertake the agreed upon services activities and not to achieve certain technical, economical, or other result.

1.2 Definitions. The definitions in KLA's General Terms shall apply in addition to the following definitions:

"**Maintenance Period**" means a period of twelve (12) consecutive calendar months, or any other period specified by KLA, and such period shall commence on the date specified by KLA or, if not specified by KLA, the date on which KLA first makes Software Maintenance Services available to Customer.

"**Major Release**" means a release of the Software that contains substantial changes or new features. A new Major Release is designated by a change of the first digit of a release of the Software.

"**New Version**" means an Update or a Major Release.

"**Problem**" means the failure of the Software to conform to the applicable Documentation.

"**Software Maintenance Services**" means the services defined in Section 3 (Software Maintenance Services).

"**Standard Services Offering**" means KLA's written description of the scope, technical details, procedural requirements and/or price of certain types of standard maintenance and support services programs, which KLA makes available to Customer on KLA's website at www.kla.com/terms or otherwise or upon request.

"**Update**" means a release of the Software that aims at fixing bugs of the Software or that contains small changes and new features, but not Major Releases.

2. AUTHORIZED SUPPORT CONTACTS. Customer may appoint up to two (2) contact persons who shall participate in any training programs that KLA, at its sole discretion, may offer or require as part of the Software Maintenance Services, and who shall be Customer's support contacts for all requests for Software Maintenance Services and all communications between Customer and KLA regarding Software Maintenance Services ("Authorized Support Contacts"). Customer may request the designation of additional Authorized Support Contacts subject to payment by Customer of additional software maintenance fees at KLA's then-current rates.

軟體維護條款

2019.7.15 台灣版本

本軟體維護條款適用由 KLA Corporation，地址為 One Technology Drive, Milpitas, California 95035 (下稱「KLA」) 向任何買方 (下稱「客戶」) 提出之任何報價、訂單與訂單確認文件，以及任何軟體維護服務之出售。KLA 不以明示或暗示方式接收且以本文件拒絕客戶提出之其他或不同條款，包括但不限於任何訂單、接收文件、確認文件中所含或引述，或以商業習慣或於先前交易過程中確立之任何條款，除非 KLA 以正式簽署之書面文件明確無疑義地表示同意此等條款。客戶於接獲軟體維護條款後，或以其他方式接獲通知獲悉此等交易係依據軟體維護條款而執行後而訂購、接收、同意或使用產品或以其他方式進行任何交易，即表示同意此軟體維護條款及 KLA 之一般條款，此一一般條款係以參照方式納為本條款之一部分，可附加為本條款附件或可自網站 www.kla.com/terms 詢或可索取。

1. 範圍及定義

1.1 範圍 安裝於第三人產品 (由 KLA 獨立電腦軟體授權條款所規範) 之軟體，並由 KLA 以書面同意提供軟體維護服務者，適用軟體維護條款。預先安裝或安裝於任何 KLA 硬體之電腦程式維護服務係由 KLA 硬體維護條款所規範，硬體維護條款得在 www.kla.com/terms 網站查詢或可索取。如 KLA 提供標準服務項目以外之服務 (包括但不限於依據第 3.4 條—其他錯誤)，應適用 KLA 當時時間及材料服務條款 (得在 www.kla.com/terms 網站查詢或可索取)；惟 KLA 並無義務提供任何標準服務項目以外之服務。依軟體維護條款 KLA 僅履行合意之服務活動義務，並無達成某技術、經濟或其他結果之義務。

1.2 定義 除下述所定義者外，KLA 一般條款之定義應予適用：

「**維護期間**」係指連續 12 個日曆月之期間，始於 KLA 以書面具體指明之日，或，如 KLA 未予具體指明，KLA 第一次提供軟體維護服務予客戶之日。

「**主要版**」係指含有大量改變或新特徵之軟體版本。新的主要版係以變更軟體版本之第一個數字表明。

「**新版**」係指更新版或主要版

「**問題**」係指軟體未能符合所適用文件

「**軟體維護服務**」係指第 3 條 (軟體維修合約) 所定義之服務

「**標準服務項目**」係指 KLA 對範圍、技術細節、程序要求及/或某些型態之標準維護及支援服務程式價格之書面說明 (客戶得由 KLA 網站 www.kla.com/terms 查詢或由其他方式或可索取)

「**更新版**」係指修復軟體錯誤之軟體版本，或含有小部分變更或新特徵之軟體版本，但非主要版。

2. 授權支援聯絡人 客戶得最多指定兩個聯絡人參與訓練課程，該訓練課程由 KLA，以自己之判斷，提供或要求成為軟體維護服務之一部；該二人並應為客戶支援聯絡人，負責所有軟體維護服務之請求及客戶與 KLA 就軟體維護服務之聯繫 (「授權支援聯絡人」)。如客戶以當時 KLA 之費率支付額外軟體維修費用，客戶得要求指定額外之授權支援聯絡人。

3. SOFTWARE MAINTENANCE SERVICES. During the Maintenance Period, KLA will provide the following services (collectively, the “Software Maintenance Services”).

