



MSA-Template

for

CLIENT

Template Version : 7.10

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1. Introduction

- 1.1 This Master Services Agreement (“MSA”) is the contract used to govern the business, transactions and agreements between Peacock Engineering Ltd (“PEL”) and CLIENT.
- 1.2 This MSA has been created to benefit and protect both parties as it governs any and all future business between PEL and CLIENT. The intentions of the tone and style behind this MSA are those of clarity and simplicity.
- 1.3 The primary intention behind this MSA is that future transactions or agreements between PEL and CLIENT can be negotiated quickly because the over-arching terms of the MSA can be relied on and referred to and do not need to be repetitively negotiated, leaving only specific deal-related terms needing to be negotiated.
- 1.4 This MSA will detail generic contractual elements such as payment terms, product warranties, dispute resolution, liability and governing law etc, leaving only details such as pricing and schedules of charges to be set out and agreed in the Statement of Works documents for each project or transactional piece of work which will be agreed and countersigned under the umbrella of (and in conjunction with) this MSA.
- 1.5 This MSA is split into five sections for ease of use. The primary sections relate to:
 - 1.5.1 Overall Agreement terms: generic contractual elements which relate to the entirety of the business to be contracted between the parties and which apply to all of the following specific areas of the MSA in whole
 - 1.5.2 Software terms: specific contractual elements relating to the sale and renewal of software products from PEL to Client,
 - 1.5.3 Consulting Services terms: specific contractual elements relating to the provision of consultancy services undertaken by PEL for Client,
 - 1.5.4 Support terms: specific contractual elements relating to all or any system or client support agreements or undertakings between PEL and Client,
 - 1.5.5 Managed Service terms: specific contractual elements relating to the provision of Managed Services to Client by PEL, which include such services as Software As A Service and system Hosting Services.

2. Definitions

2.1 In this Master Services Agreement between PEL and Client, the following definitions will apply.

Acceptable Use Policy	Means PEL's acceptable use policy in respect of its Managed Services, as notified to the Client and as PEL may update it from time to time in accordance with its terms.
BAU	Means Business As Usual, being that which is customary and practised within business in the usual manner, especially with regard to ongoing Live and Production system support.
Charges	Means the charges and fees set out in the Proposal for the Services and such other charges and fees as may be agreed in writing between the Parties from time to time.
Client	The relevant Peacock Engineering Ltd Customer
Consultant	Means resource either employed or subcontracted by Peacock Engineering Ltd required to perform Services.
Deliverables	Means tangible copies of such reports, analyses, handbooks, recommendations and/or custom software provided to Client by PEL in connection with the provision of Professional and Managed Services.
Effective Date	Means the date of the start of this agreement which will be the date this agreement is counter-signed.
Expenses	Means Travel, Subsistence and Accommodation expenditure incurred as a consequence of undertaking the Services.
Foreground Information	Means all information generated in the course of or arising from the performance of the agreement, excluding residual information such as new skills, know-how and knowledge.
Good Industry Practise	Means the degree of skill and care which it is reasonable to expect of a services provider of professional and managed services similar to the services provided.
Grant of License	Means definition of a) the mode of use, b) the platform on which the software may be used, c) the quantification of usage limits and d) the purpose for which it may be used, when relating to the license appertaining to a software product.
Information	Means information whether written or oral or in any form, including but not limited to documentation, specifications, reports, data, notes,

	drawings, samples, computer outputs and inventions whether patentable or not.
Managed Services	Means the managed services to be provided to the Client by PEL, as set out in the MSA
MSA	Master Services Agreement (this agreement)
Office Hours	Means during 08h00 and 18h00 Monday to Friday, excluding public holidays in England and Wales;
Parties	Means Peacock Engineering Ltd and Client.
Professional Services	Means consultancy services provided to the client to provide deliverables or ongoing support.
Service Level	Means the metric for measuring the performance of the Managed Services as set out in the SLA
Services	Means the Services described in the Proposal as may be amended by agreement between the parties in writing, and such services as may be listed in a Specification or Statement of Work.
Specification	Means a written description of tasks as agreed from time to time between the Parties which shall be attached to and form part of this agreement.
Statement of Work	Means a written statement of tasks to be undertaken as agreed between the parties.
Time and Materials	Means a type of contract whereby a contractor is paid on the basis of actual price of direct labour, usually at specified hourly rates.
Users	Means the number of Client resources (users) granted access to use the software Product through means of the Client either owning through purchase or granted use of through lease from PEL the required and sufficient number of licenses to facilitate such access.

3. Overall Agreement Terms

It is hereby agreed, as follows:

3.1 Peacock Engineering's Undertaking

3.1.1 Upon execution of this Agreement by the Parties and in consideration of Client agreeing to pay the relevant Charges and Expenses specified in any associated proposal or Statement of Work, PEL undertakes to provide the Services during Office Hours from the date hereof subject to the terms of this Agreement.

3.1.2 Unless otherwise expressly stated on the Schedule(s) or any contract or agreement governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement), PEL Software shall not be included in the Charges.

3.2 Warranties

3.2.1 PEL warrants that it shall exercise reasonable skill and care in the performance of its obligations hereunder and subject to the foregoing, all conditions, warranties, terms and undertakings, express or implied, statutory or otherwise in respect of the performance by PEL of its obligations hereunder are hereby excluded to the fullest extent permitted by law.

3.3 Limitation of Liabilities

3.3.1 Except for claims for bodily injury or death to the extent caused by wilful intent or gross negligence of PEL, its employees, agents or sub-contractors, the total liability of PEL under this Agreement and other associated services shall, regardless of the form of action, not exceed the amount paid by Customer to PEL for the pertaining Services, with a maximum of one million (£1,000,000). In no event shall PEL be liable for lost profits, lost data, business interruptions, special or consequential damages, or indirect or incidental damages, however caused, for any claim against Customer by any third party.

3.4 Required Consents and Indemnities

3.4.1 Client shall be responsible for promptly obtaining and providing to PEL all Required Consents necessary for PEL to access, use and/or modify software, hardware, firmware and other products used by Client for which PEL shall provide Services hereunder. A Required Consent means any consent or approval required to give PEL and PEL subcontractors the right or licence to access, use and/or modify (including creating derivative works of) your or a third party's software, hardware, firmware and other products used by you without infringing the ownership or licence rights (including patent and copyright) of the providers or owners of such products.

3.4.2 Client agrees to indemnify, defend and hold PEL harmless from and against any and all claims, losses, liabilities and damages (including reasonable attorneys' fees and costs) arising from or in connection with any claims (including patent and copyright infringement) made against PEL alleged to have occurred as a result of Client's failure to provide any Required Consents.

3.4.3 PEL shall be relieved of the performance of any obligations that may be affected by Client's failure to promptly provide any Required Consents to PEL.

3.5 Suspension of Services

3.5.1 PEL may suspend all or part of any Managed Service without liability to the Client if:

3.5.1.1 PEL believes that the Managed Services have, are or will be used in breach of the Agreement (including Client non-compliance with the hosted system Acceptable Use Policy);

3.5.1.2 Client does not co-operate with PEL's investigation of any suspected breach of the Agreement.

3.5.1.3 PEL reasonably believes that the Client has permitted the Managed Services to be accessed or manipulated by a third party without its consent;

3.5.1.4 Any fee or other amount due under any contract or agreement governed under the umbrella terms of the Agreement (and included in the MSA as a referenced contract or agreement) is overdue relating to its agreed payment terms, or is at risk of non-payment in the opinion of PEL; or

3.5.1.5 PEL is required to do so by law or a regulatory or government body.

3.5.2 PEL will give Client advance notice of a suspension of Managed Services of at least seventy-two (72) hours, unless PEL determines in its reasonable commercial judgement that a suspension on shorter or even immediate notice is necessary to protect PEL or its other Clients from any imminent and significant, operational, legal or security risk.

3.5.3 If PEL suspends any element of the Managed Services pursuant to clauses 3.5.1.1, 3.5.1.2 or 3.5.1.3 above, then Client must assess any vulnerabilities which may exist or any works which would be required to restore the Managed Service to its previous state and method of operation when reinstated. PEL could undertake such assessments for the Client if required which would be chargeable consultancy subject to the prevailing consultancy services rates. Any works to an environment required for the reinstatement of the suspended Managed Services which may result from the assessment (such as data loading) would also be chargeable consultancy subject to the current consultancy services rates detailed in the Agreement.

3.6 Termination/Cancellation of Agreement

- 3.6.1 This Agreement will be effective from the date countersigned by PEL and Client. This Agreement may be terminated:
- 3.6.1.1 Forthwith by PEL if Customer fails to pay any sum due within thirty (30) days of written notice by PEL to Customer of Customers' failure to pay in accordance with the Agreement; or
 - 3.6.1.2 Forthwith by either party if the other commits any breach of any term of this Agreement (other than falling within clause 3.6.1.1 above) and which (in the case of a breach capable of being remedied) shall not have been remedied within thirty (30) days of a written request to remedy the same; or
 - 3.6.1.3 Forthwith by either party if the other enters into liquidation whether compulsory or voluntarily otherwise than for the purpose of amalgamation or reconstruction without insolvency or compound or make any arrangement with creditors or have a receiver or manager appointed in respect of any or any part of its assets or be the subject of any application for an administration order; or
 - 3.6.1.4 By either party upon giving the other thirty (30) days' prior written notice; or
 - 3.6.1.5 By either party in the event of change of control/ownership of the other party, meaning the sale, transfer or change of the majority ownership or sale of all or substantially all of the assets of other party.
- 3.6.2 In the event PEL has provided software and/or related products under this Agreement, Customer shall certify in writing to PEL, within fifteen (15) days after termination of this Agreement, that all copies and parts thereof of the products and documentation, have been destroyed or returned to PEL.
- 3.6.3 Termination of Agreement by Client before expiry of agreed contractual term will be subject to cancellation fees to recover costs on PEL's part expended by PEL at the outset of the Agreement. See Section 5.5 in Section 5 ('Consulting Services Terms') for cancellation fees relating to the termination/cancellation by Client of consulting services (implementation and services delivery projects), and Section 7.11 in Section 7 ('Contract Cancellation/Termination of Managed Services Agreements') for cancellation of fees relating to the termination/cancellation by Client of Managed Services (including hosting and SaaS agreements).
- 3.7 Exit Assistance and Return of Customer Data
- 3.7.1 Reasonably promptly following expiry or termination of the Agreement for any reason, PEL will provide the Client with one electronic copy of the Client system data, in the format it is then in and on an 'as-is' basis. Thereafter, subject to clause 3.7.2, PEL may delete the data at its discretion.
 - 3.7.2 If requested to do so by Client, upon expiry or termination of the Agreement (for any reason other than 3.6.1.1 or 3.6.1.2 above) PEL will use reasonable endeavours to continue to provide such of the Managed Services as Client may require for up to thirty (30) days following such termination or expiry as to allow Client to transition to a replacement supplier, providing that Client agrees to pay fees for such a Managed Services provision extension at the rates communicated to Client by PEL upon request for such extension of terminated services for such a period.

3.7.3 If applicable, and upon request from Client; on expiry or termination of the Agreement, PEL shall sell, and the Client shall buy, any hardware or physical equipment forming part of the Managed Services provision for net book value, calculated in accordance with PEL's reasonable then-current depreciation policy. If such transaction is requested by Client, and upon payment of PEL's non-negotiable pricing for same based on the criteria above, then title for such hardware or physical equipment shall pass to Client from PEL.

3.8 Non-Solicitation

3.8.1 Each of the parties hereby undertake to the other that during the currency of this Agreement and for the period of twelve (12) months following upon its termination (howsoever and by whomsoever occasioned) and/or expiry, not directly or by its agent or otherwise and whether for itself or for the benefit of any other person, induce or endeavour to induce any officer or employee of the other to leave that others employment.

