

EXACT SUPPORT AGREEMENT

Between

SOFTWARE OF EXCELLENCE UK LTD

Medcare South
Bailey Drive
Gillingham Business Park
Gillingham
Kent
ME8 0PZ
UK

AND

1. Parties

- (1) **SOFTWARE OF EXCELLENCE UK LTD**, incorporated and registered in England with company number 02940919 whose registered office is at Medcare South, Bailey Drive, Gillingham Business Park, Gillingham, Kent, ME8 0PZ UK (“**SOE**”)
- (2) , [incorporated and registered in[] with company number [] whose registered office is at[] (the “**Customer**”)

2. Background

- A) SOE has supplied and licensed the Software (defined below) to the Customer under the terms of the Purchase Agreement (defined below).
- B) This Agreement sets out the terms, on which SOE agrees to support the Software installed at the premises of the Customer.

3. Definitions

“ Fee ”	means a monthly support fee payable by the Customer to SOE as set out in the Purchase Agreement and subject to the increases set out in clause [5];
“ Purchase Agreement ”	means an agreement dated/signed historically [] between SOE and the Customer relating to the use and purchase by the Customer of the Software;
“ Software ”	means the EXACT Practice Management System;
“ Support Desk ”	means the SOE software support team reached by dialing 0845 345 5767 or any other number that SOE may use from time to time and noted on its website;
“ Support Hours ”	means the hours of 8:00am to 6.00pm Monday to Friday, excluding Public Holidays. Saturday support between 9am to 1pm. We do not offer digital imaging support on a Saturday.
“ Support Services ”	means (i) the investigation of any software defects or malfunctions that the customer reports and the reasonable endeavor to correct them and (ii) the provision of any updates or upgrades as set forth in clause 6.3.

4. Start Date

The Support Services covered by this Agreement shall commence on the date of installation of the Software.

5. Fees and Payment

- 5.1 The Fee shall be payable [monthly in advance].
- 5.2 The Fee payable shall be increased [by an amount agreed between the parties] if the Customer purchases additional modules or licences from SOE.
- 5.3 SOE has the right to increase the Fee once per annum.
- 5.4 In relation to any increase made under clause [5.3] above, SOE shall give the Customer written notice at least [30] days in advance of the increase in the Fee.

6. Support Services

- 6.1 The Customer is entitled to phone the Support Desk on 0845 345 5767 within the Support Hours and to receive the Support Services detailed in clause [6.2].
- 6.2 Within the Support Hours, SOE shall undertake to;
 - 6.2.1 Promptly investigate defects that the Customer reports and shall use reasonable endeavours to correct them; and
 - 6.2.2 Provide telephone support to assist the Customer in using the Software (The Customer should note that support services should not be considered a replacement for user training).
- 6.3 From time to time SOE will make available to the Customer [free of charge]:
 - 6.3.1 updates to fix defects or enhance the stability of the Software in accordance with SOE's release plan; and
 - 6.3.2 upgrades to the Software.
- 6.4 In order to resolve any identified problems, SOE may, at its sole discretion, make information available to 3rd party software/hardware suppliers where the problem is diagnosed and involves software other than the **EXACT** Software unless supplied by SOE.
- 6.5 SOE shall be entitled to charge the Customer [a reasonable fee] for providing any assistance under clause [6.4] above.

7. Support Service Exclusions

- 7.1 This Agreement specifically excludes SOE from being responsible for:
 - a) Providing support for hardware systems including printers and scanners, networks, operating systems and their additional components, Digital Imaging equipment etc; unless supplied by SOE.
 - b) Providing support for malfunctioning systems caused by theft, fire, natural disaster, intentional/unintentional damage or deletion of files (It is strongly recommended that the Customer has adequate business insurance to cover such events and subsequent costs);
 - c) Supporting systems damaged by a virus regardless of its source. It is the Customer's responsibility to maintain and operate current and comprehensive anti-virus protection;
 - d) Rectifying data corruption problems caused by hardware failure or 3rd party software;
 - e) The installation of 3rd party drivers for x-ray equipment. Prior to the configuration of EXAMINE Pro the device must be tested and working in its native software.