3.1 New Versions. KLA will provide those New Versions to Customer that KLA, at its sole discretion, makes generally available to all of KLA's customers that are then receiving Software Maintenance Services under the same Standard Services Offering as Customer hereunder; provided, however, that KLA shall not be obligated to provide Major Releases, unless KLA specifies in the applicable Standard Services Offering or otherwise in a duly signed writing that Major Versions are covered by the Software Maintenance Services that Customer receives. New Versions will be made available to Customer in such form and format and on such media as KLA in its discretion deems appropriate. KLA reserves the right not to create any New Versions and to market new versions of the Software as new products for additional consideration, e.g., as a Major Release or otherwise. Customer may use New Versions only instead of, but not in addition to, the updated Software. New Versions are covered by these Software Maintenance Terms, but, without limiting Section 5.3 (Disclaimer), are not covered by the warranties applicable to the updated Software. Notwithstanding the foregoing, Customer's use of any New Versions shall be subject to the infringement indemnity provisions of KLA's General Terms and Customer's use of the New Versions shall additionally be subject to all license limitations and restrictions contained in the Standalone Software License Terms applicable to the updated Software. KLA Corporation owns, retains and reserves ownership, title, and all rights and interest, including, but not limited to, all Proprietary Rights in and to the New Versions, subject only to the limited rights that KLA expressly grants herein. Without limiting the foregoing, Customer acknowledges that nothing herein shall constitute a sale of any New Versions (or any Intellectual Property in and to the New Versions) including any copies and portions thereof.

3.2 Support. During the support hours specified in the applicable Standard Services Offering, KLA shall, via telephone, e-mail, or KLA's technical support website, if any, provide the following services (“Support”) (i) respond to Customer's questions regarding Problems; and (ii) if the Authorized Support Contacts report Problems to KLA with a detailed description of the Problem, use commercially reasonable efforts to correct any reproducible programming Problem that materially affects the operation of the Software by delivering an add-on program to correct such Problem, identifying a work-around or detour solution, or specifying a plan for correcting the Problem.

3.3 Problem Reporting, Response, Resolution, and Escalation. Customer shall inform KLA of a Problem by providing the information required to correct the Problem as specified in the applicable Standard Services Offering or as otherwise reasonably requested by KLA, based on which KLA will assign to the Problem a severity level. KLA reserves the right to downgrade at any time the assigned severity level (i) if the Problem is determined to be less severe than originally reported; (ii) as KLA provides solutions to lessen the impact of the Problem; or (iii) if KLA is unable to effectively provide Support due to Customer's failure to comply with its cooperation duties under these Software Maintenance Terms and KLA's General Terms. If KLA specifies any response and resolution times in the applicable Standard Services Offering or otherwise, such response and resolution times shall constitute targets only.

3.4 Other Errors. If KLA believes that an error reported by Customer is not due to a Problem, KLA will so notify the Customer, who may then either (i) instruct KLA to proceed with Software Maintenance Services regarding said error at the Customer's possible expense, as further specified in this Section 3.4; or (ii) advise KLA that the Customer does not wish the error pursued, in which case KLA may elect, at its sole discretion, not to pursue the error without liability therefor. If the Customer requests that KLA proceeds with Software Maintenance Services regarding an error, and KLA subsequently determines that the error was not due to a Problem, KLA's then-current Time & Materials Services Terms shall apply to any error identification or correction efforts undertaken by KLA and repair costs incurred by KLA.