3.8.2 The Parties accept that breach of clause 3.8.1 may cause substantial loss and damage to the party not in default. Accordingly, the Parties agree that in the event of either party being in default of this clause the party in default shall on demand pay the party not in default such sum as shall equal one (1) years gross salary of the officer or employee concerned.

3.8.3 Nothing in clause 3.8 of this Agreement is intended to prohibit a Party from considering an application from and employing any such person who responds to a recruitment advertisement published generally and the publication of such advertisement is not an inducement for the purposes of this clause.

3.9 Severability

3.9.1 In the event that any part of this Agreement is declared invalid or unenforceable by the judgement or decree by consent or otherwise of a court or other tribunal of competent jurisdiction from whose decision no appeal is or can be taken, the parties hereto shall endeavour to agree such amendment as will as far as possible validly give effect to their intentions as expressed herein.

3.10 Dispute Resolution

3.10.1 If a dispute arises out of or in connection with this Agreement or any contract or agreement governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement under Addendum A), then parties shall follow the procedure set out in this clause:

3.10.2 Either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, PEL and Client shall attempt in good faith to resolve the dispute.

3.10.3 If PEL and Client are for any reason unable to resolve the dispute within 30 days of the date which the Dispute Notice was served by one Party on the other, then it shall be accepted by both Parties that the dispute was unable to be resolved amicably through direct negotiation between the Parties, and Parties shall agree to submit such unresolved disputes to the competent court in the city where PEL's registered office is situated.

3.11 Intellectual Property and Data Rights

3.11.1 In consideration of the fees paid by Client to PEL under any contract or agreement governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement), Client shall own the Deliverables as may be delivered by PEL within the scope of this Agreement. As between Client and PEL, PEL shall own all right, title and interest, including copyrights or other intellectual property rights, in and to any and all ideas, concepts, expertise, programs, systems, methodologies, data or other materials embodied in, underlying or reduced to practice in said tangible Deliverables.

3.11.2 PEL hereby grants to the Client and its direct and indirect holding companies and subsidiaries (each as defined in the Companies Act 2006 (as amended)) an irrevocable, royalty-free, non-exclusive, non-transferrable licence to use such PEL Intellectual Property for the purposes their business. Such license shall survive the expiry and/or termination of this Agreement.

3.11.3 PEL acknowledges that it acquires no right, title or interest by virtue of its performance under this Agreement:

3.11.3.1 In the intellectual property rights to any software provided by Client in furtherance of the Agreement; or

3.11.3.2 In any pre-existing intellectual property of Client incorporated into the Deliverable.

3.11.4 In performing and provisioning any Services under this Agreement, PEL agrees to comply with all applicable law and so far as PEL is granted access to the Customer's computer equipment (including any software) whether by remote connection or otherwise, the reasonable instructions and security requirements of the Client

3.12 Security, Data Protection and Data Privacy

3.12.1 Each Party warrants that, in respect of all personal data (as defined in the Data Protection Act 2018 as may be amended or replaced from time to time) provided or disclosed to it by the other Party, it has appropriate technical and organisational measures in place against unauthorised or unlawful processing of such personal data and against accidental loss or destruction of, or damage to, such personal data held or processed by it and that it has taken reasonable steps to ensure the reliability of any of its staff who have access to personal data processed in connection with this Agreement.

3.12.2 A Party to whom personal data is provided or disclosed by the other Party:

3.12.2.1 Will only process that personal data in accordance with the instructions of that other Party;

3.12.2.2 Will not do anything with any of the personal data (including processing it) other than in accordance with instructions given by the other Party.

3.12.3 Security Breach: In order to facilitate that both PEL and Client have the ability to identify, address and contain any risks stemming from any actual, alleged or potential unauthorized use, disclosure, compromise or theft of Client data in accordance with the services provided under this agreement;

3.12.4 PEL provide a consistent internal process for identifying, reporting, investigating and closing information security incidents, which involves clear guidelines for PEL staff to report to management if they become aware of any action which indicates that there has been or may be an information security incident, and;

3.12.5 PEL mandates (as part of such internal process) that an officer of Client must be contacted and informed as soon as reasonably practical in the event of any actual or imminent disclosure of Client data.

3.13 Data Privacy: Click Software and Location-Based Data

3.13.1 Part of the services under this agreement may involve the use of cloud-based scheduling and routing software provided by ClickSoftware Technologies Ltd (namely 'Click Field Service Edge (CFSE)'), which may utilise location-based data sourced from technologies such as GPS signals, WIFI access points and cell tower IDs. If applicable, Client should also refer to the ClickSoftware Cloud Service Privacy Policy at Appendix A: ClickSoftware Technologies Ltd Cloud Service Policies.

3.14 EU General Data Protection Regulations 2016/679 Compliance

- 3.14.1 To comply with the EU General Data Protection Regulations 2016/679, PEL as an organisation shall:
 - 3.14.1.1 Comply with all applicable Data Protection Laws in the Processing of Company Personal Data;
 - 3.14.1.2 Attain and maintain ISO27001:2013 certification;
 - 3.14.1.3 Appoint partner-level responsibility and accountability for the organisations' overall Information Security policy;
 - 3.14.1.4 Ensure all employees', sub-contractors and relevant company affiliates (including external service providers to PEL) acknowledge understanding of the overall Information Security policy and adhere to the terms, conditions and processes therein;
 - 3.14.1.5 Ensure all operational risks regarding data protection are reviewed at regular periodic intervals under a formal process;
 - 3.14.1.6 Employ physical security access controls and physical barriers to unauthorised personnel on all organisational premises and offices;
 - 3.14.1.7 Employ a clear desk policy with regards to all technology, laptops, computers and mobile devices as part of the overall Information Security policy;
 - 3.14.1.8 Own and maintain an information asset register;
 - 3.14.1.9 Undertake to inform any Clients of any cyber-security incidents affecting their data with immediate effect, in connection with a pre-determined information security incident handling process;
 - 3.14.1.10 Ensure logical and physical separation of Client data between individual Clients by utilisation of individual datastores per Client;
 - 3.14.1.11 Never under any circumstances share or sell data with/to any third party

3.15 Confidentiality, Advertising and Publicity

- 3.15.1 Consent: Upon written consent of the other party, Client and PEL may each use the other party's name, trademarks, logos and/or tradenames in their advertising. Such written consent shall not be unreasonably withheld. All representations of the foregoing shall be reviewed within a reasonable time, and if acceptable, approved by the other party prior to dissemination.
- 3.15.2 Notwithstanding the foregoing, the parties hereby consent to the following:
 - 3.15.2.1 Either party may use the trademarks, logos and tradenames of the other party on its web page, and
 - 3.15.2.2 PEL may make incidental use or mention of Client's association with PEL.
 - 3.15.2.3 Each party acknowledges the other party's exclusive ownership of, or right to use, its own trademarks, logos and tradenames and agrees not to dilute the other party's rights in its own trademarks.
 - 3.15.2.4 Use of Trademark: Client and PEL agree to clearly display an acknowledgment of the other party's ownership of its trademarks, logos and tradenames.
 - 3.15.2.5 Marketing: Upon the execution of this agreement and upon written approval received from Client, PEL shall have the right to issue a press release announcing the existence of this agreement and any other relevant information. Both parties have the right to issue any press release needed to comply with any governmental or securities law. Client agrees to engage in various marketing activities with PEL related to this agreement. These marketing activities shall include press releases, case studies and/or speaking engagements.

3.16 Business Continuity

- 3.16.1 Backup and restore, and disaster recovery services are included as an element of Managed Services contracts provided by PEL to Client under this Agreement. PEL will perform such services as are set out in 0
- 3.16.2 Hosted Environment Maintenance Works of this Agreement to the appropriate and pre-defined Service Level and in accordance with Good Industry Practise. However, Client acknowledges that:
- 3.16.3 PEL is not in a position to develop, evaluate or test Client's wider business continuity or disaster recovery arrangements or policies and can only provide such backup and recovery services as form part of the Managed Services. Therefore, it is Client's responsibility to understand and assess PEL's backup and recovery services forming part of the Agreement against any or all of their own business continuity or disaster recovery arrangements or policies; and
- 3.16.4 PEL is not in a position to verify the accuracy, completeness or integrity of Client's data, and can only backup the Client data as of its then current state. Therefore, PEL will not be liable if any Client data backed up or restored by PEL under the Agreement is inaccurate, incomplete or corrupted, providing that the restore and corresponding backup job completed without error.

3.17 Assignment and Sub-Contractors

- 3.17.1 PEL reserves the right to sub-contract, assign or otherwise deal with any of its obligations under this Agreement provided that PEL shall notify Customer of such action.

- 3.17.2 Such sub-contracting Consultant shall not be entitled to participate in any life insurance, pension, medical or other benefit schemes available to the employees engaged in Client's business.
- 3.17.3 Client shall not be liable for the death or injury of the sub-contracting Consultant or for loss or damage to his/her property while performing any services under the MSA or any contract or agreement governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement) except to the extent that such death, injury, loss or damage is caused by the negligence of Client or its agents or employees.
- 3.17.4 PEL shall be responsible for all Income Tax, Social Security contributions and all fringe benefits, pension and insurance when working for Client under the terms of this Agreement and acknowledges that no master/servant relationship is created between Client and such sub-contracting Consultant by this Agreement.

3.18 Force Majeure

3.18.1 Neither Party shall be liable for any delay in performing any of its obligations or for failure to perform its obligations (other than the payment of PEL charges) under this Agreement if such delay or failure is caused by or results from circumstances beyond the reasonable control of the Party, including, without limitation, acts of God, strikes, governmental act, fire, war, explosion, accident, industrial dispute, impossibility of obtaining materials, computer breakdown or bankruptcy of any supplier so delaying or any other such circumstances beyond the Parties' reasonable control and such Party shall be entitled (subject to giving the other Party full particulars of the circumstances in question and to using its best endeavours to resume full performance without avoidable delay) to a reasonable extension of time for the performance of such obligations.

3.19 Anti-Bribery and Corruption

3.19.1 In this Section the following terms have the following meanings:

3.19.1.1 "Adequate Procedures" means adequate procedures, as referred to in section 7(2) of the Bribery Act 2010, which are sufficient to amount to a defence to an offence under section 7(1) of that Act, taking into consideration any guidance issued by the Secretary of State under section 9 of that Act;

3.19.1.2 "Associated Person" means an associated person in accordance with section 8 of the Bribery Act 2010 which is, in brief, in relation to a Party, a person (including an employee, agent or subsidiary) who performs services for or on behalf of that Party.

3.19.2 Each Party undertakes to the other that:

3.19.2.1 It will not, and will procure that any Associated Person will not, in the course of the operation of the Agreement, engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010;

3.19.2.2 It has, and will maintain in place, Adequate Procedures designed to prevent any Associated Person from undertaking any activity, practice or conduct that would give rise to an offence under section 7 of the Bribery Act 2010;

3.19.2.3 It will comply with the provisions of its own anti-bribery and anti-corruption policy as may be in place from time to time so far as applicable to this Agreement;

3.19.2.4 It will provide such information as is reasonably requested by the other Party to evidence compliance with this Section from time to time.

3.20 Modern Slavery Act 2015

3.20.1 In this Section the following terms have the following meanings:

3.20.1.1 "Connected Person" means in relation to a Party, a person (including an employee, agent, subsidiary undertaking or subcontractor) who performs services for or on behalf of and/or supplies goods to that Party (but excluding the other Party to this Agreement); and

3.20.1.2 "Modern Slavery" means slavery, servitude and forced or compulsory labour as defined in section 1 of the Modern Slavery Act 2015 and human trafficking as defined in section 2 of the Modern Slavery Act 2015.

