Software Licence and Support Agreement

By and between

"CACI" **and** **"Client"**

CACI Limited
CACI House
Kensington Village
Avonmore Road
London W14 8TS

Registered in England &
Wales No. 1649776

Commencement Date: the date of signature of this Agreement.

Client acknowledges having read and understood these terms and conditions. The parties agree to abide by the terms and conditions set forth in the following Schedules which are incorporated into this Agreement.

Schedule A	Terms and Conditions
Schedule B	Software, Services and Fees
Schedule C	Support Services
Schedule D	Change Control Procedure
Schedule E	Open Source Software Terms

Agreed on behalf of CACI

By _____

Name _____

Title _____

Date _____

Agreed on behalf of the Client

By _____

Name _____

Title _____

Date _____

1 Definitions

1.1 **Licence Fee** – "Licence Fee" means the sum indicated as such in Schedule B and payable in accordance with Clause 6 below.

1.2 **CACI Software – "**CACI Software" means the software in which the Intellectual Property Rights are owned by CACI including the software specifically developed by CACI for the Client.

1.3 **Client's Service Desk** – "Client's Service Desk" means the designated Client staff responsible for handling front line help calls from within the Client's organisation.

1.4 **Confidential Information – "**Confidential Information" means all information designated as such by either party in writing together with all other information which relates to the business affairs, products, developments, trade secrets, know-how, personnel, customer and suppliers of either party, and all information that, when taking into consideration the circumstances surrounding disclosure of the same, a reasonable person would determine to be of a confidential or proprietary nature. For the avoidance of doubt, the Documentation shall be deemed to be Confidential Information.

1.5 **Consultants** – "Consultants" mean CACI's specialist information systems consultants.

1.6 **Deliverables -** "Deliverables" mean the items listed in Schedule B and all items otherwise delivered pursuant to this Agreement.

1.7 **Documentation** – "Documentation" means the documentation (if any) relating to the Software and provided to the Client by CACI.

1.8 **Equipment** – "Equipment" means the Client's equipment and/or the equipment utilised by a third party providing hosting services direct to the Client and onto which the Software has been installed.

1.9 **Fees** – "Fees" shall mean the Licence Fee, the Annual Support Fee and any other fees as detailed in Schedule B.

1.10 **Annual Support Fee** – "Annual Support Fee" means the sum indicated as such in Schedule B and payable in accordance with Clause 6 below.

1.11 **Intellectual Property Rights –** "Intellectual Property Rights" means patents, trade marks, design rights (where registerable or otherwise), applications for any of these, copyright, Confidential Information, trade or business names and other similar rights or obligations where registerable or not in any country.

1.12 **Project Clarification Document –** "Project Clarification Document" or "PCD" means a document mutually agreed by the parties which summarises the Services and Deliverables to be provided hereunder, and any agreed timescales.

1.13 **Services** – "Services" comprise the advice and work product of the Consultants as described in Schedule B. The Services include, without limitation, the implementation and services detailed herein.

1.14 **Site** – "Site" shall mean the location of the Software as detailed in Schedule B.

1.15 **Software –** "Software" comprises the software supplied by CACI including but not limited to the CACI Software and Third Party Software.

1.16 **Support Services –**"Support Services" means the support and maintenance services detailed in Schedule C.

1.17 **System** – "System" means the Software and the Equipment.

1.18 **Technical Commissioning** - "Technical Commissioning" means delivery of the Software and loading of the Software onto the Equipment such that the Software can be accessed from a remote location.

1.19 **Third Party Software –** "Third Party Software" means the software in which the Intellectual Property Rights are owned by third parties.

2 **Personnel -** CACI will select appropriate Consultants to provide the Services and should any such Consultant cease for any reason to be available, CACI will supply a similarly experienced replacement as soon as reasonably practicable. CACI may withdraw its Consultants for training and vacation as necessary, but it will use all reasonable endeavours to agree any such withdrawal with the Client in advance and, where appropriate, to provide a replacement. CACI may subcontract some or all of the Services to qualified subcontractors (also referred to as "Consultants" in this Agreement).

3 **Performance and Delays**

3.1 Where CACI has indicated the time and/or resources required for a delivery of the Deliverables including any outline programme of work in the PCD, CACI will use its reasonable endeavours to meet the any agreed milestones set out in the PCD.

3.2 The resource commitment and delivery plan in line with the PCD shall apply. CACI will allocate resources to deliver the Services in line with the PCD. In the event of a delay outside of CACI's control that results in the cancellation or postponement of the said allocated resources, CACI will use reasonable endeavours to re-assign the resources to other project work. If it is not reasonably practicable to re-assign such resources CACI reserves the right to invoice the Client for any cancelled/postponed days in whole or part (the said invoice for the cancelled/postponed days shall be in addition to any charges due for the delivery of the Services). Any other material changes to the PCD shall require the parties to agree to a Change Control in accordance with the procedure in Schedule D.

4 **Facilities -** The Client and CACI will work together to ensure that sufficient and suitable facilities are available to meet the PCD. The Client shall provide suitable personnel, facilities, office accommodation, administration, support and services. If CACI is delayed or precluded from starting or continuing to work due to the non-availability the Clients personnel, facilities and/or services or any specific facilities and/or services stipulated in Schedule B, CACI reserves the right to charge for any period of delay**.**

5 **Contractual Relationship -** CACI furnishes its Services as an independent contractor and nothing shall create any association, partnership, joint venture, employer-employee, or agent-principal relationship.

6 **Fees and Expenses**

6.1 The Client agrees to pay to CACI:

6.1.1 The Licence Fee 50% upon receipt of order 50 % upon the date of Technical Commissioning; and

6.1.2 Annual Support Fees in respect of Third Party Software upon the date of Technical Commissioning. Annual Support Fees in respect of CACI Software upon the date thirty (30) days following commencement of User Acceptance Tests (as defined in Clause 10.2 below) or upon the date that the Software is loaded into the live environment, whichever is the soonest and thereafter on the first and each subsequent anniversary of the date of Technical Commissioning during the term of the Agreement. For the second and each succeeding year of the term of the Agreement the Annual Support Fee may be increased by no more than the percentage increase in the RPI published by the Office of National Statistics or any successor Ministry or Department for the calendar month preceding the relevant anniversary date of this Agreement. The Annual Support Fees include the cost of any new release of the CACI Software excluding labour to deliver same, together with the cost of the Support Services.