3.5 Limitations and Exclusions. KLA shall not be obligated to provide Software Maintenance Services if such Software Maintenance Services are required due to (i) Customer's mishandling, abuse, misuse, or use of the Software other than in accordance with KLA's operation instructions; (ii) use of the Software with hardware or software that were not expressly specified in writing by KLA as suited for use with the Software; (iii) changes to the Customer environment, in which the Software were provided; (iv) actions of persons other than KLA; (v) installation, maintenance, or repair of Software by someone other than KLA, except maintenance performed by Customer if an to the extent authorized by KLA in a duly signed writing; or (vi) Force

3. 軟體維護服務 維護期間 KLA 提供如下服務（合稱「軟體維護服務」）。

3.1 新版 KLA 將提供新版，該新版係 KLA，以自己之判斷，普遍提供所有依相同標準服務項目取得軟體維護服務之客戶；惟，除 KLA 於標準服務項目或另以正式簽署之書面具體載明客戶所受軟體維修服務包括主要版之情形外，KLA 並無義務提供主要版。新版係由 KLA 認為適當之方式、形式及媒介提供於客戶。因額外考量，例如主要版或其他因素，KLA 保留不製造任何新版及以新產品方式銷售軟體新版之權利。客戶得使用新版以取代更新軟體，而非與更新軟體一起使用。第 5.3 條免責聲明未受限制之前提下，軟體維護條款涵蓋新版，但更新版所適用之保證不適用於新版。儘管前述，客戶使用任何新版須依 KLA 一般條款授權賠償規定並另受更新版所適用之獨立電腦軟體授權條款限制所規範。除本條款所明確授權之有限權利外，KLA Corporation 擁有並保留所有權、權利、所有權利及利益，包括但不限於所有新版之專有權。不限於以上所述，客戶承認本條款不構成任何新版（或新版之智慧財產），包括任何複本及其一部之買賣。

3.2 支援 在標準服務項目具體載明之支援時間，KLA 應藉由電話、電子郵件或 KLA 之技術支援網站（若有）提供下述服務（「支援」）(i) 回答客戶就問題所為詢問(ii) 如授權支援聯絡人就問題向 KLA 為詳盡說明時，盡商業上合理之努力，利用傳送附加程式、確認解決方案或迂迴辦法或說明改正問題之計畫，改正任何實質影響軟體操作並具再現性之程式設計問題。

3.3 問題之通報、回應、解答及逐步擴大 客戶應依標準服務項目所載明或其他 KLA 合理請求（KLA 將依此指定該問題為嚴重等級），提供改正問題所需資訊以告知 KLA 問題。KLA 保留隨時降低嚴重等級級數之權利(i) 如問題核定為未較原始通報嚴重；(ii) 當 KLA 提供減輕問題影響之解答；(iii) 如 KLA 未能有效提供支援係因客戶未遵循其依據軟體維護條款及 KLA 一般條款之合作責任。如 KLA 於標準服務項目或其他文件具體載明任何回答及解答時間，該回答及解答時間僅係目標。

3.4 其他錯誤 如 KLA 認為客戶所通報之錯誤非由於問題造成，KLA 將對客戶為如下通知，客戶得(i) 以客戶允許之費用（如第 3.4 條進一步載明），指示 KLA 就前述錯誤繼續進行軟體維護服務；或(ii) 告知 KLA 客戶不打算繼續追蹤錯誤，於此情形 KLA 得以自己之判斷，選擇在不因此而負有責任下不追蹤錯誤。如客戶請求 KLA 進行有關錯誤之軟體維護服務，且 KLA 嗣後決定該錯誤非肇因於問題時，任何由 KLA 進行之錯誤確認或改正及修理費用應適用 KLA 當時時間與材料服務條款。

3.5 限制與除外規定 若所需之軟體維護服務係由下述原因造成，KLA 並無義務提供該等軟體維護服務(i) 客戶錯誤之處理、破壞或誤用或非依據 KLA 操作指示之使用軟體；(ii) 使用軟體時與非經 KLA 以書面明確載明適合與軟體共同使用之硬體與軟體一起使用；(iii) 改變客戶環境，該環境係供軟體之所在；(iv) KLA 以外之人之行為；(v) KLA 以外之人所為軟體安裝、維護或修理，惟客戶所為維護係由 KLA 正式書面簽署授權不在此限；(vi) 依 KLA 一般條款所定義之不可抗力情形。KLA 不就下述情形提供軟體維護服務(a) 軟體由 KLA 以外之人所修改，但如該修改係由 KLA 以書面指示或核准且嚴格遵守該書面所定之規格與指示者不在此限；或(b) KLA 依據客戶之要求、