3.20.2 Each Party undertakes to the other that:

- 3.20.2.1 It implements reasonable due diligence and other procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no Modern Slavery in its supply chains;
- 3.20.2.2 It shall notify the other Party as soon as it becomes aware of any actual or suspected Modern Slavery in a supply chain which has a connection with this Agreement;
- 3.20.2.3 It shall provide such information as is reasonably requested by the other Party to evidence compliance with this Section;
- 3.20.2.4 Neither it nor, so far as it is aware, any Connected Person has been convicted of any offence involving Modern Slavery; and;
- 3.20.2.5 Having made reasonable enquiries, so far as it is aware, neither the Supplier, any Connected Person nor any of its subcontractors or suppliers has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with Modern Slavery.

3.21 No Waiver

- 3.21.1 No relaxation, forbearance delay or indulgence by either party in enforcing any of the terms and conditions of this Agreement or the granting of time by either party to the other shall prejudice affect or restrict the rights and powers of that said party hereunder nor shall any waiver by either party of any breach hereof operate as a waiver of any subsequent or any continuing breach hereof.

3.22 Third Party Rights

- 3.22.1 Nothing in this Agreement will confer any rights on any third parties.

3.23 Insurance

- 3.23.1 Each Party shall at all times maintain appropriate policies of insurances with a reputable insurance company to cover their risks and liabilities under this Agreement (such policies to include but not be limited to public liability insurance in an amount of not less than GBP £2,000,000 for any event unless the parties agree otherwise in writing).

3.24 Clause Headings

- 3.24.1 Clause headings are inserted in this Agreement for ease of reference only and do not form part of this Agreement for the purposes of interpretation.
- 3.24.2 The singular shall include the plural and the plural the singular except where the context otherwise requires.
- 3.24.3 Any notice or other document given by either Party to the other under this Agreement shall be in writing. Such notice will be deemed served if delivered personally or sent by registered mail or recorded delivery to the other at the last known address of the other Party and shall be deemed to have been given two working days after the date of posting or in the case of personal delivery on the date of delivery.

3.24.4 No amendment or other variation to this Agreement shall be effective unless it is in writing, is dated, and is signed by or on behalf of each of the Parties.

3.25 Entire Agreement and Supersession of Other Terms

3.25.1 The provisions of this Agreement, as in effect from time to time by its terms constitute the entire agreement between the Parties and supersedes all communications, negotiations, representations and agreements (whether written or oral) of the Parties with respect thereto made prior to the date of this Agreement. Any terms contained in Client's purchase orders, invoices, acknowledgements or other forms that are inconsistent with or different from the terms of this Agreement shall be void and of no effect.

3.26 Governing Law and Jurisdiction

3.26.1 This Agreement will be governed by the laws of England and the parties agree to submit disputes that cannot be settled amicably, to the jurisdiction of the competent court in the city where PEL's registered office is situated.

4. Software Terms: Perpetual Software Licensing

- 4.1 Software License Agreement: Perpetual Software License
 - 4.1.1 Grant of License: Upon payment of fees established in the Agreement or any contract or agreement governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement under Addendum A), and pursuant to the terms and conditions of this Agreement, PEL grants Client a perpetual (subject to termination as provided herein), non-exclusive, non-transferable license to use the Product for its internal business purposes in accordance with the Application description and limited to the number of Users referenced, itemized and detailed in all or any contract/s or agreement/s governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement under Addendum A) which relate to the number of Users sold or leased by PEL to Client for each individual, specific or explicit Product type.
 - 4.1.2 Copies: Client, solely to enable it to use the Product, may make one archival copy and a limited number of additional copies for internal purposes, provided that the copy shall include PEL's copyright and other proprietary notices and that the Client implements and maintains a system to monitor and track the location and use of these copies. The Product delivered by PEL to Client and the archival copy shall be stored at Client's Site. Client shall have no right to copy, in whole or in part, the Product. Any copy of the Product made by the Client is the exclusive property of PEL.
 - 4.1.3 Restrictions: Client shall not modify, enhance, translate, reverse engineer, decompile, disassemble, transfer, lease, sublicense, assign or sell the Product or create derivative works based upon the Product, or otherwise attempt to derive source code from the Product, and no rights with respect to Product source code are granted. The Products may include third party software components, which shall be used by Client solely in conjunction with the Products and shall not be used for any other propose without the prior written consent of PEL. Breach of this provision shall automatically void the license(s) granted herein.
 - 4.1.4 Material Terms and Conditions: Client specifically agrees that each of the terms and conditions of this Section are material and that failure of Client to comply with these terms and conditions shall constitute sufficient cause for PEL to terminate this Agreement and the licenses granted herein. The presence of this subsection shall not be relevant in determining the materiality of any other provision or breach of this Agreement by either party.
- 4.2 Intellectual Property Rights
 - 4.2.1 Product Ownership: Client acknowledges and agrees that the Product, including any patches, workarounds, updates, upgrades, enhancements and modifications thereto provided to Client, and all trade secret, copyright, patent, trademark, trade name and other intellectual and proprietary rights therein, are and at all times shall remain the sole and exclusive property of PEL, and shall be subject to the terms and conditions of this Agreement.

4.2.2 Trademark Removal: Client shall not remove any copyright, trademark or other proprietary rights notices of PEL on any Product.

4.3 Warranties

4.3.1 Power and Authority: Each Party warrants to the other Party that it has sufficient right and authority to enter into this Agreement, and to grant the rights and assume all of their respective rights and obligations set forth herein.

4.3.2 Product: PEL warrants that the Product shall perform substantially in accordance with the applicable technical documentation published and provided by PEL to Client for thirty (30) days after the date of delivery. In the event that Client notifies PEL in writing specifying in reasonable detail how the Product fails to meet such warranty, PEL shall use reasonable commercial efforts to repair or replace the Product at no additional charge. PEL shall not be liable to the extent any defect or error in the Product is caused, or contributed to, by: (a) improper installation of the Product; or (b) use of the Product contrary to the applicable technical documentation.

4.3.3 Media: PEL warrants that the media on which the Product shall be provided under normal use shall be free from defects in materials and workmanship for a period of thirty (30) days after delivery and if the media is found to be defective, PEL shall repair or replace such defective media at no charge.

4.3.4 No other Warranties: the foregoing warranty of PEL is in lieu of all other warranties, express or implied, written or oral, including without limitation, any warranty of merchantability, non-infringement, or fitness for a particular purpose. PEL specifically disclaims any warranty that the product shall operate uninterrupted or error free.

4.4 Intellectual Property Infringement

4.4.1 Indemnity: PEL shall indemnify and defend Client, at its sole expense, against all liability and expenses, including reasonable attorney fees and costs, in any judgment arising from a claim that the Product infringes upon a duly issued patent, copyright or trade secret of a third party Worldwide, provided that Client notifies PEL in writing of such action. (i) If all or any part of a Product is or in the opinion of PEL may become the subject of any claim or suit for infringement of any Intellectual Property Right, or (ii) in the event of any adjudication that a Product or any part thereof does infringe, or (iii) if Client's use of a Product or any part thereof is enjoined, PEL, at its option and expense, shall either:

- 4.4.1.1 Procure for Client the right to continue using said Product; or
- 4.4.1.2 Replace same with an equivalent non-infringing product, and extend this indemnity thereto; or
- 4.4.1.3 Modify the infringing Product to make it non-infringing; or
- 4.4.1.4 Remove the infringing portion of the Product.
- 4.4.1.5 If in PEL's opinion none of these options is available to PEL on reasonable economic terms, then the applicable Product Order or this Agreement may be terminated at the option of either Party hereto without further obligation or liability on the part of either Party hereto.

- 4.4.2 Defence Against Action: PEL shall have the right to control the defence and/or settlement of such action and Client shall provide reasonable assistance to PEL in its defence thereof. Notwithstanding the foregoing, PEL shall have no obligation toward Client for any claim arising from the foregoing infringement indemnity if any Product or deliverables (i) have been modified by a party other than PEL; (ii) used in combination with other items where such infringement would not have occurred but for such use in combination with such other items; or (iii) from failure of Client to use an updated Product provided by PEL to avoid such an infringement claim.
- 4.4.3 Disclaimer: the foregoing states the entire liability of PEL and the sole remedy of client, for infringement of any copyright, patent, trade secret or other intellectual property right with respect to any product or services furnished hereunder.
- 4.5 Limitation of Liability
- 4.5.1 Subject to the provisions of clause 4.5.3, in no event shall PEL or its affiliates and/or third party licensors be liable to Client for any reason, whether arising out of breach of express or implied warranty or term or condition, breach of contract, misrepresentation, negligence, tort or otherwise, for any direct loss or damages arising out of use of the product or the support services or otherwise, in the aggregate, in excess of the following:
- 4.5.1.1 With respect to the use of the Product - amounts received for the specific Product giving rise to such liability during the twelve (12) month period preceding the date on which the claim arose, or
- 4.5.1.2 With respect to support services - the annual fee actually received for the support services during the year in which the claim arose.
- 4.5.2 Subject to the provisions of clause 4.5.3, under no circumstances will PEL or its affiliates and/or third-party licensors be liable for any of the following, whether arising out of breach of express or implied warranty or term or condition, breach of contract, misrepresentation, negligence, tort or otherwise, whether foreseeable or unforeseeable:
- 4.5.2.1 Indirect loss or damages,
- 4.5.2.2 Consequential loss or damages,
- 4.5.2.3 Punitive damages,
- 4.5.2.4 Special damages,
- 4.5.2.5 Loss of data,
- 4.5.2.6 Loss of goodwill,
- 4.5.2.7 Loss of profits,
- 4.5.2.8 Loss of use of money or use of the products,
- 4.5.2.9 Interruption in use or availability of data, stoppage of other work or impairment of other assets.

4.5.3 The exclusions in clauses 4.5.1 and 4.5.2 shall apply to the fullest extent permissible at law, but company does not exclude any liability for death or personal injury caused by its negligence, or for fraud or fraudulent misrepresentation.

4.6 Payments and Charges Relating to Perpetual Software Sales

4.6.1 Payment terms on all software licensing sales invoices is immediate.

4.6.2 If applicable, an order will only be placed with an onwards software vendor by PEL once payment is received from Client.

5. Consulting Services Terms

- 5.1 Statements of Work
 - 5.1.1 Relation and Role of a Statement of Works to this Master Services Agreement: This MSA will detail generic contractual elements such as payment terms, product warranties, dispute resolution, liability and governing law etc, leaving only details such as pricing and schedule of annual charges to be set out and agreed in the relevant accompanying Statement of Work or Proposal to this MSA.
 - 5.1.2 Each statement of work or proposal will detail within it deviations, if any, to this agreed MSA.
 - 5.1.3 Time and Materials Basis Model for Services Delivery: All contracts and agreements governed under the umbrella terms of the MSA (listed in the Addendum A of this document) will provide Services on a Time and Materials basis. On such basis, Client agrees to pay for the time spent for PEL's consultants to provide the Services works, and for any materials required in order to provide the Services.
 - 5.1.4 Fixed-price Services delivery and implementation projects (where required and suitable) would be undertaken by PEL as projects separate to any MSA, with separate and different terms.
 - 5.1.5 Training: The Statement of Works documents governed under the umbrella terms of the MSA (listed in the Addendum A of this document) will clearly state whether a training plan is included or built-in to the costings and the Specification of the contract or agreement to provide the Services, or otherwise.
 - 5.1.6 If training is included within the Specification of the implementation delivery for the Services, then such plan will provide details of the nature of the training to be provided (classroom-led or via web), how much training time is included within the Specification, and which subjects are to be included with a syllabus and the production of candidate training materials.
 - 5.1.7 Go-Live Support: The contract or agreement governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement) will clearly state whether a period of go-live support (also known as 'hypercare') is included or built-in to the costings and the Specification of the contract or agreement to provide the Services, or otherwise.
 - 5.1.8 If a period of focused go-live support is included within the contract or agreement to provide the Services, then PEL will provide suitable resources for that pre-determined period which may include allocated support time for the same consultants that delivered the Services works in the implementation delivery, and a heightened or focused response which may include direct input from the project manager involved.