6.1.3 The fees for the Services monthly in arrears at the daily rates set out in Schedule B. Unless otherwise agreed, these fees are based on a seven (7) hour day worked by one Consultant between the hours of 9.30am and 5.30pm Monday to Friday excluding Bank and Public Holidays. Any additional hours may be charged extra.

6.2 Expenses - Unless otherwise agreed in Schedule B, all charges are exclusive of expenses. All reasonably necessary expenses including subsistence and travel expenses incurred by CACI in the performance of its obligations hereunder will be charged to the Client . Petrol costs shall be charged at the rate defined by HMRC from time to time.

6.3 VAT - All fees and expenses are specified exclusive of Value Added Tax which will be added to invoices at the appropriate rate.

6.4 Invoicing - Fees detailed in Schedule B and associated expenses shall be invoiced and due in accordance with the payment provisions of the Schedule B. Invoices are due payable net within thirty (30) days from date of invoice. CACI may charge interest on amounts overdue from the due date until payment both before and after judgement at the rate of 4% per annum above the base rate of Barclays Bank plc in force from time to time. CACI reserves the right to stop work

in the event of non-payment. If the Client is committed to making a number of payments hereunder, and the Client defaults on any one payment, then all payments still to be made at the date of default shall immediately fall due and owing to CACI at that date.

7 Licence Grant

7.1 In consideration of the payment of the Licence Fee by the Client in accordance with the payment terms set out in Schedule B, the Client shall be entitled to a perpetual, non-exclusive, non-transferable and non-sub licensable licence to use for its own internal functions, any Deliverable, including but without limitation, the Documentation and the Software specially developed by CACI pursuant to this Agreement. However, the Intellectual Property Rights of whatever nature in any Deliverable and in any modifications and copies thereof, shall not become the property of the Client, but shall vest in CACI and/or its third party suppliers.

7.2 Nothing in this Agreement shall be construed to restrain CACI, its employees, agents or subcontractors in the use of the techniques and skills of computer programming and design or in the use of any ideas, concepts, information, or know-how relating to methods or processes of general application which may be acquired in the course of performing this Agreement, or as providing the Client with any rights in any computer programs of CACI or its licensors in which any programs developed hereunder for the Client may be written.

7.3 Where Third Party Software is included as part of the Deliverables, CACI will procure the necessary licences to enable the Client to use the same. Third Party Software will be supplied subject to the applicable third party's licence terms.

7.4 The Client may make one copy of any Deliverable for disaster recovery purposes, another copy for the Client's internal testing, training and development use and a reasonable number of backup copies exclusively for inactive archival purposes only. Except as set forth hereinabove, the Client shall not reproduce the Software, in whole or in part. All titles, trademark symbols, copyright symbols and legends and other proprietary markings incorporated in, marked on, or affixed to any Software must be reproduced by the Client on every copy of all or any part of the Software and shall not be altered, removed or obliterated.

7.5 The Client shall not modify the Software. The Client will not reverse engineer, disassemble or decompile the Software except and in so far as is necessary to achieve inter-operability with another independently created computer program and provided that CACI was asked in writing to provide the information necessary to achieve the interoperability of an independently created computer program with the Software and failed to do so within a reasonable period of time.

7.6 The Client accepts that open-source software may be included as Third Party Software within the Deliverables. Such Third Party Software will be subject to the terms contained at https://www.mozilla.org/MPL/2.0/1 ("Open Source Software Terms"). For the avoidance of doubt, these terms are also included at Schedule E and are incorporated into this Agreement. The Client acknowledges that the Open Source Terms may be subject to modification at any time and without prior notice.

8 Services – During the term of this Agreement and in consideration of payment of the Fees, CACI shall provide the implementation, training and consultancy Services to the Client as more particularly described in Schedule B and the Support Services detailed in Schedule C, subjects always to the provisos and limitations detailed therein.

9 Confidential Information – The receiving party agrees that it shall: (a) use the Confidential Information only to fulfil its obligations pursuant to this Agreement; (b) treat all Confidential Information of the disclosing party as confidential; (c) not, without the express written consent of the disclosing party, disclose the Confidential Information or any part of it to any person except to the receiving party's directors, employees, parent company, agreed subsidiaries or agreed subcontractors, who need access to such Confidential Information for use in connection with the Services and who are bound by similar confidentiality and non-use obligations; and (d) comply as soon as practicable with any written request from the disclosing party to destroy or return any of the disclosing party's Confidential Information (and all copies, summaries and extracts of such Confidential Information) then in the receiving party's power or possession.

10 Acceptance

10.1 Any CACI proposal or quotation not previously accepted by the Client or withdrawn by CACI shall automatically lapse thirty (30) days after its date of issue, unless extended by CACI in writing. The Client shall be deemed to have accepted CACI's proposal or quotation if it permits or agrees to a CACI Consultant commencing work.

10.2 If the Client requires formal objective acceptance tests ("User Acceptance Tests"), they will be agreed as part of the PCD and carried out jointly by CACI and the Client within thirty (30) working days after the date on which CACI hands the Deliverables to the Client for customer testing purposes ("Acceptance Period"). If no claim is made within this Acceptance Period, the Client shall be deemed to have accepted the Deliverables on the date immediately following the end of this Acceptance Period.

10.3 If no formal objective acceptance tests are agreed as part of the Detailed Implementation Plan, the Deliverables shall be deemed to have been duly delivered thirty (30) days after CACI advises the Client in writing that it regards the Deliverables as having been duly delivered, unless a written claim to the contrary is received by CACI within this thirty (30) day period. In the absence of any prior written notification to the Client the Deliverables and Services have been completed the final invoice in respect of the said work shall constitute CACI's notice to the Client that the Deliverables and Services have been provided in accordance with the terms of this Agreement.

