



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

This Software License & Maintenance Agreement is effective \_\_\_\_\_, 20\_\_, between Pegasystems Inc., located at 101 Main Street Cambridge, MA, 02142, USA ("**Pegasystems**"), and \_\_\_\_\_ ("**Customer**").

1. Definitions. For the purposes of this Software License & Maintenance Agreement and any Schedule (collectively, the "**Agreement**"), the following definitions will apply, unless otherwise expressly stated:

"**Affiliates**" are those entities that control, are controlled by, or are under common control with the Customer. Affiliates may be entitled, subject to the terms of this Agreement and the applicable Schedule, to license Software, use Software licensed by Customer, or purchase maintenance or services. For the purpose of any Schedule to which an Affiliate is a party, the Affiliate will be considered the Customer for purposes of the Agreement and such Schedule.

"**Application**" means a collection of RuleSets as typically defined in an application rule that are tested and delivered to production as a unit.

"**Connector**" means an integration facility that permits a System to call applications for data or processing.

"**Documentation**" consists of user manuals for the Software, which are provided to Customer in electronic form at the time of delivery of the Software.

An "**Invocation**" is a call for execution of the Software by another computer application or by a person that is not a User, such as a customer or Web User. Examples include requesting a decision of the rules engine, performing a calculation, creating or advancing a work object in a workflow, updating a record, or performing self-service through the Internet. For the avoidance of doubt, multiple processes or queries performed by the Software in completing the call for execution do not result in additional Invocations.

"**License Schedule**" means a signed agreement to license products or purchase maintenance services from Pegasystems. License and Maintenance Schedules are referred to collectively as "**Schedules**". Schedule, once signed, will be non-cancelable and non-refundable, except to the extent expressly provided in this Agreement or such Schedule or under applicable law.

"**Service**" means an integration facility that permits applications to call a System for data or processing.

"**Software**" will mean the licensed software listed in the applicable License Schedule, including any service packs, upgrades or other releases provided to Customer pursuant to a paid maintenance agreement.

A "**System**" is one production environment that has a common rulebase, regardless of the number of computers or physical locations. Additional copies of the Software and the Documentation solely for the purposes of testing, quality assurance, staging, training or backup of the System are permitted.

A "**User**" is a person with a user ID on the System, but excluding a Web User.

"**Regular Users**" are Users who use the Software during any part of four (4) or more hourly periods on any day in a particular month or who have the privilege to modify rules or processes.

All other Users who use the Software in the particular month are deemed "**Occasional Users**".

A "**Web User**" is a person with a user ID on the System who uses the Software sporadically (by triggering twenty or fewer Invocations in each calendar month) and who Customer identifies in advance in the System as a Web User. Activity by a Web User will be counted as Invocations and not as a User.

The number of Users and Invocations will be measured each calendar month. A System tracks only actual use of the Software, so a person who has a user id on the System but does not use the Software in a month will not be counted as a User for that month. Also, for the avoidance of doubt, merely being "logged in" to the System is not counted as actual use during inactive hours.

2. License Grant.

(a) As specified in an applicable License Schedule, Pegasystems grants to Customer or its applicable Affiliate a license to use the Software, in object code and/or rules form. Licenses for production will be purchased at the time that development of an application begins. Licenses to the Software include Pegasystems' provided RuleSets and source code generated by the Software, if any. A "**RuleSet**" is a named collection of configuration records. For RuleSets supplied by Pegasystems, the RuleSet names begin with "Pega" or the "&," "@" or ")" symbol ("**Pegasystems RuleSets**"). This license is non-exclusive and non-transferable, except as provided in Paragraphs 15(b) and (c).