- 5.1.9 At the end of the pre-determined period of focused go-live support (if applicable), ongoing support is then transitioned across to PEL's Support team and will be undertaken from that point onwards as BAU support under the terms of support provision and its scope within this MSA.
- 5.1.10 Warranty on Services Works: All PEL Services works are warranted for a period of ninety (90) days from the date of the latest promotion to Client's UAT, or thirty (30) days from the date of promotion to Client's live business Production environment, whichever is earliest.
- 5.1.11 The warranty on Services works offered by PEL to Client within the warranty period provides cover, rework and re-deployment at no cost to Client for the following elements:
- 5.1.11.1 Software bugs (error, flaw, failure or fault which causes an incorrect or unexpected result or causes the software to behave in unintended ways) in delivered software authored by PEL, acknowledged and confirmed as such by PEL after investigation (and comparison against Specification), and reproducible in accordance with defined reproduction steps.
- 5.1.11.2 Failures to deliver agreed functional requirements against Specification of Services, acknowledged and confirmed as such by PEL after investigation and comparison to documented Specification or Statement/s of Work/s.
- 5.1.12 If such factors are identified and acknowledged by PEL within the warranty period, then PEL will, at its own cost, resolve such bugs or shortcomings, and re-deploy any necessary code changes through successive environments, deploy again into Client's UAT environment for Client re-certification, then deploy into Client's live business Production environment.
- 5.1.13 Software bugs (error, flaw, failure or fault which causes an incorrect or unexpected result or causes the software to behave in unintended ways) in delivered software not authored by PEL, (i.e.) core product code, operating system code, database system code etc) are not warranted by PEL and the impact of such code errors upon a contracted delivery or service will require funding via the agreed Change Control process.
- 5.2 Clients' Obligations Relating to Consulting Services
- 5.2.1 To assist PEL in the provision of the Services, Client shall at its own expense make available when required:
- 5.2.1.1 Access to Client's computer equipment including any software;
- 5.2.1.2 Reasonable working space and facilities; appropriate local and wide area network access.
- 5.2.1.3 If requested by PEL, a nominated individual, responsible for operation of Client's computer equipment;
- 5.2.1.4 If requested by PEL, remote connection via network connection or one on-line port and ADSL/VPN to the computer equipment upon which any software is running;
- 5.2.1.5 Such information relating to Client's business as PEL shall reasonably require to fulfil PEL's obligations hereunder.
- 5.2.2 Failure by Client to provide any such assistance may prohibit effective action by PEL and render PEL unable to perform the Services and in such circumstances PEL shall have no liability to perform its obligations under this Agreement to the extent that performance is prohibited by such failure of Client.
- 5.3 Consulting Services Team Qualifications

- 5.3.1 PEL's consultancy Services team is comprised of highly-experienced consultant personnel with many years of EAM and mobility solution delivery and experience. PEL's personnel hold the relevant level of certifications with our partner companies to allow us to implement solutions based on their products. Client can request from PEL at any time during the provision of Services (or before such at tendering, RFI or bidding stage) information regarding the qualifications or experience of the consultant staff involved in the provision or potential provision of Services to Client.
- 5.4 Background Checks and Security Clearances for Consulting Services Team
- 5.4.1 In the event that any Statement of Work or proposal governed under the umbrella terms of the MSA (listed in the Addendum A of this document) requires security vetting, the undertaking of background check procedures, or the attainment of specific security level certification clearances for the named PEL consultants to be involved in the provision of the consulting Services, then:
- 5.4.2 PEL will require Client to provide financial sponsorship (in full, unless otherwise agreed within the contract or agreement governed under the umbrella terms of the MSA (listed in the Addendum A of this document) in order to attain such clearances or to undertake all or any required background checks or vetting procedures, if such clearances or checks are provided or supplied by a third party and carry a cost; or
- 5.4.3 PEL will require Client to provide such vetting, checks, attainment of security clearance, or provision of required training course or induction attendance as required free of charge to PEL, if such processes or required attainments are provided internally within Client's business and are not provided or supplied by a third party. PEL consultant attendance to any such training or induction events as required will be charged to Client as per the Table of Consultancy/Billable Support Rates in the relevant Statement of Work or Proposal.
- 5.5 Termination/Cancellation of Consulting Services (Time and Materials Basis for Implementation Services Projects)
- 5.5.1 Services undertaken as per the Statement of Works governed under the umbrella terms of the MSA (listed in the Addendum A of this document) will be charged on a Time and Materials basis. Such services will end upon the earlier of:
- 5.5.1.1 The Specification for such services being met; or
- 5.5.1.2 PEL having provided the estimate total hours set out in the Specification for such services.
- 5.5.2 If PEL determine either:
- 5.5.2.1 That the Services will not be completed by the end date; or
- 5.5.2.2 That it will be necessary to exceed the hours for such Services, then:
- 5.5.2.3 PEL will notify Client as soon as practical. Client may then terminate the Services (paying only for the effort expended by PEL up to that time) or authorise PEL to continue on the same charging basis as before.

5.5.3 In the event that PEL has not fully satisfied the Specification and either the:

5.5.3.1 End date has been reached; and/or

5.5.3.2 The estimate total hours has been expended by PEL, then:

5.5.3.3 Client may authorise PEL (in writing) to continue providing Services at the applicable charging rate hereunder, in order to meet the Specification.

5.5.4 In the event that Client chooses to cancel/terminate the contracted implementation/delivery services prior to the agreed commencement date for such services works, then PEL reserve the right to recover from Client the services revenue as planned and forecast by the project plan in place at the date of termination, to a maximum of thirty (30) days forwards from date of termination.

5.5.5 In the event that Client chooses to cancel/terminate the contracted implementation/delivery services once these have already been initiated, PEL reserve the right to apply the following rules of cancellation:

Notice of Cancellation of services	Cancellation Fees
>30 Days	No Cancellation Fee
>15 Days and <30 Days	50% of the Value of the Planned Services Cancelled
>10 Days and <15 Days	75% of the Value of the Planned Services Cancelled
<10 Days	100% of the Value of the Planned Services Cancelled

5.6 Payments and Charges Relating to Consulting Services

5.6.1 PEL shall levy the Charges (by the submission of invoices in accordance with clause 5.6.2 below) in respect of the Services monthly in arrears.

5.6.2 Each invoice shall contain the elements as specified within the Schedule(s) of the Statement of Work governed under the umbrella terms of the MSA (listed in the Addendum A of this document). Client hereby agrees to pay the Charges levied within thirty (30) days of Tax Point Date of invoice.

5.6.3 Where PEL agrees at the request of Client to perform the Services outside of or in addition to Office Hours, PEL may impose such higher Charges in accordance with its then current practice which PEL shall notify to Client prior to commencement of such services.

5.6.4 PEL reserves the right to charge Client interest in respect of the late payment of any sums due under this Agreement (as well after as before judgement) at the maximum rate permitted by law from the due date thereof until payment.

5.6.5 Should Client have any query over the contents of any invoice issued by PEL, it shall so notify PEL within seven (7) days of the date of issue of the relevant invoice, failing which Client shall be deemed to accept such invoice as conclusive evidence of the performance of the Services as specified therein.

5.7 Expenses Relating to Consulting Services

- 5.7.1 Client also agrees to pay all reasonable travel, accommodation and subsistence expenses incurred by PEL in the performance of the Services and reimburse PEL with the cost of providing any computer facilities, access to internet networking, storage media, data preparation, document photocopying, report printing, courier charges, telephone charges or the like as required in the performance of the Services.
- 5.7.2 Such expenses will be charged to the Client at cost unless agreed differently in any relevant SoW.
- 5.7.3 Administrative costs associated with additional requirements for receipt compilation, reporting and multiple system entry will be priced at an agreed additional charge.
- 5.7.4 Such expenses will be included within the same monthly billing cycle as the invoicing of the Services and billed monthly in arrears.

6. Support Services Terms

6.1 Scope of Support Services

6.1.1 Generic Support Terms and Deviations: The support services in this Section describe the default, standard and generic support elements included under the majority of PEL's Managed Service contract agreements. Any Client-specific or specifically-negotiated deviations from the default, standard and generic support terms detailed in this Section shall be clearly documented in the Addendum B to this document: 'Deviations Identified Against this Master Services Agreement'.

6.1.2 Scope of Environments Covered by Support Terms: The support services described in this Section cover all issues and live incidents raised against the Client live business Production environment, in accordance with the scope defined in this document. Works carried out or incidents addressed relating to any other controlled environments (i.e. Training, Dev or UAT environments) are not covered by PEL's support service provision which comes built-in to Managed Service contracts and will be undertaken by PEL as Billable Support Services pieces of work charged to Client as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal. This includes any data refresh works undertaken at request of Client to refresh the data on any other controlled environments from the live business Production system.

6.1.3 Requested changes or enhancements to functionality in any controlled environment (including Production) would be undertaken as a Billable Support Services piece of work, see Section 6.4: 'Billable Support'.

6.1.4 Support Scope: Support Scope is provided in four parts:

6.1.4.1 Core/Inherent Software Product Support: provides support for core or inherent issues with the IBM Maximo product, Click Software and/or the PEL Fingertip product (as applicable)

6.1.4.2 PEL Extended Support (covers incidents in the live business Production environment)

6.1.4.3 PEL Maintenance of Hosted Environments (included within the scope of the Managed Service contracts)

6.1.4.4 PEL Billable Support Services (chargeable support services provided by PEL on demand by Client for works outside the scope of Extended Support)

6.1.5 The Statement of Work or proposal which includes the commercial terms and details of the support cover (listed in the Addendum A of this document) will include a 'Maintenance and Support Service Scope Matrix' to detail clearly which element of system support is covered by which of these four parts of support scope detailed above.

6.2 Core/Inherent Product Support

6.2.1 IBM Maximo Subscription and Support: Support from PEL for the base IBM Maximo product is inclusive to the support terms providing that a Statement of Work or proposal governed under the umbrella terms of the MSA (listed in the Addendum A of this document) incorporates an element of IBM Maximo licensing as part of its incorporated licensing types and numbers.

6.2.2 If applicable, PEL will work with IBM on Client's behalf and as Client's representative for support relating to any core or inherent issues or bugs arising or being identified with the core IBM Maximo product. Core/inherent issues need to be fixed or resolved by IBM, usually through the release of hotfixes, fixpacks, ifixes or patches produced and supplied by IBM (Client should note that PEL cannot fix core or inherent Maximo code classes and that this requires vendor support).

6.2.3 PEL are responsible for diagnosing and triaging suspected core or inherent IBM Maximo product issues or bugs brought to PEL's attention by Client and for dealing with IBM as Client's representative in order to get these resolved. PEL will undertake the process of logging core or inherent IBM Maximo product issues or bugs with IBM once identified, simulated and quantified by PEL as such and expediting these through to resolution. PEL will own the tickets and cases raised with IBM on Client's behalf until resolution. The level of service offered by PEL to work such core/inherent issues is detailed by the Service Level Agreement set out at section 6.6.

6.2.4 As PEL is not responsible for delivering the fixes to core or inherent Maximo issues or bugs, PEL therefore cannot offer any guarantees that a resolution to such issues will be forthcoming.

6.2.5 Once a fix to a core/inherent Maximo issue has been released by IBM in the form of a hotfix (interim fix, or ifix), fixpack or patch (or if an existing fix or patch needs to be applied to Client's environments to resolve the issue), then the deployment of these fixes or patches to any of Client's controlled environments (including Production) is not covered under the scope of PEL's support to Managed Service Contract Clients.

