DRS DATA SERVICES LIMITED

SOFTWARE SUPPORT AGREEMENT
Terms and Conditions

PARTIES:

(1) **DRS DATA SERVICES LIMITED** whose registered office is at 1 Danbury Court, Linford Wood, Milton Keynes, MK14 6LR (the "Company").

(2) The person, firm or company named in the schedule (as defined below) and acquiring the software and the software support (the "Customer").

RECITAL: The Company has supplied and licensed the software to the Customer and agrees to support the software in accordance with these terms and conditions.

Definitions – In these terms and conditions the following expressions have the following meanings:

the **'Agreement'** means this software support agreement;

the **'schedule'** means the Software Support Agreement Schedule attached to and forming part of this Agreement;

the **'software'** means the software specified in the schedule;

the **'support'** means the support of the software provided to the Customer by the Company;

'licence number' means the unique number given to the software and specified in the schedule;

'logged call' means the Customer's phone call to the software support helpline acknowledged and logged by the Company;

'response time' means the time taken for the Company to verbally respond to a logged call;

'nominated user' means the individual working for the Customer who has successfully completed a DRS-certified training course relevant to the software;

'commencement date' means the date on which the support takes effect as specified in the schedule; and

'software support charge' means the annual charge due from the Customer to the Company for the software support as specified in the schedule.

A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1 SOFTWARE SUPPORT:
1.1 Support:
i) The Company shall provide the first-line software support in respect of the software in accordance with the provisions of these terms and conditions.

ii) The support shall comprise the provision and operation of the software support helpline and remote diagnosis (and where possible correction) of faults of the software so reported together with technical advice and responding to operational queries.

iii) The support will be provided Monday to Friday 9.00am to 5.00pm, excluding public holidays.

iv) If additional on-site support is required by the Customer, it shall be provided at the rate notified by the Company.

v) The Company may from time to time make updates and maintenance releases available to the Customer without charge. Unless the Company otherwise notifies the Customer, such releases must be installed promptly and shall be supported under this Agreement.

vi) At the Company's discretion, non-live releases of the software may be supported at additional cost as notified to the Customer from time to time.

1.2 Response Times:
On receipt of a logged call, the Company will verbally respond to the nominated user. Though any response times stated shall be an estimate only, the Company will use its reasonable endeavours to respond to the Customer's logged calls within those response times.

1.3 Training:
To qualify for support, the Customer must nominate at least one member of staff to undertake a DRS-certified course with respect to the software, and throughout this Agreement shall ensure it retains at least one member of staff so trained in the operation of the software. Failure to retain one appropriately trained staff member may result in additional support charges being levied.

1.4 Support Coverage:
The support will include a reasonable amount of response to general queries, help and assistance with the software to be provided to the nominated user or users calling the software support helpline. If the Company receives repeated requests for support that it reasonably considers is due to inadequate training, the Customer will be notified that further training is advised and the Company reserves the right to levy additional support charges thereafter.

1.5 Logging a Call:
All logged calls should quote the licence number to enable the Company to log the call and provide the support. When making a call, the terms of clause 4.1.5 must be complied with.

2 SOFTWARE SUPPORT CHARGE:
2.1 In consideration of the support, the Customer shall pay the software support charge. Payment shall not be considered made until it is received by the Company as cleared funds.

2.2 The software support charge will be reviewed 60 days before the anniversary of the commencement date. The Customer will be advised in writing 15 days thereafter of the proposed software support charge for the following year. Any increase shall be implemented on the anniversary of the support commencement date.

2.3 The software support charge is exclusive of value added tax which must be paid by the Customer (if applicable) at the appropriate rate.

2.4 The Company reserves the right to charge interest on any overdue sum still unpaid 30 days after the date of the Company's invoice, at 5% above the base lending rate from time to time of Barclays Bank plc.

3 EXCEPTIONS:
3.1 The Company is not responsible for the repair or replacement of any part or sub-part of the software that (in the Company's reasonable opinion) has failed due to Customer misuse or neglect or where it is due to a change to the operating environment undertaken by the Customer contrary to the Company's operating manual or information.

3.2 Should the software be found to be in full working order, the Company reserves the right to charge for its time spent on diagnostic and/or remedial work on a 'time and materials' basis.

3.3 Support shall not include the diagnosis or rectification of any fault resulting from:

3.3.1 improper use of the software;

3.3.2 integration of software with third party products, except with the Company's prior consent;

3.3.3 the use of the software on equipment owned or operated by a third party except with the Company's prior consent;

3.3.4 the failure by the Customer to implement reasonable recommendations as previously advised by the Company;

3.3.5 any material adjustment to the software not undertaken by or on behalf of the Company; or

3.3.6 any defect caused by the effect of computer viruses and/or the failure or fluctuation in the electricity supply and the Company may levy additional charges if required by the Customer to provide support in such circumstances.

3.4 The Company shall have no liability for any losses or damages (whether direct, indirect, immediate or consequential) arising as a result of the operation of this Agreement or of the software including but not limited to special damage, loss of profit, business opportunity or goodwill nor for any loss to or damage of the Customer's data.

3.5 Any repair or replacement of software which results from the effect of an act of God, fire, war, act of violence, or any similar occurrence, or any cause beyond the Company's reasonable control, is also excluded from the terms of the Agreement.