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

- (b) Customer may use the Software on any Technology Platform that is then generally supported by Pegasystems, and may switch from one generally supported Technology Platform to another (e.g., from a Windows environment to a Linux environment) at no additional charge. **“Technology Platform”** will mean hardware, operating system, database, web browser, application server or other software with which the Software is intended for use.
  - (c) Unless specifically authorized under this Agreement or by law, Customer may not reverse engineer, decompile, disassemble or otherwise attempt to determine source code or protocols from the Software. Customer agrees not to lease or sublicense the Software to any third party or otherwise use it except as permitted under this Agreement or the applicable Schedule. Pegasystems retains all rights not expressly granted to Customer in this Agreement. All copies of the Software will contain Pegasystems’ copyright notice.
  - (d) Customer will not use shared User IDs, or aggregating technologies such as concentrators, multiplexers, gateways or edge servers, to avoid or reduce the counting of individuals that use the Software.
  - (e) Pegasystems retains all right, title and interest to the Software and any derivatives, modifications and enhancements. Customer retains all right, title and interest to any RuleSets that are developed by Customer, or that are developed by Pegasystems for Customer and are specific to Customer (**“Customer RuleSets”**), but Customer will have no proprietary rights in the Software used to create Customer RuleSets or in any Pegasystems RuleSets.
3. Maintenance. As specified in an applicable License Schedule, Pegasystems may provide Customer with maintenance services as more fully described in the applicable Schedule. The following terms and conditions will apply to maintenance services:
- (a) The maintenance term under each License Schedule will have three (3) one (1) year options to renew for successive terms of the same duration, at the then-current fees as provided for under Appendix C of DIR Contract No. DIR-TSO-3828 unless Customer provides, thirty (30) day written notice prior to the expiration of the then-current term. If Customer elects not to renew maintenance under this clause (a), the election must be for all of the Software licensed under the applicable License Schedule, and for any additional usage of that Software licensed under other License Schedules. The maintenance fees for each term will be due and payable in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-3828; provided however that the parties agree that payment for maintenance services will be paid thirty days in advance of the applicable term.
  - (b) If the Customer licenses the Software for additional use, the corresponding maintenance fee will be assessed at the applicable percentage of the license fee. Any such additional maintenance fee will be prorated to reflect the period of time remaining in the then-current term and will be payable in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-3828.
  - (c) In the event that Customer elects not to renew maintenance, and then later elects to renew maintenance, any reinstatement of maintenance services will be subject to the mutual agreement of the parties and Customer’s payment to Pegasystems of one hundred percent (100%) of all fees that would have been payable from the time that Customer discontinued maintenance to the time of its reinstatement.
4. Term.
- (a) This Agreement is binding upon signing and will continue through the term of its Schedules. The term of each License Schedule will commence on the Effective Date of such License Schedule.
  - (b) In the event that Pegasystems commits a material breach of this Agreement or any Schedule, and such breach is uncured for thirty (30) days following receipt of Customer’s written notice to Pegasystems specifying the breach, Termination will be handled in accordance to Appendix A, Section 11B of DIR Contract No. DIR-TSO-3828.
  - (c) Customer may, by written notice, terminate this Agreement or any Schedule in the event a party terminates or suspends its business, becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, becomes subject to direct control of a trustee, receiver or similar authority, or becomes subject to any other bankruptcy or insolvency proceedings not dismissed within sixty (60) days.
  - (d) If the Agreement or an applicable Schedule is terminated or expires, subject to record retention laws and policies, all licenses granted thereunder will terminate and each party will return to the other, or certify in writing the destruction of, any Confidential Information (as defined below) or property of the other.



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

- (e) Sections 4, 5, 6, 9 through 11, and 15 will survive the termination of this Agreement.
5. Fees. Fees and expenses are specified in the applicable Schedule and as indicated in Appendix C of DIR Contract No. DIR-TSO-3828 and are payable in US Dollars (\$), unless otherwise specified. All payments will be made in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-3828.
6. Taxes. Taxes will be handled in accordance to Appendix A, Section 8E of DIR Contract No. DIR-TSO-3828.
7. Escrow of Source Code.  
At Customer's written election and expense, Pegasystems will escrow the source code to the Software with Iron Mountain Intellectual Property Management, Inc., or Pegasystems' then-current escrow agent. Customer will pay for all escrow agent costs and fees associated with the escrow account, including the costs for any verification of the deposit materials.
8. Representations and Warranties.
- (a) Each party represents and warrants that entering into and carrying out the terms and conditions of this Agreement will not violate or constitute a breach of any obligation binding upon it; that each party will comply with all applicable laws in connection with its performance under this Agreement; and that the executing persons have the authority to bind their respective parties.
- (b) Pegasystems warrants that for a period of ninety (90) days from initial acceptance of the Software:
- (i) The Software will operate substantially in accordance with its Documentation; and
- (ii) No disruptive or corrupting software will be coded or introduced into the Software by Pegasystems or its employees. Customer will conduct virus-checking procedures before allowing installation or using the Software, and for each new version, upgrade or service pack.
- (c) Pegasystems will, at its election, promptly repair the Software to resolve any failure or breach of the foregoing warranties, which can be replicated or verified, or replace the Software with a corrected version. These remedies will be Customer's exclusive remedy for any failures or breaches of the foregoing warranties. In order for Customer to invoke these remedies, Customer must provide written notice to Pegasystems within the warranty period in accordance with Section 15 of this Agreement, expressly outlining the nature of the alleged failure or breach.
- (d) The foregoing warranties will be void to the extent that any failure or breach of such warranties is caused by (i) anyone other than a Pegasystems employee modifying the Software (unless Pegasystems authorizes the change in writing), or (ii) non-Pegasystems' software or hardware.
- (e) Pegasystems warrants that all services provided under this Agreement will be performed in a professional manner, consistent with industry standards.
- (f) EXCEPT AS EXPRESSLY STATED IN THIS SECTION, PEGASYSTEMS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.
9. Confidentiality.
- (a) "**Confidential Information**" means all non-public information provided by or on behalf of a party to the other party related to the disclosing party's business, including but not limited to Pegasystems' Software and Documentation. For the avoidance of doubt, Customer's Confidential Information also includes any information that is protected by applicable law, statute or regulation, including the Health Insurance Portability and Accountability Act and the Gramm-Leach Bliley Act.
- (b) Each party agrees that any Confidential Information it receives from the other is the exclusive proprietary property of the disclosing party and may include trade secrets and other highly confidential information.
- (c) Subject to Texas Public Information Act, each party agrees to receive and hold any Confidential Information in confidence and agrees:
- (i) not to disclose or publish any Confidential Information to third parties;
- (ii) not to use any Confidential Information except for those purposes specifically authorized by the disclosing party;
- (iii) not to use any Confidential Information to unfairly compete with the disclosing party;
- (iv) to restrict access to Confidential Information to those of its officers, directors, agents and employees