10.4 If the Client puts the Deliverables or any part into live use, the Client shall be deemed to have accepted the Deliverables or that part of those Deliverables.

11 Warranties and Liabilities

11.1 Except as herein provided, CACI gives no warranty, express or implied that the Deliverables will be supplied by a stipulated date or as to the suitability for any particular purpose of any of the Services and Deliverables to be provided by CACI.

11.2 CACI does warrant that:

11.2.1 It will use all reasonable endeavours to provide the Services, including any Deliverables, within the Outline and Detailed Implementation Plans agreed between the parties;

11.2.2 The Services will be performed by appropriately experienced, qualified and trained personnel with all reasonable skill, care and diligence;

11.2.3 CACI will discharge its obligations with all reasonable skill, care and diligence including but not limited to good industry practice.

11.3 CACI does not warrant that any Software or the Documentation supplied is free from error. All other express or implied warranties, save for the warranties set out in this Clause 11 are hereby excluded to the fullest extent permitted by law.

11.4 Each party warrants that it has the right to provide any Software, Services or documents it supplies under this Agreement.

11.5 The following provisions set out CACI's entire liability (including any liability for the acts and omissions of its respective employees, agents or sub-contractors) in respect of:

11.5.1 Any breach of its contractual obligations under this Agreement; and

11.5.2 Any representations, statement or tortious act or omission, including negligence, arising under or in connection with this Agreement.

11.6 Any act or omission on the part of CACI or its employees, agents or sub-contractors, falling within sub-clause 11.5 above shall, for the purposes of this Clause 11, be known as an "Event of Default".

11.7 CACI will accept unlimited liability for:

11.7.1 Death or personal injury caused by its proven negligence; and

11.7.2 Fraud committed by CACI.

11.8 Except in the case of any liability on the part of CACI referred to in Clause 11.7 above, CACI's aggregate liability for all Events of Default shall not exceed 125% of the fees paid by the Client pursuant to the Schedule B giving rise to the Event of Default in any one (1) year.

11.9 Subject to Clause 11.7 above, CACI shall not be liable for loss of profits, loss of revenues, loss of anticipated profit, loss of goodwill, loss of use, loss of data, or any type of special, indirect or consequential loss.

11.10 Where the Client is hosting the Software, CACI shall not be liable to the Client for any loss arising out of any failure by the Client to keep full and up-to-date security/back-up copies of the Deliverables in accordance with best computing practice.

11.11 Notwithstanding any other term in this Agreement, CACI shall not be liable for any loss (howsoever arising) of any nature arising out of in connection with the Client's use of the Third Party Software. The Client accepts that its use of the Third Party Software will be subject to the Third Party Terms at Schedule E or any other applicable third party's licence terms.

11.12 The limitations of liability in the Agreement have been considered by both parties in the light of availability of insurance and both parties agree that they are fair and reasonable.

12 Intellectual Property Rights Indemnity

12.1 CACI shall indemnify the Client against all damages awarded against the Client and against direct costs, charges and expenses (but excluding any consequential damages, special damages or loss of profit) incurred by the Client arising from or incurred by reason of any infringement or alleged infringement of copyright in the United Kingdom in consequence of the authorised use or possession of the Software supplied by CACI under licence, subject to the following:

12.2 The Client shall promptly notify CACI in writing of any alleged infringement of which it has notice; and

12.3 The Client must make no admissions without CACI's prior written consent and do nothing which may prejudice CACI's defence of such claim; and

12.4 The Client, at CACI's request and expense, shall allow CACI to conduct any negotiations or litigation and/or settle any claim. The Client shall give CACI all reasonable assistance. The reasonable costs incurred or recovered in such negotiations or settled claim shall be for CACI's account.

12.5 If at any time an allegation of infringement of copyright is made in respect of CACI Software, or if in the reasonable opinion of CACI such allegations are likely to be made, CACI may at its own expense and its sole discretion (i) modify or replace the CACI Software so as to avoid the infringement, without detracting from the overall performance so that materially the same standard as that claimed for the CACI Software is achieved, CACI making good to the Client any loss of use during modification or replacement, or (ii) if such modification or replacement is not commercially feasible, refund to the Client an amount equal to a three year straight line depreciation of the charges paid for the CACI Software.

12.6 CACI shall have no obligations under this Clause 12 with respect to any allegation of infringement of intellectual property rights with respect to the Software to the extent it is based upon (i) the combination, operation or use of the Software with software, hardware or other materials other than as specified by CACI; (ii) use of technology, technological information, designs, plans or specifications furnished by the Client; or (iii) use of the Software for a purpose other than that for which it was designed or contemplated as evidenced by the written documentation agreed between the parties. This Clause 12 states the entire liability of CACI with respect to the infringement of the intellectual property rights of third parties.

13 **CACI's Personnel** – The Client reserves the right to refuse to admit to any of its premises any person employed or engaged by CACI, or by a sub-contractor, whose admission would be, in the opinion of the Client, undesirable.

14 Security

14.1 CACI shall comply with the Client's health, safety and security procedures, communicated to it from time to time. CACI will implement and maintain such security standards and procedures to comply with the Client's security procedures insofar as they apply to the provision of services by CACI.

14.2 Where changes to the Client's security procedures result in a material change in CACI's costs in complying with the modified security procedures, they shall be dealt with in accordance with the Change Control Procedures set out in Schedule D.

15 Data Protection Act 1998 - CACI warrants to the Client that it is registered/notified as the case may be pursuant to the provisions of the Data Protection Act 1998 (the "Act") for all categories of the business it undertakes, including this Agreement. CACI warrants its compliance with the provisions of the Act and undertakes that it will comply with the Act with regards to the processing of personal data (as that term is defined in the Act). The Client warrants in the terms of this clause, mutatis mutandis, to CACI with regards to its compliance with the Act. Each party will fully indemnify the other and hold it harmless in respect of any claim arising out of its failure in its compliance with the Act.