6.2.6 Click Software Annual Maintenance: Support from PEL for the base Click Software product is inclusive to the support terms providing that a Statement of Work or proposal governed under the umbrella terms of the MSA incorporates an element of Click Software licensing as part of its incorporated licensing types and numbers.

6.2.7 If applicable, PEL will establish a back-to-back agreement with ClickSoftware for second and third line support on core/inherent ClickSoftware product issues if such are identified by Client to PEL. PEL will simulate and quantify the reported issue and advise Client if the issue reported is a core/inherent issue with the base software product. As part of this support, PEL will manage the onward process of logging base product issues with ClickSoftware and expediting these through to resolution, owning and managing the case until resolution.

6.2.8 If a fix or solution to a core/inherent ClickSoftware product issue is released by ClickSoftware as software vendor resulting from such support action (or if an existing fix or patch needs to be applied to Client's environments to resolve the issue), then the deployment of such fix or patch to any of Client's controlled environments (including Production) is not covered under the scope of PEL's support to Managed Service Contract Clients and would be undertaken as Billable Support works chargeable to Client.

- 6.2.9 PEL Fingertip Maintenance and Support: Support from PEL for the base PEL Fingertip software product is inclusive to the support terms providing that a Statement of Work or proposal governed under the umbrella terms of the MSA (listed in the Addendum A of this document) incorporates an element of PEL Fingertip licensing as part of its incorporated licensing types and numbers.
- 6.2.10 Incidents and errors within the code supporting the supply of the ClickSoftware Field Service Edge SaaS service will be supported via the support services policy agreement between PEL and ClickSoftware (supplied on request).
- 6.2.11 If applicable, PEL will simulate and quantify any issue with the PEL Fingertip product reported by Client to PEL and advise Client if the issue reported is a core/inherent issue with the base software product. As part of this support, PEL as software vendor would be responsible for addressing the issue and the provision of a fix or solution in the form of a fix or patch, new APK version, or Maximo code change.
- 6.2.12 If a fix or solution to a core/inherent PEL Fingertip product issue is released by PEL as software vendor resulting from such support action (or if an existing fix or patch needs to be applied to Client's environments to resolve the issue), then the deployment of such fix or patch to any of Client's controlled environments (including Production) is not covered under the scope of PEL's support to Managed Service Contract Clients and would be undertaken as Billable Support works chargeable to Client.
- 6.3.1 Overview and Scope of Extended Support: Extended Support is so called as it extends the core product support for inherent issues and bugs afforded by the core software product support further into the Clients' holistic solution domain. It provides support cover for incidents against a wide range of elements in the holistic system such as integrations, workflows, messaging, escalations, cron tasks, and configuration.
- 6.3.2 Extended Support is provided to PEL's Managed Service contract Clients as a built-in element, to the terms detailed here in this section.
- 6.3.3 Extended Support is only to be provided during Office Hours as per the definition of these at Section 2: 'Definitions'.
- 6.3.4 The scope of Extended Support is limited to only the investigation and resolution of incidents which occur in the live business Production environment. The scope of what constitutes an incident for the purposes of the Extended Support scope is detailed in section 6.3.5 below.
- 6.3.5 Definition of Incidents for Extended Support: The scope of the support cover within PEL's Extended Support is defined as and is limited to incidents occurring only in the Production live business environment which produce undesirable, obstructive or catastrophic effects to the System functionality and performance for the end users. It would also constitute an incident for the purpose of the scope for Business As Usual (BAU) system behaviour to change and become undesirable or incorrect behaviour through means of a catalyst or root cause effect.

6.3 PEL Extended Support

- 6.3.6 The causes of these incidents can be wide-ranging and may include (but not limit) such instances as connections to externally-integrated systems failing/dropping, or corruption in records or data.
- 6.3.7 PEL reserve the right to deal on a case-by-case basis with incidents arising from incorrect configuration on the part of users, undesirable/IBM-depreciated end user actions, or similar user-led actions which cause undesirable system effects as support cases which could potentially be chargeable from the outset of time spent to resolve.
- 6.3.8 For the sake of clarity, examples that do not fall within the Extended Support scope are:
- 6.3.8.1 User and Super-User training.
- 6.3.8.2 Work directly related and necessary to carry out and successfully complete a system implementation, functional and non-functional enhancements and additions, data-loading, etc. This includes DEV, UAT and TEST refreshes from PRODUCTION.
- 6.3.8.3 Issues arising from changes made by Client or a third party, to code managed by PEL and without PEL's supervision, involvement or consent.
- 6.3.9 In cases where PEL is asked to provide support on a third-party implementation or development of the IBM Maximo product, PEL would require the satisfactory completion of a handover and knowledge transfer of that solution to ensure support services can be offered within the communicated service level targets. Any work from PEL that arises from such requests to support development work on the IBM Maximo system carried out by a third party authorised by Client will be classed as Billable Support Services work and will be charged to Client as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal.
- 6.3.10 Inclusive Time for Incidents Under Extended Support: For each incident occurring in the live business Production environment and brought to PEL's support helpdesk by Client, such an incident carries the first two (2) hrs of PEL's time to work on the incident as inclusive time within the terms of the Extended Support provision. Inclusive time per incident is not chargeable to the Client.
- 6.3.11 Extended Support provision for incidents in the live business Production environment which exceed the first two (2) hrs of PEL's time to work will result in the following time onwards per incident report being worked by PEL becoming chargeable to the Client. In this instance, all subsequent time per incident report onwards will be worked as Billable Support Services works, and chargeable to Client as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal.

6.3.12 The default amount of inclusive time per live incident (the first two (2) hrs) is considered by PEL (through the application of statistical analysis) to be enough to resolve 95% of support cases for PEL's Managed Service contract clients historically per time spent to resolve.

6.4 PEL Billable Support Services

6.4.1 What Constitutes Billable Support? For any time expended working beyond the inclusive hours allowance afforded by Extended Support on incident reports (section 6.3.10 above) and for any requests that:

6.4.1.1 Are falling outside the scope of the above Section 6.3.5;

6.4.1.2 Relate to system administration/configuration changes handled and managed by the PEL Support Helpdesk, which are achievable through Maximo front-end interface configuration only, do not require developer resource, do not require deployment/outage management, and do not require project or risk management;

6.4.1.3 Whilst not incidents, involve significant and demonstrable levels of investigation to provide an answer/solution;

6.4.2 Such requests will be classified as Billable Support Services requests. All Billable Support Services work will be charged on an as-used basis in units of whole hours and billed to Client either: monthly in arrears; or once a pre-agreed (between Client and PEL) amount of billable time becomes significant enough to invoice.

6.4.3 Client Expenditure and Authorisation Process: Billable Support Services work requires Client expenditure authorisation in advance and will not commence until Client has accepted, acknowledged and agreed to charges using an agreed Approval Form.

6.4.4 Invoicing Methods for Billable Support Services: Billable Support Services work usually makes use of a Billable Call-Off Account for which a purchase order is supplied from Client for PEL to draw-down against to cover ad-hoc works of a chargeable nature as and when required. An advance draw-down purchase order ensures all Billable Support Services work progresses and completes speedily and without administrative delays of needing to secure new or additional purchase orders. Consumption of the draw-down purchase order against the Billable Call-Off account will be reviewed regularly by PEL and client will be advised if the draw-down purchase order requires replenishment.

6.4.5 Billable Support Services Rates: Billable Support Services work will be chargeable to Client as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal, listed under Addendum A: 'External Agreements Covered by the Master Services Agreement'.

6.5 Maintenance and Support Scope

The following table shows the PEL service matrix and illustrates which of each of the following service elements available to Client are included in which part of the services offered:

- IBM Core Software Maintenance

IBM/Click/Fingertip software maintenance Subscription & Support

- PEL Extended Support
PEL Hosted Environment Maintenance Services (inclusive to Managed Service agreement) including ClickSoftware Field Service Edge.
- PEL Billable Support Services
- PEL Development Services

For the avoidance of doubt, elements included within the Extended Support column within the matrix below mean that the Extended Support scope will cover incidents which occur within the Client's system which have that defined element as a causal factor. The scope of Extended Support only applies to incidents which occur in the Client's live PRODUCTION environment, and requests from Client for PEL to undertake works in connection with the elements in the matrix below which are not classified as incidents may be chargeable as Billable Support Services as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal. The definition of incidents relating to the scope of Extended Support can be found at section 6.3.5.

Elements not included within the Extended Support column within the matrix below are classified as outside the scope of the Extended Support cover and will not be covered under the terms of Extended Support. Requests from Client for PEL to undertake works in connection with these elements will be chargeable as Billable Support Services as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal.

Service Line	Service Line Description	Core Software Maintenance	PEL Extended Support	PEL Hosted Environment Services	PEL Billable Support Services	PEL Development Services
6.5.1	INFRASTRUCTURE					
	Server Hardware & Storage Capacity			X		
	Server Operating Systems			X		
	Network Services (incl. mail and comms)			X		
	Database Software & Infrastructure			X		
	Disaster Recovery and backup restoration			X		
	Webserver (Websphere) & Maximo Software Installation			X		
	Attached Document Set-up			X		
	Maximo - Inbound and Outbound Comms			X		
6.5.2	SYSTEM PERFORMANCE					
	Database – Maximo Schema Performance			X		
	Application Performance			X		
	Archiving and Index Management			X		
	User Experience monitoring and tuning			X		

	Cluster Performance monitoring and tuning			X		
	Memory and task management			X		
	Java engine performance			X		
	Application restarts			X		
6.5.3	APPLICATION BUILD AND DEPLOYMENT CONTROL					
	Code control: PEL Code Changes		X			
	Code control: Client Code Changes				X	
	DB Configuration		X			
	Change and Release tracking system		X			
	DR and Backup Restoration			X		
	Deployment and environment refresh management				X	
6.5.4	REPORTS					
	BIRT and Cognos Reports					
	Access and performance of Deployed Reports		X			
	Format & layout Modifications				X	
	New or Data Structure modification					X
	Other Reports					
	Standard IBM Reports	X				
	QBR Reports		X			
6.5.5	APPLICATION CONFIGURATION SUPPORT					

	Websphere Application		X			
	DB Configuration		X			
	Relationships		X			
	Integration / Report Object Structures		X			
	Domains		X			
	Application Screen Design		X			
	Workflow development		X			
	Escalations		X			
	Cron Tasks		X			
	Conditional Expressions		X			
	Conditional User Interface		X			
	Start Centres		X			
6.5.6	SYSTEM AND META-DATA					
	System Data:					
	Domains (Status Values, Work Types etc.)		X			
	Communication Templates		X			
	Meta Data:					
	Classifications		X			
	Security Groups		X			
	Users		X			
	Saved Queries		X			

6.5.7	INTEGRATION SUPPORT					
	Transmission configuration (end points)		X			
	Interface Configuration (services and exit classes)		X			
	Maximo Outbound Message Processing & Delivery		X			
	Maximo Inbound message receipt and processing		X			
6.5.8	CORE PRODUCT SOFTWARE SUPPORT					
	Core Product Issue Resolution	X				
	Application of Core Product Hotfix/Interim Fix				X	
	Application of Fixpack Releases				X	
6.5.9	FINGERTIP MOBILITY SUPPORT					
	User Device Connection Support/Triage		X			
	User Device Cache Clearing		X			
	User Clash Maintenance		X			
	Reinstalling Fingertip if Required		X			
	Mobile First Application and Server Support		X			
	Fingertip Application and Integration Support (PEL)	X				

6.5.1 Infrastructure

PEL will provide and support all infrastructure, server hardware and operating systems, network services, and mail services for managed services and SaaS systems.

The database in which Maximo operates will be provided and maintained by PEL, including provision of all Backup Restoration and Disaster Recovery processes. This includes back up of both the database and current application set.

