

# SOFTWARE RELIANCE PROGRAM TERMS

## 1. Services

**1.1 Designated System Manager.** As a condition to OS/soft's performance of the Software Reliance Program, Licensee must designate one or more "System Manager(s)" as the individual(s) responsible for maintaining the integrity of the hardware and software of the system of which the OS/soft Products are a part (the "System"). Licensee is responsible for maintaining individual(s) trained as System Manager(s). Licensee personnel may qualify as a System Manager by attending OS/soft's annual Users Conference and the system management training sessions held in connection with the Users Conference.

**1.2 Software Reliance Program.** For so long as Licensee pays OS/soft's applicable Software Reliance Program fees, OS/soft will provide Licensee with the following Software Reliance Program:

**(a) Telephone Assistance.** OS/soft will provide the System Manager with the telephone number for the designated OS/soft Phone Support. The System Manager will be entitled to contact the OS/soft Telephone Consulting Office 7 days a week, 24 hours a day (except for ProcessPoint for which such support will be available business days 9am to 6pm Eastern Time) to ask questions or seek advice regarding the use of the OS/soft Products. OS/soft will assist the System Manager in using the OS/soft Products and in identifying and providing workarounds, if possible, for problems with the OS/soft Products. Such assistance may include computer communications to Licensee's facilities. OS/soft will use its best efforts to return all calls for support within four (4) hours (for ProcessPoint response times only apply during support hour(s)).

**(b) Product Suggestions.** Licensee may submit product suggestions to OS/soft identifying desired improvements in the OS/soft Products. OS/soft retains the right to determine the final disposition of all such suggestions and Licensee recognizes that OS/soft is free to use such suggestions in any manner. If OS/soft decides in its sole judgment to incorporate any such suggestion, it will do so by providing Licensee with an Update, as described in subsection (d) below.

**(c) Bug Fixes.** OS/soft will use reasonable efforts to provide Licensee with an avoidance procedure for and a correction of each material defect in the OS/soft Products that cause the OS/soft Products not to conform in all material respects with the OS/soft Documentation (a "Bug Fix").

**(d) Software Updates.** As OS/soft develops permanent solutions for known OS/soft Products problems, OS/soft will, from time to time, incorporate such solutions

into planned updates to the OS/soft Products, as applicable, ("Updates"). Such Updates may also include those minor enhancements and extensions or other changes to the OS/soft Products as are determined by OS/soft to be suitable to the uses made of the OS/soft Products by OS/soft's licensees and are made available by OS/soft to its other licensees without additional charge. OS/soft will provide Licensee's whose Software Reliance Program fees are current with such Updates as they are released. OS/soft will provide Licensee with such instructions and/or documentation that OS/soft considers reasonably necessary to assist in a smooth transition to use of such Updates. In the event OS/soft decides in its discretion to update the appropriate software reference manual or to issue release notes or other documentation corresponding to Updates, OS/soft will provide one copy of the same to Licensee at no charge as they become available.

**(e) Interface Exchanges.** Licensee may exchange one standard interface for another if the only difference between the two interfaces is the operating system with which the interface is compatible. These exchanges will be processed free of any licensing fees. For example, Fisher Chip on VMS may be exchanged for Fisher Chip on NT, for no license fee. OS/soft will have the right to charge any shipping, handling, tariffs or other OS/soft costs related to delivering any replacement interface.

**1.3 Remote Support Service.** Remote Support Service for OS/soft Products involve the use of remote data links from OS/soft to Licensee's System to render the services to Licensee described in Section 1.2 above. OS/soft will maintain compatible equipment or emulators to be able to remotely operate on Licensee's System. In order to receive Remote Support Service for OS/soft Products, Licensee must meet the following prerequisites:

**(a)** Licensee must have an OS/soft-approved modem or other approved connection to the System, which, at a minimum, will accept reports, messages, and file transfers and a separate telephone line for simultaneous voice communication located with the System.

**(b)** Licensee's System must be available to OS/soft when required, and OS/soft must have a logon, password, and sufficient priority to access the System when needed.