16 Force Majeure - Neither party shall be responsible or liable for any damage, delay or failure in the performance of this Agreement (except failure to pay any sums due and payable at the time of the event giving rise to the Force Majeure) caused by strike, fire, storm, flood, explosion, power failure, war, riot, act of government or of any cause beyond its reasonable control.

17 Waiver - No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Agreement

18 Employment of Personnel - For the duration of this Agreement and a period of 12 months thereafter, if the Client should, without the specific written approval of CACI, employ, whether as employee, agent, or consultant any Relevant Employee of CACI, the Client shall pay to CACI an amount equal to the fees for that employee for a period of 120 days at the most recent fee rate under which that employee performed work for the Client. For this purpose a "Relevant Employee" of CACI means any individual employed by or who acted as Consultant for CACI and who during the 12 month period prior to any such employment by the Client performed any work carried out by CACI for the Client. The provisions of this clause shall, for the avoidance of doubt, not apply to the recruitment of a Relevant Employee who responds to a bona fide public advertisement for a vacancy.

19 Term and Termination

19.1 This Agreement shall commence on the Commencement Date and continue, unless terminated earlier in accordance with the terms set down below, until terminated by either party giving not less than six (6) months' notice in writing to the other, such notice period to expire on the fifth anniversary or any subsequent anniversary of the Commencement Date.

19.2 Without prejudice to its rights either party may give notice to terminate this Agreement forthwith if any payment from the other is overdue, or if the other party is in material breach of any of its obligations, which if remediable has not been remedied within thirty (30) days of receipt of written notice of the breach, or shall become insolvent, have a receiver, manager or administrator appointed of the whole or any part of its assets or business, or make any arrangement or composition with its creditors or if any petition is presented which is not discharged within fourteen (14) days or resolution passed for its winding-up other than for the purpose of reconstruction or amalgamation.

19.3 CACI may terminate the Support Services by giving not less than six months' written notice in the event that CACI determines (acting reasonably) that the CACI Software is at the "end-of-life" and that is no longer commercially and/or technically viable for CACI to provide the Support Services.

19.4 The parties' rights and obligations under Clauses 1, 7, 9, 11, 18 and 27 shall survive termination of this Agreement. Termination of this Agreement shall not limit either party from pursuing any other remedies available to it nor shall termination relieve the Client of its obligations to pay all charges that accrued prior to such termination.

20. Freedom of Information (FOIA)

20.1 CACI acknowledges that the Client may be subject to the requirements of the FOIA and shall assist and cooperate with the Client to enable the Client to comply with its Information disclosure obligations.

20.2 CACI shall and shall procure that any sub-contractors shall transfer to the Client all Requests for Information that CACI receives as soon as practicable and in any event within 2 (two) Working Days of receiving a Request for Information;

(a) provide the Client with a copy of all Information in its possession, or power in the form that the Client requires within 5 (five) Working Days (or such other period as the Client may specify) of the Client requests; and

(b) provide all necessary assistance as reasonably requested by the Client to enable the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA.

20.3 The Client shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether any information identified by CACI is commercially sensitive information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA.

20.4 In no event shall CACI respond directly to a Request for Information unless expressly authorised to do so by the Client.

20.5 CACI acknowledges that (notwithstanding the provisions of clause 20) the Client may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA to disclose information concerning CACI or the Service sin certain circumstances:

(a) without consulting CACI; or

(b) following consultation with CACI and having taken their views into account;

provided always that where clause 20.5(a) applies the Client shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give CACI advanced notice, or failing that, to draw the disclosure to our attention after any such disclosure.

20.6 CACI shall ensure that all Information is retained for disclosure and shall permit the Client to inspect such records as requested from time to time.

20.7 Subject to the Client complying with its obligations under this clause 20, the Client shall not be liable for loss, damage, harm or other detriment suffered by CACI or any sub-contractor arising from the disclosure of any Information, whether or not such Information is Confidential Information, falling within the scope of the FOIA or other relevant legislation.

20.8 CACI shall ensure that the terms of any sub-contract which CACI enters into with a sub-contractor replicate the provisions of this clause 20 such that the Client have the same rights against a sub-contractor as the Client does against CACI under this clause 20.

20.9 The provisions of this clause 20 shall apply during the term of the Agreement and indefinitely after its expiry or termination.

21. Prevention of Corruption and Fraud

21.1 CACI shall not offer or give, or agree to give, to the Client, or any other public body or any person employed by or on behalf of the Client or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or any other contract with the Client or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement or any such contract.

21.2 CACI shall not commit any offence under the Bribery Act 2010 or give any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

21.3 CACI warrant that CACI has not paid commission or agreed to pay commission to the Client or any other public body or any person employed by or on behalf of the Client, or any other public body in connection with the Agreement.

21.4 If CACI, its Personnel or anyone acting on its behalf, (with or without its knowledge) engage in conduct prohibited by clauses 21.1, 21.2 or 21.3, the Client may:

(a) terminate the Agreement and recover from CACI the amount of any direct loss suffered by the Client resulting from the termination, including the cost reasonably incurred by the Client of making other arrangements for the supply of the Services and any additional expenditure incurred by the Client throughout the remainder of the Agreement term; or

(b) recover in full from CACI any other direct loss sustained by the Client in consequence of any breach of those clauses.

21.5 CACI shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by its Personnel and CACI (including our shareholders, members, directors) in connection with the receipt of monies from the Client.

21.6 CACI shall notify the Client immediately if CACI has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

22 **Third Party Rights –** The provisions of the Contracts (Right of Third Parties) Act 1999 are hereby expressly excluded and no third party may make any claim under the terms of this Agreement.

23 **Purchase Orders/Invoices –** In the event of the Client issuing a purchase order or CACI issuing an invoice or either party issuing a memorandum or instrument covering this Agreement, it is specifically agreed that such purchase order or invoice, memorandum or instrument is for the issuing party's internal purposes only and any or all terms and conditions therein whether printed or written shall have no force or effect.

24 **Publicity** – CACI shall not, without the prior written consent of the Client (such consent not to be unreasonably withheld, delayed or conditioned), advertise, or publicly announce that it is providing services to the Client.