<p>Majeure conditions as defined in KLA's General Terms. KLA shall not be obligated to provide Software Maintenance Services for (a) Software that has been modified by someone other than KLA, unless such modifications were directed or approved by KLA in writing and made in strict conformance with all specifications and instructions provided in such writing; or (b) Software that KLA modified in accordance with Customer's request, specifications, or instructions. KLA shall only be obligated to provide Software Maintenance Services for (y) the most recent version of the Software and (z) for prior versions of the Software for a period of twelve (12) months following the announcement of the retirement of a version of the Software by KLA. KLA shall have no obligation to provide Software Maintenance Services for any other versions of the Software.</p> <p>4. PAYMENT. KLA may invoice Customer quarterly in advance for the performance of Software Maintenance Services at KLA's current standard rates, which are available on request and Customer shall make payment within thirty (30) days of the invoice date and in accordance with the General Terms.</p> <p>5. LIMITED WARRANTY AND DISCLAIMER</p> <p>5.1 <u>Limited Warranty</u>. KLA will perform Software Maintenance Services substantially in accordance with the applicable Standard Services Offering.</p> <p>5.2 <u>Exclusive Remedy</u>. If the Software Maintenance Services fail to conform to the limited warranty set forth in Section 5.1 (Limited Warranty), Customer may terminate Software Maintenance Services in accordance with Section 6.3 (Termination for Cause) if KLA fails to cure a non-conformance within thirty (30) days after receiving Customer's detailed request to cure the non-conformance. Termination shall not affect (i) Customer's obligations to pay for Software Maintenance Services already performed before KLA receives Customer's request to cure; or (ii) any other obligations of Customer under these Software Maintenance Terms. THE REMEDY EXPRESSLY PROVIDED OR REFERENCED IN THIS SECTION 5.2 WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SHALL BE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES CUSTOMER MAY HAVE AGAINST KLA WITH RESPECT TO ANY NON-CONFORMANCE OF SOFTWARE MAINTENANCE SERVICES OR NEW VERSIONS.</p> <p>5.3 <u>Disclaimer</u>. EXCEPT AS SPECIFIED IN SECTION 5.1 (LIMITED WARRANTY), KLA MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY SOFTWARE MAINTENANCE SERVICES OR NEW VERSIONS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, KLA DISCLAIMS ALL IMPLIED WARRANTIES AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. CUSTOMER SHALL HAVE NO WARRANTY CLAIM UNDER SECTION 5.1 (LIMITED WARRANTY), UNLESS KLA RECEIVES CUSTOMER'S WRITTEN REQUEST TO CURE A NON-CONFORMANCE WITHIN THIRTY (30) DAYS AFTER ITS OCCURRENCE.</p> <p>6. TERM AND TERMINATION</p> <p>6.1 <u>Term and Renewals</u>. KLA will provide Software Maintenance Services during the Maintenance Period, which shall not be automatically renewed. If Customer wishes to obtain Software Maintenance Services beyond the initial Maintenance Period or for additional Software, Customer has to submit a new order.</p> <p>6.2 <u>Termination for Convenience</u>. Either party may terminate Software Maintenance Services or exclude individual types of Software from the scope of Software Maintenance Services with ninety (90) days' written notice to the other party.</p> <p>6.3 <u>Termination for Cause</u>. Either party may terminate Software Maintenance Services by written notice, effective immediately, if the other party fails to cure any material breach of these Software Maintenance Terms within thirty (30) days after receiving a written notice from the non-breaching party detailing the alleged material breach.</p> <p>6.4 <u>Automatic Termination</u>. Software Maintenance Services shall be automatically terminated with respect to Software for which the license has expired or was terminated for any reason.