PEL will be responsible for maintaining the webserver software and installation.

PEL will be responsible for maintaining the Maximo capability to hold attached documents via the system properties.

PEL will be responsible for maintaining the Maximo capability for the system to send outbound emails and receive inbound emails via the Maximo properties.

6.5.2 System Performance

System performance will be monitored periodically as part of the scope of Hosted Environment Maintenance. This will include a review of system logs and drive capacities for the application server/s.

PEL will also be responsible for database performance related to the Maximo schema as part of Hosted Environment Maintenance.

PEL may make changes to storage and memory allocation to provide resolution of performance issues as part of Hosted Environment Maintenance.

6.5.3 Application Build and Deployment Control

Where deployments of changes to the system are required, the Change & Release Management guidelines at Appendix B: PEL Change and Release Management Procedure should be followed. The PEL Support system will be used to manage and track Change and Release work.

- Code control: PEL Code Changes

PEL will maintain a record of all current and previous versions of bespoke code developed and deployed by PEL within the client's system as part of Extended Support.

- Code Control: Client Code Changes

If Client changes any code outside of PEL's involvement, then notification must be made to PEL and the correct information supplied to PEL in order that the code records can be adequately maintained (please refer to Appendix B: PEL Change and Release Management Procedure). Works by PEL to update the code records or to act as technical authority or in a consultative nature on any development undertaken outside of PEL's involvement will be classed as Billable Support Services and charged as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal.

- DB Configuration

Support for incidents arising from DB configuration as root causal factor is included within Extended Support.

- Disaster Recovery and Backup Restoration

Responsibility of PEL: refer section 0

Hosted Environment Maintenance Works.

- Deployment and Refresh management support

Where Client instructs PEL to undertake a data refresh from PRODUCTION onto another environment (e.g. DEV, TRAINING, UAT or TEST) then such instruction shall be undertaken as Billable Support Services works and charged as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal.

6.5.4 Reports

Any standard reports that ship with the default product base software are covered by the support afforded by the Subscription and Support forming part of the licensing.

- BIRT and Cognos Reports

Where BIRT and/or Cognos reports have been developed and deployed to the system, PEL will support the on-going operation and performance of these reports.

Changes and enhancements to report format and layout would be classified as Billable Support Services work and charged as

per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal.

Development of new reports, or structural modification to existing reports, would be classified as PEL Development Services work and would be undertaken with a separate SoW (Statement of Works) and would be covered by separate PO cover.

- QBR Reports

In as much as these are user generated reports and queries, PEL cannot provide any guarantees with regard to these elements; however, PEL will work with Client's staff and the appointed IBM Maximo system administration to resolve issues with these system components as part of Extended Support. Where it becomes clear that the issue is beyond the scope of the support of incidents afforded by the Extended Support element, then PEL will highlight this to client and with agreement will re-classify the work required as Billable Support Services chargeable as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal.

6.5.5 Application Configuration Support

As part of the implementation, software has been configured to support the client's business processes, data and reporting requirements. This configuration, and any class file development, has been completed based on the product development protocols and should be fully supportable moving

forward onto later product releases. PEL will manage and support the elements shown below under the scope of the Extended Support provision.

- **WebSphere Application**
PEL will manage and support the WebSphere application software.
- **DB Configuration**
If additional fields have been added to the product Schema to support Client data requirements, or if standard Maximo fields have been modified to support data and process requirements, then these elements will be covered under the scope of Extended Support.
- **Relationships**
If SQL relationships have been added to support specific Client reporting and workflow process requirements, then these relationships will be supported under the scope of Extended Support.
- **Integration / Report Object Structures**
Client is free to introduce new Report Object Structures to support QBR report development. However, this requires a sound knowledge of the Maximo data structure and should only be done by trained system administrators.
- **Domains**

If new domains have been added to support some of the new data attributes, or existing domain content has been modified to better reflect Client's requirement, then support for these elements is included within the scope of Extended Support.

- **Application Screen Design**
If some of the standard product screen designs have been changed to suit Client requirements as part of the bespoke installation/project, then support for this element is included within the scope of Extended Support.
- **Workflow Development**
If additional workflow processes have been developed for IBM Maximo applications, then support for these is include within the scope of Extended Support. Client administrators can use the Workflow Administration application to help manage mis-assignments and workflow progression issues.
- **Escalations**
If escalations are included within the deployed environment, then support for these is included within the scope of Extended Support. With appropriate training, Client system administrators could add new escalations if desired.
- **Cron Tasks**
If Cron Tasks are included within the deployed environment, then new Cron Tasks can be introduced by either PEL or Client, but should only be introduced by Client after consultation and agreement with PEL.

- Conditional Expressions

Conditional Expressions are SQL statements supporting condition-based control over application screens, data requirements and signature security options. If Conditional Expressions have been developed and used as part of the Maximo deployment within Client's system, then support for these is included within the scope of Extended Support.

- Conditional User Interface

If some of the Client application screens have conditional elements that alter the behaviour (visibility, mandatory nature etc) of the forms, then support of these is included within the scope of Extended Support.

- Maximo Start Centres

If Start Centres have been developed to support the Client business processes, then existing Start Centre behaviour and performance is covered within the scope of Extended Support. Modifications to existing Start Centres or development of new Start Centres requested by Client shall be undertaken as Billable Support Services works and charged as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal. Client administrators (and users) are free to develop their own Start Centre content, however, beyond simple advice, support for these is excluded from the scope of Extended Support.

A large degree of the application behaviour and functionality is defined through system and meta-data. All these data sets are available through the Maximo application interface and can be easily modified.

PEL will provide advice on management of these data elements as part of the scope of Extended Support, however: any changes required by Client to these data elements (or data loading) will be carried out as Billable Support Services work and will be charged as per the table of rates in section 7.1 (Additional Support Items).

- Domains (Status Values, Work Types etc)

These can have a dramatic impact on the process automation – Workflow etc. – in the system and as such it is important that the role of domain-controlled fields is understood before changes are made.

- Communications Templates

Used to support workflow and other notifications.

- Meta Data: Classifications

Support to client on an 'as and when required' basis shall be based on the classification hierarchies to be developed from time to time by Client and PEL.

- Meta Data: Security Groups.

6.5.6 System and Meta Data

Modification and creation of security groups to reflect changes in business use of the system. Modification of existing security groups would be covered as part of the scope of Extended Support.

- Meta Data: Users

Management of the registered users of the system as required by Client. This may be a shared role depending on availability of internal resources and is covered as part of the scope of Extended Support.

- Meta Data: Saved Queries

Saved queries are used throughout the system to provide efficient access to the required information within each application. Depending on security profiles, all users can be given permission to create and manage queries, and unless properly managed, the usability can be impacted as duplicated and poorly defined queries clutter the system. PEL will work with Client staff and the appointed IBM Maximo system administration to resolve issues and manage these system components. However, where it becomes clear that the issue is beyond the scope of Extended Support and constitutes the creation of queries or significant amounts of administration, then PEL will highlight this to Client (and with agreement) will re-classify the Service Request (SR) as a Billable Support Services piece of work, chargeable as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal).

6.5.7 Integration Support

- Maximo Integration Framework (MIF)

Should the implementation include integration messages between Maximo and other Client systems, any support request that does not refer to PEL-authored and deployed configuration or code and relates to assistance with message handling, message format, assistance with message queue management and resolution of any issues within the Maximo system caused by the integration process will be classified as Billable Support Services work and will be chargeable as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal). However, issues deemed to be arising from core MIF product code shall be dealt with under the support element included within the IBM Maximo software Subscription and Support (S&S) licensing, detailed in the above section 6.2.

Changes to the integration structure, XML format or field mapping will be considered as new development requirements and will be handled as Development Services work requests involving project management and separate PO cover.

- Bespoke Integrations

Support requests against any authorised third party-authored or client-authored Maximo integrations with any other Client systems which have been developed outside the MIF product will be classified as either Billable Support Services work (chargeable as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or

Proposal) or PEL Development Services work requests involving project management and separate PO cover.

6.5.8 Core Product Software Support (IBM/Click/Fingertip)

Support for inherent product issues arising or being identified with core software products will be provided to Client by PEL. See section Core/Inherent Product Support above.

PEL does not take responsibility for finding a resolution to core software product issues identified and reported to software vendor.

The provision of hotfixes (or interim fixes, or ifixes) and fixpacks produced by software vendor to fix core software product issues is included within the Subscription and Support (S&S) component of the product licensing maintenance, but application/deployment of these hotfixes (or interim fixes, or ifixes) and fixpacks to the live PRODUCTION environment is not included within either the S&S or the PEL Extended Support provision. Application of such to the live PRODUCTION environment would be classified as Billable Support Services

work chargeable as per the Table of Consultancy/Billable Support Rates in the relevant and accompanying Statement of Work or Proposal).

(See hotfix/interim fix/ifix and fixpack definitions at: https://www.ibm.com/developerworks/community/blogs/a9ba1efe-b731-4317-9724-a181d6155e3a/entry/what_are_fixpacks_interim_fixes_and_limited_availability_fixes?lang=en).

6.5.9 PEL Fingertip Mobility Support

Support for incidents in the live Production environment relating to the Fingertip mobility solution are covered by the scope of Extended Support.

Acknowledged core (inherent) bugs or issues with the Fingertip product will be addressed and resolved by PEL.

6.6 Service Level Agreement

Service Hours	Defined as Monday to Friday 08:00 to 18:00 excluding bank and national holidays in England and Wales. For the purposes of this table: Service Hours are defined as hours to be worked within this period only, and at the expiry of one days' Service Hours period then work and the target would recommence at the applicable next day of Service Hours. Actual Hours are defined as hours to be worked irrespective of the Service Hours period and would be worked 24/7/365 towards target.		
System Availability Hours	Target availability for the Production System is 24 hours per day; 365 days per annum with the exception of any planned maintenance windows or agreed downtime for system changes required by the Client's team. Any such planned downtime on Client's part will be defined and communicated by Client to PEL with at least 24 hours' notice. If PEL requires a system outage or to take the system down for deployment or any other purpose ("PEL Downtime"), the relevant PEL downtime window will be mutually agreed in good faith and in writing between PEL and Client at least 24 hours in advance. PEL shall use its best endeavours to prevent PEL Downtime from occurring during Service Hours.		
System % Available	Excluding planned and agreed downtime, the target availability of the system is 99.9% of planned uptime. PEL will be responsible for producing and maintaining the uptime figures for the infrastructure and for reporting these to Client.		
Fault Resolution Targets			
Severity (Priority)	Fault Description	Target Response / Fix Time:	% Cleared within service hours
1	<p><u>Loss of use of core functionality with respect to:</u></p> <p>Critical Impact/System Down: Business critical software component is inoperable or critical interface has failed. This only applies to the PRODUCTION environment and indicates you are unable to use Maximo resulting in a critical impact on operations. This condition requires an immediate solution.</p> <p><u>Examples of Severity 1 issues:</u></p> <p>a) All users unable to log on to system, system effectively unavailable.</p>	<p>Within Service Hours Window:</p> <p>Target Response Time: 1 Actual Hour Target Fix Time: 16 Actual Hours</p> <p>Outside Service Hours Window:</p> <p>Target Response Time: 2 Actual Hours Target Fix Time: 16 Actual Hours</p>	<p>Within Service Hours Window:</p> <p>95%</p> <p>Outside Service Hours Window:</p> <p>95%</p>

	<p>b) Multiple users reporting data corruption or inconsistency leading to lack of system integrity.</p> <p>c) Inability to support key business processes at key times of the calendar (e.g. end of month reporting).</p>		
2	<p>Loss of use of functionality with respect to:</p> <p>Significant business impact: A software component is severely restricted in its use or you are in jeopardy of missing business deadlines because of problems with a new application rollout.</p>	<p>Within Service Hours Window:</p> <p>Target Response Time: 2 Service Hours</p> <p>Target Fix Time: 32 Service Hours</p>	<p>Within Service Hours Window:</p> <p>90%</p>
3	<p>Minor Business Impact:</p> <p>Some business impact; Indicates the program is usable with less significant features (not critical to operations) unavailable.</p>	<p>Within Service Hours Window:</p> <p>Target Response Time: 2 Service Hours</p> <p>Target Fix Time: 80 Service Hours</p>	<p>Within Service Hours Window:</p> <p>90%</p>
4	<p>Other functionality and/or software problems not defined above:</p> <p>Minimal business impact: A non-critical software component is malfunctioning, causing minimal impact, or a non-technical request is made.</p>	<p>Within Service Hours Window:</p> <p>Target Response Time: 2 Service Hours</p> <p>Target Fix Time: By Agreement</p>	<p>Within Service Hours Window:</p> <p>75%</p>

6.6.1 Out of Hours Support: Outside Office Hours, PEL will use all commercially reasonable efforts to respond, by telephone, within two hours to service telephone calls that Client specifies to be Critical Impact/System Down problems at severity (priority) level 1.