25 **Assignment –** Neither party may assign or transfer any of its rights and obligations under this Agreement without the prior written consent of the other party which shall not be unreasonably withheld. Notwithstanding the foregoing, CACI may assign its obligations to another company within the CACI group of companies subject to giving notice of such assignment to the Client.

26 **Entire Agreement -** These conditions supersede any previous understandings, proposals, purchase orders, correspondence, undertakings or other communications, whether written or oral, between the parties relating to the subject matter of this Agreement and constitute the entire understanding between CACI and the Client on all matters contained or referred to herein. However this provision shall not operate to limit or exclude any liability for fraud. No additional term or variation shall be valid unless in writing signed by each party's authorised representatives. Any terms and conditions in the Client's purchase order are explicitly excluded from this Agreement. In the event of there being any inconsistency between this Schedule A and Schedules B, C, D, the terms of Schedule A shall take precedence.

27 **Law and Interpretation-** These conditions shall be governed and construed in accordance with English Law and both parties accept the exclusive jurisdiction of the English Courts. Headings of conditions shall be disregarded and should any provision be held unenforceable or contrary to law, the remaining provisions shall remain in full force and effect.

28 **Notices -** Any notice to be given under the Agreement shall be in writing, faxed to, delivered at or posted to the other party's address or fax number as set out in the Agreement or such other address or fax number as either party may designate by notice to the other. Notice sent by post shall be deemed to be delivered 3 working days after posting.

29 **General -** Headings of clauses herein are for ease of reference only, and shall be disregarded for the purpose of interpretation of this Agreement.

1. Statement of Work:

2. Deliverables:

3. Fees:

Licence Fee:

Annual Support Fees:

4. Consultancy Rates for Additional Services or Time and Materials Services:

Consultant (by type)	Fee Rates
1.	
2.	

These rates are subject to change upon thirty days prior written notice from CACI.

5. Expenses:

Expenses will be charged to the Client in accordance with Clause 6.2 of the Main Agreement.

Schedule C
Support Services

1 Services

1.1 Subject to the Client agreeing to personnel being fully trained in the use of the Software and to having nominated people attending the training courses recommended by CACI and subject to the Client complying with its duties and obligations under this Agreement and in particular as to payment of the Fees and other payments due to CACI shall with effect from the date of live operational use of the Software and for the duration of this Agreement, provide the following Services:

1.2 Upon request by the Client, the diagnosis and rectification of faults in the Software (remotely or by attendance on site, or otherwise, as deemed appropriate by CACI) by the issue of fixes in respect of the Software and the making of all necessary consequential amendments (if any) to the Documentation provided that such fault or other defect in the Software prevents it from processing data on the Equipment in accordance with the specification (such support to be free of charge).

1.3 Minor enhancements to the Software necessary to meet the requirements of future and generic changes in legislation will be included as part of the Services. Legislative changes resulting in a substantial change or industry specific will be subject to negotiation between the parties hereto and are not included in the Services.

1.4 CACI hereby agrees that the Support Services shall be provided by:

1.5 Help desk facilities between 0900 and 1730 hours Monday to Friday (excluding Public Holidays), to provide assistance to aid with operations, correct errors capable of being so done, or to log errors. Such facility shall only be available to the nominated people who have been fully trained as recommended by CACI.

1.6 Correction of critical errors or assistance to overcome problems. CACI may correct errors by 'patch' or by new version giving due regard to the impact on the business of the Client.

1.7 The Client agrees to provide a remote access connection to allow CACI to remotely access the Software for of the purposes of implementation, analysis and remedy. Any other method must be agreed in writing between CACI and the Client and may be subject to additional charges payable by the Client. The Client further acknowledges and accepts that in order for CACI to provide secure enhancements and/or updates to the Software, the server on which the Software is hosted must have access to https://cacixfer.caci.co.uk. In the event the remote access connection provided is, in CACI's reasonable opinion, not acceptable for use, CACI reserves the right to suspend Support Services and place projects on hold and charge the Client accordingly for delays in the rectification of the remote access connection, such charges to be applied in accordance with clause 3.2 of Schedule A.

2. Support Limitation

2.1 The Support Services shall not include the diagnosis and rectification of any fault resulting from:

2.1.1 The improper use, operation or neglect of either the Software or the Equipment.

2.1.2 The modification of the Software or their merger (in whole or in part) with any other software, except where such merger or other linkage is defined in the Client's specification and this has been agreed with CACI in writing.

2.1.3 The failure by the Client to implement reasonable recommendations previously advised by CACI in respect of or solutions to faults. Any such recommendations shall be made, taking due consideration of cost to the Client.

2.1.4 Any repair, adjustment, alteration or modification of the Software by any person other than CACI without CACI's prior written consent.

2.1.5 The use of the Software for a purpose for which they were not designed (including but without limitation a use which varies from that detailed in the Documentation).

2.1.6 Data corruption caused by any reason other than the failure of the Software to operate in accordance with the agreed specification.

2.1.7 Requests by the Client for data amendments, deletions, insertions or changes in any way.

2.1.8 Failure by the Client to take back-ups of data and programmes on a daily basis.

2.1.9 Modifications by the Client to the Equipment or set up thereof.

2.1.10 Where the Client requests or CACI recommends that archiving of data is required.

2.2 The Client acknowledges and accepts that CACI cannot guarantee Support Services for Software that is two versions or more older than the current release.

2.3 CACI shall be entitled to levy additional charges if Support Services are provided in circumstances where any reasonably skilled and competent data processing operator would have judged the Client's request to have been unnecessary and in diagnosing or rectifying any matter described in clauses 2.1.1 to 2.1.10.

2.4 CACI shall levy additional charges in relation to Support Services provided to the Client which shall be levied by CACI monthly in arrears and shall be payable by the Client (together with Value Added Tax thereon) within thirty (30) days of receipt of an invoice.

2.5 For the purposes of this Clause, CACI shall have received a request from the Client if the Client shall have supplied to CACI a detailed description of any fault requiring Services and the circumstances in which it arose. Such details to be given forthwith upon the Client becoming aware of the same and in accordance with the support call procedures issued by CACI and varied from time to time.