</p> <p>6.5 <u>Consequences</u>. Unless KLA validly terminates for cause due to Customer's material breach of these Software Maintenance Terms, Customer shall be entitled to receive a proportionate refund of any prepaid fees applicable to the terminated portion of the Maintenance Period. If</p>	<p>規格或指示修改軟體。KLA 僅須就下述版本提供軟體維護服務(a)軟體之最新版本及(b)KLA 宣告軟體版本停用後之 12 個月期間之軟體先前版本。KLA 並無義務提供其他軟體版本軟體維護服務。</p> <p>4.付款 KLA 得預先就實施軟體維護服務以 KLA 現行費率（可索取）按季開請款單，且客戶應依據一般條款於請款日後 30 日內付款。</p> <p>5.有限保證及免責聲明</p> <p>5.1 <u>有限保證</u> KLA 係依據標準服務項目提供實質軟體維護服務。</p> <p>5.2 <u>唯一之救濟</u> 如軟體維護服務未符合第 5.1 條所定之有限保證（有限保證），且 KLA 未於收到客戶改善不相符之詳盡請求後 30 日內改善，客戶得依據第 6.3 條（有因終止）終止軟體維護服務。終止不影響(i) 客戶支付在 KLA 收到客戶改善請求前已完成之軟體維護服務費用之義務；或 (ii)客戶於軟體維護條款之任何其他義務。本第 5.2 條明確規定或提及之救濟係客戶唯一之救濟，且排除客戶得對抗 KLA 其他關於軟體維護服務或新版不相符之任何權利或救濟。</p> <p>5.3 <u>免責聲明</u> 除於第 5.1 條具體指明者外（有限保證），KLA 不就有關任何軟體維護服務明示聲明或保證。於法律許可範圍內，KLA 否認所有暗示保證或聲明，包括但不限於任何銷售之保證、符合特定目的及不侵權。客戶並無第 5.1 條（有限保證）之保證請求，但 KLA 於不相符發生後 30 日內收到客戶書面改善不相符請求者不在此限。</p> <p>6. 期間與終止</p> <p>6.1 <u>期間與續約</u> KLA 在維護期間內提供軟體維護服務，該維護期間並不自動續約。如客戶欲取得超過首期維護期間結束後或額外軟體之軟體維護服務，應提出新訂單。</p> <p>6.2 <u>任意終止</u> 一方得以 90 天之書面通知他方終止軟體維護服務，或將特定型態軟體排除於軟體維護服務之外。</p> <p>6.3 <u>有因終止</u> 在收到一方主張重大違反之詳盡書面通知後 30 日內，如他方未改善任何重大違反軟體維護服務之情形時，一方得以書面通知他方終止軟體維護服務，該終止並立即生效。</p> <p>6.4 <u>自動終止</u> 軟體之授權期間屆滿或因任何理由終止，軟體維護服務自動終止。</p> <p>6.5 <u>終止後之處理</u> 除 KLA 因客戶重大違反而有效終止軟體維護條款外，客戶有權取回終止後期間與維護期間比例計算之預付費用。如客戶因 KLA 重大違反軟體維護條款而有效終止軟體維護條款，客戶亦有權取得終止前 30</p>
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<p>Customer validly terminates Software Maintenance Services for cause because of KLA's material breach of these Software Maintenance Terms, Customer shall also be entitled to receive a proportionate refund of any fees applicable to the thirty (30) days immediately preceding the termination. Otherwise, Customer shall not be entitled to receive any refunds. Without limiting the foregoing, Customer shall not be entitled to receive a refund of prepaid fees for Software Maintenance Services that are terminated in accordance with Section 6.4 (Automatic Termination). If KLA terminates Software Maintenance Services because of Customer's material breach of these Software Maintenance Terms, Customer shall return to KLA all New Versions, KLA's Confidential Information and other tangibles and intangibles received in connection with Software Maintenance Services, without retaining any copies thereof and all licenses granted to Customer under these Software Maintenance Terms for New Versions shall be automatically revoked.</p> <p>6.6 <u>Survival</u>. Sections 4 (Payment), 5 (Limited Warranty and Disclaimer), and this Section 6 of these Software Maintenance Terms and KLA's General Terms shall survive any termination of these Software Maintenance Terms, provided that Customer's licenses to any New Versions shall only survive so long as Customer continues to fully comply with all provisions of these Software Maintenance Terms and KLA's General Terms. For some Software, New Versions that Customer received under these Software Maintenance Terms are automatically disabled upon termination or expiration of Software Maintenance Services as specified by KLA in the applicable Standard Services Offering or otherwise.</p> <p>7. PREVAILING LANGUAGE</p> <p>The English language version of these Software Maintenance Terms shall be controlling and legally binding in all respects and shall prevail in case of any inconsistencies.</p>	<p>日任何費用之比例償還。否則客戶並無取得費用退還之權利。除上述情形以外，客戶並無權利取得依第 6.4 條（自動終止）終止時軟體維護服務預付費用之償還。如 KLA 因客戶重大違反軟體修服務而終止軟體維護服務，客戶應歸還 KLA 所有新版、KLA 之機密資訊及其他取得關於軟體維護服務之有形物及無形物，並不得保留上開資料之複本，且依據軟體維護條款授予客戶新版之授權應自動廢止。</p> <p>6.6 <u>效力存續</u> 軟體維護條款終止後，軟體維護條款第 4 條（付款）、第 5 條（有限保證與免責聲明）及第 6 條及 KLA 一般條款之效力仍為存續，惟客戶任何新版授權存續係視客戶是否持續完全遵循軟體維護條款及 KLA 一般條款之規定而定。在軟體維護服務終止或屆滿時，若干客戶依軟體維護條款所收受之軟體版本係自動失效（如 KLA 於標準服務項目或其他文件上所明載）。</p> <p>7. 適用語言</p> <p>軟體維護條款英文版規範並合法拘束所有事項，且如有不一致發生時，以英文版為準。</p>
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