- f) Any changes in DI exposure levels – we can only advise on using the manufacturers recommended exposure levels.
- g) Any PC components found to be the root cause of any software issue.
- h) Configuration changes after installation/setup. This includes but is not limited to changes to:
 - (i) Stationary templates/layouts (PRX's);
 - (ii) Changes to letter/label templates;
 - (iii) Provision or alteration of custom screens;
 - (iv) Reconciliation and/or analysis of reports;
 - (v) Reconciliation and/or analysis of UDA/UOA totals;
- i) The successful restoration of backups;
- j) Rectifying problems as a result of deficient or non-current back-up;
- k) On-site support;
- l) Re-configuration, de-installation or re-installation of the Software as a result of the following:
 - (i) Modifications to the Customer's local area network;
 - (ii) Changes to the operating system or hardware platform;
 - (iii) Moving of premises;
 - (iv) Any malfunction in hardware;
- m) Ongoing training of the Customer's staff other than initial training at the time of installation;
- n) Providing enhancements to the Software pursuant to clause [6.2]. Enhancements are not considered defects and will go through SOE's product development processes to determine viability for new version or upgrade inclusion;
- o) Performing any work outside of Support Hours; or
- p) The resubmission of claims containing incorrect information. It is the responsibility of the Customer to ensure that all NHS contract information is entered correctly into the Software.
- q) Any financial loss incurred by the failure of the customer to follow best practice with regards the transmission and reconciliation of NHS EDI claims. Best practice includes ensuring that the customer:
 - (i) Logs into the NHS portal, on at least a monthly basis, to ensure EDI claims and/or UDA's/UOA's are being received and allocated correctly for all relevant performers/dentists.
 - (ii) The monthly checking of paper schedules to ensure all transmissions are being received by the dental board.
 - (iii) The monthly reconciliation of electronic/and or paper schedules to ensure all transmissions are being received by the dental board.
 - (iv) Checking, on at least a monthly basis, the EDI claimed and confirmed totals within **EXACT** and raising any discrepancies immediately with the **EXACT** support team and or the dental board.
 - (v) Checking, on a weekly basis, the EDI responses within **EXACT** to ensure any issues are dealt with promptly.
 - (vi) Ensuring that all disputed claims, or claims that have failed to be sent for any reason, are dealt with before the 2 months submission rule deadline by the practice.
 - (vii) Transmits electronically on a daily or weekly basis and checks that the transmission is successful.
 - (viii) Follows best practice as detailed above even if transmissions are set up as a scheduled event within the software.

7.2 SOE may, at its sole discretion, agree to provide support for any of the items stated above in clause [7.1] but shall be entitled to charge the Customer for that support at SOE's standard rates and charges, plus travel and accommodation if applicable.

7.3 Where requests from the Customer indicate the need for tuition, tuition will be offered at a mutually agreed time and billed at the prevailing charge rate.

8. Digital Imaging Equipment

8.1 All digital imaging equipment is sold with a return to manufacturer warranty.

8.2 In relation to any equipment that is defective under the manufacturer's warranty, SOE shall during the warranty period arrange for the return of the equipment to the manufacturer and shall use its reasonable endeavours to provide a loan of alternative equipment.

9. The Customer's Obligations

9.1 The Customer shall make available personnel and provide information, facilities, services and equipment to SOE as and when necessary so that SOE can fulfil its obligations under this Agreement.

9.2 Specifically, the Customer shall:

- a) Implement back-up and virus-checking systems in accordance with prudent industry practice and any directions that SOE issue;
- b) Promptly notify SOE of any error message or problem with the Software.

9.3 The Customer shall provide SOE with an internet connection to the Customer's practice computers, so that SOE can remotely access the Customer's Software using SOE's Bomgar™ remote connection tool and/or via a secure N3 connection..

9.4 SOE may use the remote access referred to in clause [9.3] to assist with the installation of updates and upgrades, to check the performance of the Software and remedy any faults found, or to audit the Customer's use of the Software.

9.5 SOE does not accept any liability for damage to data, the Software or other systems as a result of remote access. The Customer agrees to implement security, backup and disaster recovery procedures to protect against damage as a result of remote access.

9.6 The customer should regularly access the SOE portal and upgrade themselves to the most recent version of the software as appropriate.

10. Term and Termination

10.1 This Agreement is effective until terminated by either party with 30 days prior written notice.

10.2 If this Agreement is terminated all fees to the date of termination shall be payable.

10.3 SOE reserves the right to terminate this Agreement at any time without notice in the event of aggressive/abusive behavior towards any SOE staff member.

10.4 For the avoidance of doubt, once this Agreement has been terminated, the Customer shall not be entitled to:

10.4.1 Receive any support from SOE or the Support Desk; or

10.4.2 Receive any new releases of software free of charge.

11. Support Reinstatement

- 11.1 If this Agreement is terminated or otherwise lapses, SOE may, at its sole discretion, reinstate the support services to the Customer on the same conditions set out in this Agreement provided that the further following conditions are met:
- 11.1.1 An extra fee is paid by the Customer to SOE. The fee will be dependent on the number of software licences installed at the premises of the Customer; and
 - 11.1.2 The Customer shall pay for 12 months support charges in advance on the date of commencement of support.

12. Changes to this Agreement

- 12.1 SOE reserves the right to make changes to this Agreement at any time and shall make the updated terms available to the Customer on the SOE website (www.softwareofexcellence.com) as soon as reasonably practicable.
- 12.2 The current version of this Agreement can be obtained at any time from the SOE website.

13. Liability

- 13.1 SOE shall not be liable for any claims of consequential loss or damage, included but not limited to any loss of profit, loss of business opportunity or loss of goodwill, even though it may arise through the provision of any services, included but not limited to the Support |Services, under this Agreement or using the Software or any hardware supplied under the Purchase Agreement.
- 13.2 The maximum aggregate liability of SOE shall be limited to the total Fee paid by the Customer under this Agreement in the year that the liability arises.
- 13.3 The exclusions in clause 13.1 and clause 13.2 shall apply to the fullest extent permissible at law but SOE does not exclude liability for:
- (a) Death or personal injury
 - (b) Fraud or fraudulent misrepresentation
 - (c) Any other liability which may not be excluded by law.

14. Governing Law and Jurisdiction

This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and submitted to the exclusive jurisdiction of the English courts.

SOFTWARE OF EXCELLENCE UK LTD

_____ [Customer]

By: _____
Name: _____
Date: _____

By: _____
Name: _____
Date: _____