3. Client Obligations

3.1 During the continuance of this Agreement the Client shall:

3.1.1 Provide and maintain a fully operative internal Service Desk facility. CACI will only respond to calls received from named representatives;

3.1.2 Allow CACI such access to the Software and any other equipment, machinery, communication facilities and features in so far as they are able to by law as may reasonably be necessary at no charge to CACI in order to perform the Services and its obligations hereunder;

3.1.3 Arrange for a technically qualified member of the Client's staff to be available during the time CACI performs any Support Services;

3.1.4 Where the Software is hosted by the Client, maintain the Software on the Client's computer at any revision levels prescribed by CACI from time to time;

3.1.5 Ensure that any revisions and/or updates supplied by CACI to the Client under this Agreement are installed on the Client's system within ninety (90) days of delivery in accordance with a timetable to be agreed with the Client;

3.1.6 Where the Software is hosted by the Client, maintain a current back up copy of all programs (including the Software) and data used on the Client's system;

3.1.7 Ensure that the Software is used in a proper manner by competent and adequately trained employees only;

3.1.8 Not alter or modify the Software or the Documentation in any way other than with CACI's written approval;

3.1.9 Not use the Documentation in any other format except as provided by CACI; and

3.1.10 Use the Documentation for internal purposes only and in any event only for the purposes of this Agreement. The Client further agrees not to misuse the Documentation (and for the purposes of this Agreement, "misuse" includes, without limitation, disclosing the Documentation to third parties not agreed by CACI, or publishing and/or reproducing the Documentation in the public domain).

4. CACI Service Desk Facility Description

4.1 The Service Desk will provide the service described below between the hours set out in Clause 1.5 above. CACI will maintain a telephone line Web Support System and resources to receive and handle Client incidents. CACI and the Client will agree a shortlist of individuals from whom CACI will receive calls.

4.2 CACI will establish appropriate communications links and operating procedures with the Client. Access to this will be organised by the Client via a VPN facility or other appropriate link as detailed in clause 1.7 above. These links and procedures will be thoroughly tested by both parties during the transition period to ensure smooth operation from the commencement of the Services. The equipment costs associated with establishing and operating all the communications links will be met by the Client.

4.3 The Service Desk will only accept requests for support from the Client via the Web Support system (except in the case of a Showstopper (P0) where, after the request is logged, the Client undertakes to contact the CACI Service Desk by telephone to confirm the status of the logged call). The Client is responsible for systems administration and database administration.

4.4 The Service Desk will arrange for appropriate expert advice to be given to the Client on issues relating to the Software consistent with the timescales and practices specified in the next section. If the fault is in the Third Party Software, CACI will immediately refer the issue to the appropriate supplier for resolution.

4.5 The Service Desk will allocate each incident, in consultation with the Client, a call priority level having consulted if appropriate with the Third Party supplier. If the status subsequently changes from that originally given by the Service Desk, the Client will be informed of the new schedule.

4.6 All Service Desk incidents will be recorded and allocated a unique reference number which will be given to the Client at the time of raising the incident. This reference number will be used to identify the incident through all stages to completion and subsequent reporting. It will be quoted on all verbal and written communication relating to an incident.

4.7 Following the logging and recording of an incident CACI will take "ownership" of each incident and responsibility for the problem management process until successful recovery/resolution of the incident. This will include the following activities:

- Re-assigning problems which cannot be resolved by the Service Desk to the appropriate CACI area or Third Party software supplier.
- Monitoring and chasing progress on all outstanding problems assigned to other responsible areas.
- Searching the problem database at regular intervals and then taking appropriate action.
- Following agreed escalation procedures.
- Closing all incidents with the Client.

4.8 The Service Desk will maintain a complete and accurate record of each incident. CACI will use all reasonable efforts to ensure the completeness of all records and actions associated with each incident reported. Records of all reported incidents will be maintained within the Web Support System.

4.9 The Client will agree with CACI how to report incidents and what information will be provided when logging a request for support to the CACI Service Desk. The Client will document and distribute guidelines to the users. The information to be supplied by the Client to the CACI Service Desk will include (as a minimum):

- User's name
- User's telephone number
- Item identification number
- Details of incident, including screen shots where appropriate
- CACI call reference number (if referring to a current or past incident).

4.10 Incidents which require the support of the Third Party suppliers will be reported by CACI to the appropriate Third Party supplier. CACI will maintain a record of each incident and the follow-on communication with Third Party suppliers.

4.11 If either the Client or CACI's Service Desk are in any doubt as to the authority of a caller then they will endeavour to validate that authority by one or more of the following methods:

- Dialling back
- Cross check with the Service Control Team or Application Owners

- Questioning
- Transfer to supervisor/manager for validation
- Visit and ID confirmation (if practical)

4.12 CACI will always ensure that the Client is informed when the incident on the Service Desk is being closed and it shall only be closed once the fix has been tested and approved by the Client, or when the fix is incorporated into a Release which has been supplied to the Client (if the fault persists the Client will re-open the call).

4.13 Incoming calls from the Client which by-pass the Service Desk fall outside the scope of this Agreement unless such by-pass is due to the fault of CACI, save and except for follow-up calls to a particular technician and diverted calls when the Service Desk is engaged or unmanned.

5. Definitions:

Showstopper (P 0)

A core Application Service Failure which, in the reasonable opinion of the Client, constitutes a loss of the Service which prevents all End Users from working and has no workaround.

Non- exhaustive examples:

This is normally the situation following a serious hardware fault but can be the result of a major software problem or severe data corruption caused by the core Application.

Please note that in the event of a Showstopper CACI require a phone call immediately after a new support case has been logged. Response times will not be recorded until this is received.

Priority 1

A core Application Service Failure which has a major (but not critical) adverse impact on the activities of the Client's End Users and no work around is available.

Non-exhaustive examples:

Corruption of organisational database tables caused by the core Application;
Loss of ability to update Client's Data caused by the core Application.