- 6.6.2 Only severity (priority) level 1 incidents (defined within the 'Fault Description' in the 'Table 6.6: Service Level Agreement' above) should be communicated to PEL by the support telephone number 0203 637 0709 or any other number as notified to Client outside of Office Hours. All support works undertaken by PEL outside of Office Hours should be requested via telephone in the first instance using 0203 637 0709 or any other telephone number as notified to Client. This should be backed up by an email in due course to: helpdesk@peluk.org (or any other email address as notified to Client).
- 6.6.3 Works to resolve severity (priority) level 1 incidents (defined within the 'Fault Description' in the 'Table 6.6: Service Level Agreement' above) carried out outside Office Hours will be provided remotely to Client. A member of the Client's team shall be available to work with PEL Support staff when PEL is performing support services outside Office Hours.
- 6.6.4 Fault Severity/Priority Levels: Severity (priority) levels are determined during a mutual discussion by the Client team and PEL's Helpdesk Support Analysts, based on the business impact of the issue. If the Client team and PEL mutually agree in good faith to resolve a problem as a severity (priority) level 1 issue, then PEL will work the issue 7 days a week, 24 hours a day, 365 days per annum until the issue is resolved, provided the Client team is available to work alongside PEL during those hours.
- 6.6.5 Severity 1 (Priority) problems can be reported 7 days a week, 24 hours a day, 365 days per annum and PEL will respond within the Response/Fix Time for each severity (priority) level stated in the Service Level Agreement table ('Table 6.6: Service Level Agreement') above around the clock. PEL will start work on the issue within two (2) hours of the Service Request (SR) being submitted and will continue to work on the issue through to its resolution, reporting progress and work content to Client daily via the PEL Maximo Communication logs.
- 6.6.6 Client is entitled to change the severity level of a problem if circumstances change from when it was first reported to PEL in order to match Client's latest business impact conditions.

7. Managed Services Terms

7.1 Managed Service System and Service Provision

7.1.1 Client User Licensing: PEL Managed Services contracts and agreements governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement) include within their Specification and costings the provision to Client by PEL of user licensing for IBM Maximo, Click Software and Fingertip software products (as applicable). The numbers and types of user licenses involved are scheduled and detailed within each of the contracts and agreements under the umbrella terms of the MSA.

7.1.2 Software user licensing provided by PEL under Managed Services contracts is of the license type Application Specific Licensing ('ASL'). ASL remains the property of PEL and is leased to Client for the contract term period of the Managed Services agreement. Client has no rights of ownership to the leased licensing provided by PEL during either the Managed Service contract term or subsequently.

7.2 Ongoing Subscription and Support (S&S), Annual Software Maintenance Provision

7.2.1 PEL will be responsible for the annual maintenance renewal (Subscription and Support – S&S) of all ASL licensing in connection with Managed Services contracts and agreements. Such annual maintenance costs shall be included within the costings and Specification of the Managed Services contracts and agreements and will be included as an element of the annual Managed Service agreement fee.

7.3 Underlying Database and Operating System Software

7.3.1 The database software and licensing/maintenance of such forms part of the Managed Service agreement between PEL and Client and shall be included as an element of the annual Managed Service agreement fee, for the duration of the Managed Service contract term.

7.4 Development, Test and Production Environment Provision

7.4.1 As part of the costings and Specification of the Managed Services contracts and agreements under the umbrella terms of the MSA, PEL shall provide Client with a hosted Development (DEV), Test (UAT) and live business Production (PROD) environment, for their respective use purposes.

- 7.4.2 Any additional environments required by Client above this standard provision, or any alternative environment models or clustering architectures required, will be included within the costings and Specification of the Managed Service contracts and agreements under the umbrella terms of the MSA, and shall be entered into the MSA as a deviation from standard terms (see Addendum B: Deviations Identified Against this Master Services Agreement).
- 7.5 Managed, Virtualised Hosting Capacity Tuned to User Numbers
 - 7.5.1 PEL shall undertake environment management maintenance works as part of the Managed Services to ensure that Client's hosted environments are adequately tuned to Client user numbers and traffic, database and memory storage requirements, and have adequate processors allocated for satisfactory system performance.
- 7.6 Ongoing System Admin and Performance Tuning Maintenance
 - 7.6.1 As part of the costings and Specification of the Managed Services contracts and agreements under the umbrella terms of the MSA, PEL shall perform ongoing system administration and tuning maintenance to the hosted environments provided to Client, for the duration of the Managed Service contract term. Details of these works are included at 'Section 0
 - 7.6.2 Hosted Environment Maintenance Works.
- 7.7 Data Mirroring, Redundancy and Disaster Recovery
 - 7.7.1 As part of the costings and Specification of the Managed Services contracts and agreements under the umbrella terms of the MSA, PEL shall be responsible for all data mirroring, redundancy and, where such a service has been procured as part of the Managed Service, disaster recovery procedures required for the requisite level of business continuity. See Section 7.15: 'Hosted Environment Maintenance Works'.
- 7.8 Datacentre Specifics
 - 7.8.1 Facility Specifics: PEL warrants that the primary datacentre in use to host environments for clients under Managed Service contracts abides by the following elements of specification:
 - 7.8.2 Security Specifics:
 - 7.8.2.1 Facility complies with ISO 27002, ISO/IEC 27002 (formerly known as ISO/IEC 17799:2005, based on BS 17799), ISO 27001, PCI-DSS (Payment Card Industry Data Security Standard), SAS-70, SOX, UK Data Protection Act 2018 and EU DIRECTIVE 95/46/EC, Safe Harbor.
 - 7.8.2.2 Card reader and biometric access required to enter facility
 - 7.8.2.3 Card reader access required to enter data centre floor
 - 7.8.2.4 Security cameras recorded by digital video recorder
 - 7.8.2.5 Bomb proof film installed behind all windowed areas
 - 7.8.2.6 Fully fenced perimeter
 - 7.8.2.7 No customer physical access

7.8.3 Power, Generator and UPS Specifics:

- 7.8.3.1 100% renewable energy
- 7.8.3.2 UPS has 10 minutes battery life at peak load
- 7.8.3.3 UPS provides instantaneous conditioned power for facilities until generator synchronization; transfer of power is automatic
- 7.8.3.4 Generators to activate within 60 seconds
- 7.8.3.5 Fuel suppliers under contract to deliver fuel within 4 hours
- 7.8.3.6 36-hour on site fuel capacity under full load

7.8.4 Redundancy and Backup Specifics:

- 7.8.4.1 Fully managed backup to centralised storage

7.9 Managed Service Contract Terms

- 7.9.1 **Contract Term:** The term and duration of the Managed Service contract will be stated clearly in the Managed Service proposal or SoW governed under the umbrella terms of the MSA (and included in the MSA as a referenced contract or agreement).
- 7.9.2 **Contract Extension:** The option to renew a Managed Service proposal/contract at specific or guaranteed rates, if applicable, will be stated clearly in the Managed Service proposal or agreement governed under the umbrella terms of the MSA.
- 7.9.3 **Contract Payment Schedule:** The annual payment schedule for the Master Services contract, including required deposit and upfront purchase order cover, will be stated clearly in the Statement of Work or proposal governed under the umbrella terms of the MSA.

7.10 Contract Cancellation/Termination of Managed Services Agreements

- 7.10.1 **Contract Cancellation:** In the event that Client utilises the right to cancel the Managed Service contract before contractual term end, where PEL is not in breach or default of the contract terms within this MSA, the following clauses will apply:
- 7.10.2 Thirty (30) days written notice shall be served on PEL from Client of intent to cancel Managed Service contract;
- 7.10.3 Termination of agreement by Client before expiry of agreed term on Managed Services (includes Hosting and SaaS contracts) will be subject to cancellation fees to recover costs on PEL's part expended by PEL at the outset of the agreement, to cover such initial expenses outlaid by PEL such as for licensing and software purchases. Such cancellation fees will amount to 75% of all fees remaining due at the time of cancellation, and such cancellation fees will be invoiced by PEL to Client from original purchase order cover (and from further purchase order cover if required in order to cover 75% of the remaining fees);
- 7.10.4 Any specific or individual terms relating to early cancellation of a Managed Service contract included in the proposal or agreement governed under the umbrella terms of the MSA will take precedence over these default cancellation terms herein, providing they are hereby included as a deviation to the standard MSA terms at 'Addendum B: Deviations Identified Against this Master Services Agreement'.

7.11 Planned Maintenance and Planned Outage Windows

7.11.1 Planned maintenance is defined as routine and scheduled maintenance necessary from time to time to ensure quality of service. PEL will give notification to Client prior to planned maintenance, to a minimum of 24 hours.

7.11.2 No standard outage window for planned maintenance is defined within this MSA, although PEL will strive to ensure that any planned maintenance windows are outside the Office Hours as defined within '2 Definitions'.

7.12 Hosted Environment Acceptable Use Policy

7.12.1 As part of the terms of this Agreement, Client agrees to abide by the acceptable use policy published by PEL's hosting datacentre provider at <https://www.rackspace.com/information/legal/aup>. Or in the Field Service Edge terms referenced in 0 Appendix A: ClickSoftware Technologies Ltd Cloud Service Policies

7.12.2 Any act of non-compliance or deviation from this acceptable use policy may result in PEL's suspension of the Managed Services (see Section 3.5) or termination of the Managed Services (see Section 3.6).

7.13 Payments and Charges Relating to Managed Services

7.13.1 PEL shall levy the Charges (by the submission of invoices in accordance with clause 7.14.2 below) in respect of the Managed Services annually in advance.

7.13.2 Each invoice shall contain the elements as specified within the Statement of Works or proposal governed under the umbrella terms of the. Client hereby agrees to pay the Charges levied within thirty (30) days of receipt of invoice.

7.13.3 PEL reserves the right to charge Client interest in respect of the late payment of any sums due under this Agreement (as well after as before judgement) at the maximum rate permitted by law from the due date thereof until payment.

7.13.4 Should Client have any query over the contents of any invoice issued by PEL, it shall so notify PEL within seven (7) days of the date of issue of the relevant invoice, failing which Client shall be deemed to accept such invoice as conclusive evidence of the performance of the Managed Services as specified therein.