### 1.4 On-Site Assistance.

**(a)** In the event that OS/soft is unable to resolve a problem with the OS/soft Products through telephone assistance pursuant to Section 1.2(a) above or through

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Remote Support Services pursuant to Section 1.3 above, the System Manager may request OSISOFT to provide on-site assistance. After verifying the need for on-site assistance, including without limitation that Licensee has complied with the terms of Section 1.3(a), OSISOFT will use its best efforts, subject to the reasonable availability of its personnel, to commence travel for such on-site assistance within one business day for travel of less than 1000 miles from OSISOFT's facilities, and within two business days otherwise. OSISOFT will render on-site assistance to Licensee until resolution of the problems identified or for so long as reasonable progress is, in OSISOFT's judgment, being made. OSISOFT may suspend the performance of on-site assistance as required to obtain additional resources, but will resume such assistance when such resources become available.

**(b)** OSISOFT's obligation with respect to on-site assistance is limited to isolating, identifying, and reporting problems associated with OSISOFT Products. If problems are isolated to OSISOFT Products, OSISOFT will provide Licensee with Bug Fixes, as available. As an interim solution, until a Bug Fix is available, OSISOFT will use reasonable efforts to assist Licensee in finding an avoidance procedure, if possible, which allows use of the System. Licensee has sole responsibility and liability for implementation of OSISOFT's recommended interim solution.

**(c)** OSISOFT will invoice and Licensee will pay OSISOFT's out of pocket expenses incurred in providing on-site assistance. If on-site assistance is necessary because Licensee has failed to allow OSISOFT to provide Remote Support Service, then OSISOFT will invoice and Licensee will pay for the time spent by OSISOFT personnel in connection with providing such on-site assistance, in accordance with OSISOFT's then-current custom software services rates. The origin of any problems associated with the OSISOFT Products will not effect any amounts invoiced for on-site services, even if such problems are caused by Nonqualified Products (as defined below).

## 1.5 Renewal of Subscription

Licensee's Software Reliance Program subscription shall remain in effect unless Licensee notifies OSISOFT of its intent to cancel Software Reliance Program at least 30 days prior to expiration of the then current term. Terms of Licensee's current Software Reliance Program subscription may be found at [www.osisoft.com](http://www.osisoft.com).

## 2. Conditions to Software Reliance Program

All Software Reliance Program Support Services to be rendered by OSISOFT hereunder are subject to the following conditions:

**2.1 Nonqualified Products.** OSISOFT shall have no obligations or responsibilities of any kind hereunder with respect to any hardware or software product other than the OSISOFT Products ("Nonqualified Products"). If the performance by OSISOFT of Support Services is made more difficult or impaired because of Nonqualified Products, OSISOFT shall so notify Licensee, and Licensee will immediately remove the Nonqualified Product at its own risk and expense during any efforts to render Support Services under this Agreement. Licensee shall be solely responsible for the compatibility and functioning of Nonqualified Products with the OSISOFT Products or the OSISOFT Remote Application.

**2.2 System Versions.** All Licensee System hardware and software must be maintained at the revision level deemed necessary by OSISOFT for proper operation of the OSISOFT Products.

**2.3 Backup Procedures.** Licensee is solely responsible for maintaining a procedure external to the OSISOFT Products for reconstruction of lost or altered files, data, or programs to the extent deemed necessary by Licensee and for actually reconstructing any lost or altered files, data or programs.

**2.4 Operator Procedures.** Licensee shall at all times follow routine operator procedures as specified in OSISOFT operating manuals or other operating manuals for the OSISOFT Products.

**2.5 Licensee Representative.** A designated representative of Licensee shall be present at all times OSISOFT is performing Support Services on Licensee's premises or the premises of Licensee's Client. OSISOFT personnel will not enter or remain at Licensee's premises or the premises of Licensee's Client in the absence of such Licensee representative.

**2.6 Isolation.** Licensee is solely responsible for ensuring that the System is isolated from any process links or anything else that could cause harm before requesting or receiving Remote Support Service or on-site assistance.