Priority 2

A core Application Service Failure which, in the reasonable opinion of the Client, has the potential to:

have a major adverse impact on the activities of the Client which can be reduced to a moderate adverse impact due to the availability of a work around;
have a moderate adverse impact on the activities of the Client.

Non-exhaustive examples:

Inability to input data or to access reporting services, caused by the core Application.

Priority 3

A core Application Service Failure which, in the reasonable opinion of the Client has the potential to have a minor adverse impact on the provision of the Service to End Users. Or;

A core Application Service Failure comprising a flaw which is cosmetic and, as such, does not undermine the End User's confidence in the information being displayed.

Non-exhaustive examples:

Spelling error;
Misalignment of data on screen display.

6. CACI Service Desk Service Delivery and Performance

The CACI Service Desk will be the point of measurement of the Services.

7. Service Hours

A fully managed Service Desk will be available during the following hours (excluding Bank and Public holidays) ("Service Hours" or "Working Day"):

Mon-Fri 9.00am to 5.30pm

For all the hours outside the Service Hours an e-mail and Web Support Logging System service will be available to record messages to the Service Desk.

8. Estimated Response Targets

With regard to the initial call from the Client, the CACI Service Desk will offer informed advice for up to 15 minutes relating to the application.

The Service Desk Response Times are on an individual support case basis, measured from the logged date/time of the primary inbound communication from the Client, to the recorded date/time of the primary outbound response communication from CACI. In the case of Priority Level 0 incidents, it is agreed that the Client must telephone the CACI Service Desk and the Target Response Time shall commence from the end of the telephone call.

The following estimated target Service Desk Response Times will apply: Please note that these Target Fix times do NOT apply to requests for Information (INFO calls) or calls classified as Research and Development (RAND calls).

Priority Level	**Target Response (Core Hours)**	**Target Fix Time**
Priority 0	30 minutes	24 hours
Priority 1	4 hours	The next Release or Service Pack date
Priority 2	48 hours	The next Release or Service Pack date
Priority 3	30 days	The next planned Release date

Notes:

The following definitions apply:

Release: A baseline software release incorporating major functional changes

Service Pack: A software release incorporating enhancements and fixes to customer issues. Should the Client not be on a current release such that it renders it difficult for CACI to resolve issues which have been addressed in a later release, CACI reserve the right to only resolve such issues by provision of a release and the labour to deliver same will be chargeable.

In advance of a Service Pack or Full Release, CACI will notify the Client of its planned release date and provisional contents. On the release date, CACI will notify the Client that the Release/Service Pack is available and confirm its contents. At the client's discretion, the Release/Service Pack can be loaded to the Client's TEST environment on a date agreed with CACI. Subject to completion of User Acceptance Testing, the Release/Service Pack can be loaded to the Client's LIVE environment on a date agreed with CACI.

A Service Pack includes all previous Service Packs. A Release includes all previous Releases. All changes in a Release or Service Pack must be taken. Once notification of a new Release or Service Pack has been circulated, it is not possible to take earlier Service Packs.

P1: Before a call is designated a P1 both parties should agree it is as such. Where a P1 resolution is included in the next service pack, but the service pack delivery date is considered to be not appropriate, the Customer Care team will investigate if it is possible/practical to load the change in advance of the next service pack.

If it is technically possible to do so, the impact on the business must be clearly stated on the support call by the Client and the case will be escalated to the Product Release Department for assessment. The Product Release Department will review the request to confirm if it is possible for the software to be made available to the Client early.

If the Product Release Department agree that this can be provided in advance of the service pack, the case is escalated to P0 and the resolution will be provided at an agreed time.

In this scenario, CACI still expects the software to be thoroughly tested in the Client TEST environment before signing off for loading to LIVE.

9. Exclusions

If CACI determines that the cause of a reported incident is a problem with the Client's original interfaces, these target fix times will not apply. If it is agreed that CACI replaces any interface at separate cost and subject to separate agreement, then future calls to the Service Desk relating to a replacement interface will be subject to the target fix time.

All additional support work would be provided in addition to the Services subject to CACI's chargeable work procedures, set out below.

The Client acknowledges and agrees that on older versions of the Software CACI may not be able to add additional functionality in accordance with the terms of this Agreement. Accordingly, the Client accepts that CACI:

(a) may be able to add functionality on a version of the Software that is one version old; and

(b) will use its reasonable endeavours to add functionality on a version of the Software that is two versions old; and

(c) will be under no obligation to add functionality on a version of the Software that is three or more versions old.

10. CACI Service Desk Chargeable Work Procedures

10.1 Introduction

This section describes the procedure that will be used by CACI's Service Desk personnel when dealing with a Client request which does not appear to fall within the support afforded by this Agreement. Such a call will be chargeable and will be subject to the following procedure.

Its objective is to ensure that the Clients and CACI Service Desk personnel are familiar with both the details of the procedure and their individual obligations when it is used.

10.2 The Procedure

This section details the various steps involved in the procedure. Basically, the administration of a chargeable call involves the following stages:-

The initial classification of a call as chargeable.
Agreeing the course of action with the Client concerned.
Monitoring the activity on the call.
Bringing the call to a satisfactory conclusion and presenting costs incurred.

The following sections deal with each of these steps in turn.

10.3 Identifying that a Call is Chargeable

During the life cycle of any call, the Service Desk person responsible for it will attempt to make a decision on the most likely cause of the problem based upon the evidence available. Broadly speaking, the cause will either be within the area covered by the Support Agreement or external to it. If the cause appears to be external, (e.g. problems with the operating system, hardware, user error or misuse, or any network required to operate the system or related Device), the call will be dealt with on a chargeable basis. However, the default position for all calls reported to the Service Desk will be that they shall be considered as emanating from within the areas covered by the existing Agreement until there are reasonable grounds to suspect otherwise.

CACI support work will also be chargeable where the call relates to a request by the Client to change the way in which a currently working process operates. Where the software works in a particular way to achieve a given result but the Client wishes the software to work in an alternative way to achieve the same result, this is not deemed an error in the software. Such changes are deemed by CACI to be Client requested enhancements and as such are chargeable.