7.14 Hosted Environment Maintenance Works

- 7.14.1 Periodic/Scheduled Maintenance Works to Hosted Environments: PEL will provide regular and periodic maintenance of the hosted environments for Client as part of the Managed Service contract agreement and service provision. This will include such tasks as:
- 7.14.1.1 Memory allocation management to VMs: RAM,
 - 7.14.1.2 Processing allocation management to VMs: CPUs
 - 7.14.1.3 Matching resources available to the Client VMs in accordance with licensed user numbers, and increasing them when user numbers are increased
 - 7.14.1.4 Database management and monitoring including regular DB backups
 - 7.14.1.5 Monitoring of application and database performance and taking remedial action if required
 - 7.14.1.6 Maintaining, designing, managing and testing DR (Disaster Recovery) methods, processes and procedures (see 7.15.2 below)
 - 7.14.1.7 Monitoring, managing and reporting of hosted environment uptime
 - 7.14.1.8 Keeping track of latest security fixpacks and patches to ensure latest levels of application and network security and advising Client of options.
- 7.14.2 Disaster Recovery: The scope of disaster recovery for the purposes of the Managed Service contract agreement relates to a mirrored Production system in a separate geographical location from the primary data centre which can be brought online with a minimal amount of configuration from PEL's Infrastructure team upon the event of a disaster to the primary data centre. This mirrored system will be synchronised to the Client's Production system (including database) to a maximum of 15 minutes' difference.
- 7.14.3 Any specific or individual terms relating to disaster recovery included in the Statement of Works or proposal governed under the umbrella terms of the MSA (and included in the MSA as a referenced Statement of Works or proposal under Addendum A) will take precedence over these default disaster recovery terms herein, providing they are hereby included as a deviation to the standard MSA terms at 'Addendum B: Deviations Identified Against this Master Services Agreement'.
- 7.14.4 Server OS Security Fixpacks and Patches: Patching and upgrades of server operating systems and database servers are inclusive within the built-in maintenance scope of Managed Service contract agreements, and are included within the schedule of planned, preventative maintenance works which form part of a costed Managed Service. Such patching may be required to patch a fix a vulnerability or security weakness identified with the previous version of server or database OS. The following table shows the frequency at which PEL would expect to undertake such patching and the amount of notice which would be served to clients hosted by PEL on a shared Managed Service infrastructure platform before such patching maintenance were to be undertaken.

Maintenance	Expected Frequency	Outage Time	Notice to Client	Communication Method
General Infrastructure Related: Patching of Server OS, DB Platform, Middleware	No more than monthly unless urgent vulnerability patching required	Up to 4 Hrs to be undertaken outside 'Service Hours'; exact window to be communicated in advance	Minimum 7 Working Days (56 'Service Hours')	To Client's pre-determined and pre-supplied representatives list
Urgent Vulnerability Patching (determined to be required for critical security risk or exploits identified)	As and when identified in vulnerability scanning, or in response to alerts raised by PEL's Hosting Partner	Up to 4 Hrs to be undertaken outside 'Service Hours'; exact window to be communicated in advance	Minimum 1 Working Day (8 'Service Hours')	To Client's pre-determined and pre-supplied representatives list
Windows Server Reboots (Planned as part of Preventative Maintenance Schedule)	No more than monthly but only as and when required	Up to 2 Hrs to be undertaken outside 'Service Hours'; exact window to be communicated in advance	Minimum 1 Working Day (8 'Service Hours')	To Client's pre-determined and pre-supplied representatives list
Failover / Disaster Recovery Testing	Annually (subject to preventative maintenance schedule agreed in client contract)	Up to 16 Hrs to be undertaken outside 'Service Hours'; exact window to be communicated in advance	Minimum 20 Working Days (160 'Service Hours', or 4 calendar weeks)	To Client's pre-determined and pre-supplied representatives list
Hardware Upgrade / Cutover	12-Monthly	Up to 8 Hrs to be undertaken outside 'Service Hours'; exact window to be communicated in advance	Minimum 7 Working Days (56 'Service Hours')	To Client's pre-determined and pre-supplied representatives list
Server OS / DB Platform / Middleware Upgrade	18-Monthly	Up to 14 Hrs to be undertaken outside 'Service Hours'; exact window to be communicated in advance	Minimum 7 Working Days (56 'Service Hours')	To Client's pre-determined and pre-supplied representatives list

7.14.5 Patching and Upgrades to the IBM Maximo product: Patching/upgrading of the IBM Maximo product or the IBM Websphere product (either Minor or Major* releases, ifixes, fixpacks or upgrade versions) are not covered by the schedule of planned, preventative maintenance works inclusive to the costings of Managed Services, and will always be the subject of separate project proposals and SoWs (Statements of Work) above and beyond the scope of Managed Service agreements. This is due to the intensive amount of complexity, testing, application and deployment involved in patching live business production Maximo and Websphere systems, and the amount of retrogressive testing involved to ensure business continuity.

(*Explanation of Minor and Major Releases in Maximo:

Minor Releases:

-Includes IFIX or INTERIM FIX

-Includes HOTFIX or CUMULATIVE HOTFIX

-Bug fixes only, rarely if ever contain class structure or DB changes that would affect customisations; require much less regression testing.

-QA Tested by IBM for latest interim fix plus one interim fix back

-Released by IBM every 4 weeks. Each contain around 15-20 additional fixes from the previous interim fix

Major Releases:

-Includes FIXPACK

-Includes FEATUREPACK

-Deliver product defect fixes which have undergone a full development release cycle and extensive QA testing of all releases.

-Occasionally deliver minor functional enhancements/modifications to add or update supported platforms/browsers/databases/middleware

-Require more regression testing to implement

7.14.6 Patching and Upgrades to the Click Software products: Patching of the Click Software products (either minor or major patches or versions) are not covered by the schedule of planned, preventative maintenance works inclusive to the costings of Managed Services, and will always be the subject of separate project proposals and SoWs (Statements of Work) above and beyond the scope of Managed Service agreements.

7.14.7 Patching and Upgrades to the PEL Fingertip product: Patching of the PEL Fingertip software products (either minor or major patches or versions) are not covered by the schedule of planned, preventative maintenance works inclusive to the costings of Managed Services, and will always be the subject of separate project proposals and SoWs (Statements of Work) above and beyond the scope of Managed Service agreements.

7.14.8 Natural System Database Growth: The hosted system under the Managed Service, when initially provisioned for Client, will be sized and tuned initially by PEL based on many factors including maximum concurrent user numbers and maximum concurrent transactions through the system, as well as the initial database size originally provided by Client during the contracting phase. If, during any contract term of the Managed Service, Client's database size grows to an amount more than 50% of this initially-tuned and provisioned size (in natural expansion and growth of system data), then PEL reserve the right to issue Client with a change notice which better reflects the ongoing cost of database storage onwards for the rest of the Managed Service term.

8. Addendum A: External Agreements Covered by this Master Services Agreement

Project Number	Title	Version Number	Date Countersigned	Contract Term End Date

9. Addendum B: Deviations Identified Against this Master Services Agreement

Project Number	Deviation Subject	MSA Section/Subsection Superseded	External Agreement Section/Subsection Taking Precedence	Notes/Description	Date Entered

Appendix A: ClickSoftware Technologies Ltd Cloud Service Policies

Where the services provided under this agreement include the use of ClickSoftware Technologies Ltd's software product 'Click Field Service Edge (CFSE)', then the additional policies published by ClickSoftware Technologies Ltd also apply and forms part of the terms of this MSA.

These policies can be found at:

"Information Security Policy" means the Information Security Policy that is displayed at www.clicksoftware.com/cloud-infosec-program , as updated from time-to-time.

Service Warranty. ClickSoftware warrants that the Service will meet the terms of the SLA specified at www.clicksoftware.com/cloud-sla for the subscription term specified in that agreement. Reseller and Customer's sole remedy for a breach of this warranty is set forth in the SLA.

"Cloud Service Privacy Policy"; ClickSoftware, shall use any personal information that it collects or obtains while providing the Service in accordance with the ClickSoftware Cloud Service Privacy Policy, which is available at www.clicksoftware.com/cloud-service-privacy-policy ("Cloud Service Privacy Policy")

Appendix B: PEL Change and Release Management Procedure

In order to address Client's need to reassure the long-term quality of the system and to address the scenario where a number of changes are implemented concurrently by both PEL and Client's staff, PEL agrees to share its mature change & release process framework as part of Client's Maximo release methodology at no extra cost to client.

In order to ensure sustained system quality, the quality of the configuration items (code, automated test scripts, config files, BIRT reports, etc.) retained in the SVN repository is sustained over time, hence:

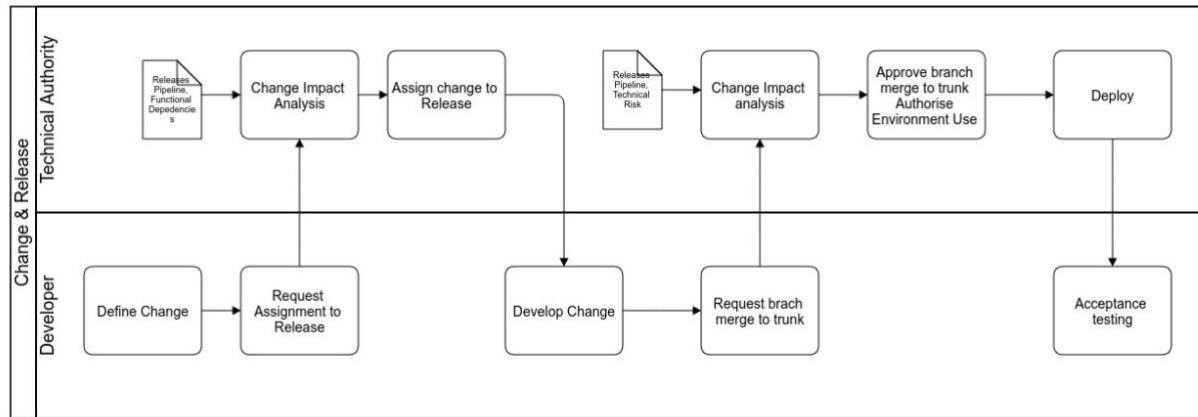
The configuration items list shall be managed by the Technical Authority (added or deprecated) and in line to system's growth and evolution

Any change that is affecting such configuration items shall follow the designated change & release process in point (C) below.

The designated change and release process requires:

- Any such change shall be assigned to a release via request to the Technical Authority
- Technical Authority shall assign a change to a release considering dependencies to other releases and the change's technical impact/risk with relation to functional and configuration item integrity
- Resulting modified configuration items shall be merged back into the trunk via an authorisation request to the Technical Authority and following its approval
- Technical Authority shall authorise merge requests considering the technical risk involved and accordingly issue a decision on whether PEL or the Client will undertake the merge and deployment of the changes to a non-production environment; and
- Deployment to Production environment will follow standard PEL Production deployment processes.

PEL shall perform the Technical authority role who will own the Change & Release process and reassure the functional and configuration items' integrity at all times.



In practical terms, PEL expects

- Requests for release assignment will always take place in the form of a submitted Billable Support Request
- Such request will also be used to capture:
 - Traceability of change to the impacted configuration items and release versions
 - Work & communication logs tracing to process discussions and decisions

Billable Support services are to be quoted in the number of hours that PEL shall be required in discharging its obligations under this Change and Release Management Process. All of such quoted hours will be Billable Support Services hours and are not included by the PEL Extended Support.

All scripts, integrations and import routines for any DB updates of the client Production environment will be considered as part of the overall Maximo build and will be managed by PEL in line with all other Maximo configuration items.

Only PEL 'approved' client staff shall be authorised to execute these scripts.

Client will be responsible for all system backups and user notification prior to the execution.

Client will raise an SR with PEL recording the fact that a script will be executed (Executor, Time, ScriptID and details of all 'variables'). Any issues arising as a result of such updates will be charged in accordance to the commercial terms of this agreement.

Acceptance

Accepted on behalf of Peacock Engineering Ltd		Accepted on behalf of CLIENT	
Name	Mike Knapp	Name	
Title	Director and Consulting Partner	Title	
Email	mike.knapp@peluk.org	Email	
Date		Date	
Signature		Signature	



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