3.6 The cost of any inspection required of the software specified in the schedule prior to the renewal of this Agreement will be charged at the standard rate.

4 CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

4.1.1 keep full security copies of the Customer's programmes, databases and computer records in accordance with best computing practice;

4.1.2 provide such telecommunication facilities as are reasonably required by the Company for testing and diagnostic purposes at the Customer's expense. If the Customer refuses the Company remote access, the Customer will be liable to pay all call out charges incurred;

4.1.3 make available to the Company such programme/s, hardware, operating manuals, testing environment and information as may be necessary to enable the Company to provide the software support. If a testing environment is not available, the Customer shall be wholly responsible for any software failures released to the live environment;

4.1.4 promptly notify the Company if the software is not operating correctly. The Company shall be freed from all obligations to investigate or correct such failure or incorrect working if more than 30 days have elapsed since the failure occurred;

4.1.5 ensure that the nominated user is operating the computer system running the software when calling the software support helpline. The nominated user should also have the software manual at hand with any error message given on the screen documented to assist the Company. Hard copies of error messages may also be requested to be faxed or emailed to the Company; and

4.1.6 promptly notify the Company of any nominated staff changes to ensure compliance with paragraph 1.3 hereof.

4.2 The Customer warrants that it has not relied on any oral representation made by the Company or upon any descriptions, illustrations, or specifications contained in any catalogues and publicity material produced by the Company which are intended only to convey a general idea of the products and services.

5 DURATION AND TERMINATION

5.1 This Agreement shall begin on the commencement date and, subject to payment by the Customer of the software support charge when due, shall continue thereafter unless terminated by either party on serving 30 days' written notice on the other to expire on any anniversary of the support commencement date. In addition, this Agreement may be terminated:

5.1.1 immediately by either party giving notice in writing to the other if the other commits any material breach of any term of the Agreement, and (in the case of breach capable of being remedied) shall have failed within 30 days after the receipt of a request in writing from the other party so to do, to remedy the breach; or

5.1.2 by either party giving notice in writing to the other if the other party, being a company, shall have a receiver or liquidator appointed or shall pass a resolution for winding-up (otherwise than for the purpose of amalgamation or reconstruction) or a court shall make an order to that effect or being a partnership shall be dissolved or being an individual shall commit any act of bankruptcy or shall die or if the other party (whether a company or not) shall enter into any composition or agreement with its creditors or shall become unable to pay its debts, or any event occurs, or proceeding is taken, that has an effect equivalent or similar to any of the events stated above. Any termination of this Agreement howsoever caused shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

5.2 On termination of this Agreement for any reason, the Customer shall immediately pay any and all outstanding unpaid invoices and interest due to the Company.

6 THE COMPANY'S WARRANTIES AND LIMITS OF LIABILITY

6.1 The Company represents and warrants that the support will be performed in accordance with applicable laws and regulations, and with reasonable skill and care.

6.2 No representation or warranty is given by the Company that all faults will be fixed or will be fixed within a specified time period.

6.3 All other warranties, conditions and other terms which might have effect between the parties or be implied or incorporated into this Agreement by statute, common law or otherwise are hereby excluded.

6.4 **The total liability of the Company whether in contract, tort or otherwise in connection with this Agreement shall in no circumstances exceed a sum equal to the software support charge payable by the Customer pursuant to this Agreement in the year in which the liability arises.**

6.5 The exclusions set out in this Agreement shall apply to the fullest extent permissible at law but the Company shall not exclude liability for:

6.5.1 death or personal injury caused by the negligence of its officers, employees, contractors or agents; or

6.5.2 fraud or fraudulent misrepresentation; or

6.5.3 any other liability which cannot be excluded by law.

7 ENTIRE AGREEMENT:
This Agreement supersedes all prior agreements between the parties and constitutes the entire agreement between the parties in relation to its subject matter. No addition or modification to the Agreement shall be binding upon the parties unless made by written instrument signed by a duly authorised representative of each of the parties.

8 ASSIGNMENT:
The Customer shall not assign or otherwise transfer this Agreement or any of its rights and obligations hereunder whether in whole or in part without the prior written consent from the Company.

9 SUB-CONTRACTS:
The Company may sub-contract any of its obligations under this Agreement on notice to the Customer and shall not be relieved from any of its obligations hereunder by entering into any such sub-contract.

10 NOTICES:
All notices which are required to be given shall be in writing and shall be delivered in person or sent by registered post or air mail as appropriate properly posted and fully prepaid in an envelope properly addressed or sent by facsimile transmission to the respective party to the address for each party set out herein. Any such notice shall be in the English language and shall be considered to have been given at the time when actually delivered or sent by facsimile or in any other event within 14 days after it was posted in the manner hereinbefore provided.

11 GOVERNING LAW AND JURISDICTION:
This Agreement shall be governed and construed in accordance with the laws of England and the parties each submit to the exclusive jurisdiction of the English courts.

12 MISCELLANEOUS

12.1 The Customer undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the Company.

12.2 The Customer shall not directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the Company any person employed by the Company in the provision of the support at any time during the term of the Agreement or for a further period of 12 months thereafter.

12.3 No person other than a party to this Agreement shall have any rights to enforce any term of this Agreement.

12.4 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement but all the counterparts shall together constitute the same Agreement.