10.4 Agreement with the Client Contact

As soon as it appears that a call is to be dealt with on a chargeable basis, the contact at the Client site will be informed by email.

The Client may nominate a cost level that they are prepared to incur. When this level is reached, the Service Desk would seek new authority from the Client to proceed.

10.5 Estimate

Having agreed a course of action with the Client, the Service Desk will issue the Client with an Estimate of cost. The Estimate will show (see Appendix 2):-

- The Client, date, Incident Report (call) number.
- The suspected cause of the problem.
- The time and costs so far incurred.
- Whether the call is complete or not.
- Any new software or services required.

10.8 Nominated Cost Level Reached

Work on the call will stop. The agreement reached at 11.4 will be considered as expired, and a new verbal agreement embarked upon. This will then be documented by a second Estimate issued for the call.

10.9 Call Resolved

When the call has been resolved, or agreement reached with the Client to close the call, all time incurred on the call will be considered and a cost determined. An appropriate invoice will then be issued to the Client.

11. Escalation Procedure

In all matters concerning the reporting and handling of calls, the Service Desk shall act in good faith in assessing and prioritising the calls reported to them. The Service Desk will endeavour to act in a timely manner and to inform Clients of developments at appropriate times. However, should any dispute arise between the Service Desk and the Client concerning any matter regarding any call logged with the desk (including the classification of a call as chargeable), then the matter should be reported by the Client up through the current CACI management structure as follows:-

1) Account Manager
2) Business Unit Director
3) Business Unit VP

Estimate

Client: _____ Date: _____

For the attention of: **_____**

Dear _____,

CACI Service Desk Call Log Number _____

We have recently been investigating the above call. It has come to light that the cause of the problem appears to be due to:-

- ☐ RDBMS
- ☐ Operating system/ other 3rd party software
- ☐ Hardware
- ☐ Error or misuse by user
- ☐ System size adversely affecting response/throughput
- ☐ Other _____

As the root cause of the problem is external to your annual support agreement, all effort expended in investigating, identifying and resolving this call is chargeable.

The time accrued to the call so far is **_____** man hours and therefore the total amount chargeable to date is **£_____.**

- ☐ This call is now complete.
- ☐ We anticipate that further effort will be required to resolve this call
- ☐ We shall now stop work on this call until we receive your written consent to proceed on a chargeable basis.
- ☐ We shall continue to work on this call on a chargeable basis. If you do not wish us to do so, you must inform the Service Desk immediately in writing.
- ☐ As agreed, we shall seek new authority from you as soon as the costs incurred for this call exceed £_____.

Should subsequent investigation show that the root cause was not one of the above and emanated from an area that is covered by your existing support agreement, then no charges will be incurred.

Yours sincerely,

CACI Service Desk

Schedule D
Change Control Procedures

1. Principles

1.1 Where the Client or the CACI, during the term of the Agreement, wish to implement a change or request further services or software, the Client and the Contractor may at any time request such change only in accordance with the Change Control Procedure as set out at paragraph 2 below.

1.2 Neither the Client nor CACI shall unreasonably withhold or delay its agreement to any change.

1.3 Until such time as a change is made in accordance with the Change Control Procedure, CACI shall, unless otherwise agreed in writing by the authorised representatives of both parties, continue to supply the Services as if the request or recommendation had not been made.

1.4 The Client and CACI shall duly consider any proposed change in accordance with the Change Control Procedure specified below.

1.5 Any discussions which may take place between the Client and CACI in connection with a request or recommendation before the authorisation of a resultant change shall be without prejudice to the rights of either party.

1.6 Any work undertaken by CACI, its sub-contractors or agents which has not been authorised in advance in accordance with the provisions of paragraph 1.3 shall be undertaken entirely at the expense and liability of CACI.

2. Procedures

2.1 The Client and CACI shall discuss proposed changes as part of their liaison activities. Such discussion between the Client and CACI, which shall be formally documented, concerning a change shall result in one of the following:

2.1.1 No further action being taken;

2.1.2 A request to change the Services by an authorised representative of the Client; or

2.1.3 A recommendation to change the services by CACI.

2.2 For each written request for change received from the Client, the Client shall prepare a Change Control Request (CCR) within five (5) Working Days of the date of the Client's request or such other period as may be agreed.

2.3 A recommendation to change by CACI shall be submitted as a CCR direct to the Client at the time of such recommendation. If CACI reasonably considers that the recommendation is urgent, then it may mark the CCR as "URGENT". Each CCR shall be materially in the form set out in the Change Request form attached hereto.

2.4 For each CCR submitted the Client shall, within five (5) Working Days of receipt of the CCR:

2.4.1 evaluate the CCR and, as appropriate;

2.4.1.1 request further information;

2.4.1.2 approve the CCR;

2.4.1.3 defer the CCR and require CACI to resubmit the CCR at a later date; or

2.4.1.4 notify CACI of the rejection of the CCR; or

2.4.1.5 arrange for two copies of an approved CCR to be signed by the authorised representatives of the Client and CACI.

2.5 The time scale and priority for the implementation of each change shall be agreed, in writing, between CACI and the Client.

3. Costs of Change Control and Estimating

3.1 CACI shall not be entitled to any charges for the initial time spent in considering the impact assessment of each change, such non chargeable initial time not to exceed one man day's effort on any one change request and in total not to exceed 7 man days effort. Thereafter, CACI shall only be entitled to charge for further considering a change request if it has first provided the Client with an estimate of the likely charges and obtained Client approval for such charges.

3.2 CACI shall produce estimates for all proposed changes as part of the impact analysis of a CCR unless otherwise agreed with the Client in writing.

CACI CHANGE REQUEST

Project Name	**Project Number**
Project Manager	**Contract Number**
Account Manager	**Date**
CCR No	

To be completed by the Client

Change Raised By : Date :

Signature :

Reason for Change
1.

Description of Change
1.

Changes in Contractual Terms
1.

To be completed by the Client and CACI Ltd on agreement of estimate

Client : Name : …… Signature :…… Date :……

CACI : Name : …… Signature :…… Date : ……

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