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

who have a need to know, have been advised of the confidential nature of the Confidential Information, and who are under obligations of confidentiality to the receiving party; and

- (v) to follow the other party's reasonable on-site security procedures.
  - (d) The above confidentiality provisions will not apply to information that:
    - (i) is in the public domain at the time of its disclosure;
    - (ii) is disclosed with the prior written consent of the disclosing party;
    - (iii) becomes known to the receiving party from a source other than the disclosing party, provided such source is legally entitled to have and disclose the information;
    - (iv) is independently developed by a receiving party without use of the Confidential Information of the disclosing party, as demonstrated by written records of such receiving party; or
    - (v) is required to be disclosed by a court or regulatory authority or because of laws, rules or regulations.
  - (e) Pegasystems will own and be free to use any ideas or suggestions that directly relate to Pegasystems' products or business and do not contain Customer Confidential Information. For example, Pegasystems will be free to incorporate any suggested repairs, fixes, changes or modifications to the Software into its products.
10. Indemnification. Indemnification will be handled in accordance to Appendix A, Section 10A of DIR Contract No. DIR-TSO-3828.
11. Limitation of Liability. Limitation of liability will be handled in accordance to Appendix A, Section 10K of DIR Contract No. DIR-TSO-3828.
12. Outsourcing. Customer will be permitted to allow a third party service provider to operate the Software as part of a technology outsourcing arrangement or to assist Customer in the development of an application, provided that:  
(a) such use is solely for the benefit of Customer and subject to the terms and conditions of DIR Contract No. DIR-TSO-3828 and this Agreement; and (b) Customer obtains Pegasystems' prior written consent, which will not be unreasonably withheld.
13. Notices. Notices will be handled in accordance to Appendix A, Section 12 of DIR Contract No. DIR-TSO-3828.
14. Insurance. Any modifications will be noted in the DIR Contract No. DIR-TSO-3828.

As a condition of this Contract with DIR, Pegasystems shall provide the listed insurance coverage within 5 business days of execution of the Contract if Vendor is awarded services which require that Pegasystems' employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. All required insurance must be issued by companies that are rated A- or better by A.M. Best, and authorized to provide the corresponding coverage. The Customer and DIR will be named as Additional Insureds on all required General Liability and Automobile coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Pegasystems thereunder. The minimum acceptable insurance provisions are as follows:

- 1) Commercial General Liability must include a combined single limit of \$1,000,000 per occurrence for Bodily Injury/Property Damage, Personal and Advertising Injury, and Medical Expense, including products/completed operations, where appropriate, with a separate aggregate limit of \$2,000,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:
  - a) Independent Contractor coverage for Pegasystems' liability;
  - b) State of Texas, DIR and Customer listed as an additional insured, where required by written contract;and



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

c) Waiver of Transfer Right of Recovery Against Others in favor of DIR and/or Customer

2) Workers' Compensation Insurance

Workers' Compensation Insurance and Employers' Liability coverage must include limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 8308-1.01 est seq. Tex.Rev.Civ.Stat) and minimum policy limits for Employers' Liability of \$1,000,000 bodily injury per accident, \$1,000,000 bodily injury disease policy limit and \$1,000,000 per disease per employee.

3) Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- a) Waiver of Subrogation where required by written contract
- b) Additional Insured where required by written contract.

15. General.

- (a) The parties agree that they will cooperate at all times in good faith. In the event of any dispute, which cannot be readily resolved within thirty (30) days, the parties will each escalate the matter to senior management who will meet in person or by telephone within fifteen (15) days of receipt of notice of the dispute, to attempt to resolve the open issues. Without limiting the foregoing, Dispute Resolution will be handled in accordance to Appendix A, Section 11A of DIR Contract No. DIR-TSO-3828.
- (b) Assignment will be handled in accordance to Appendix A, Section 4D of DIR Contract No. DIR-TSO-3828.
- (c) In the event that Customer should merge with, acquire, or be acquired by another entity (collectively, a "Combination"), the resulting combined entity (the "Combined Entity") may only use the Software within the scope of the Customer's operations at the time of the Combination. In addition, the parties will negotiate in good faith a proportionate adjustment to the fees due under this Agreement as a result of the Combination.
- (d) Pegasystems and Customer agree that each will execute and deliver documents, including confirmations to Pegasystems auditors, and take such other actions as may reasonably be requested to effect the transactions contemplated by this Agreement. Pegasystems reserves the right, upon its reasonable request, to audit Customer's compliance under this Agreement.
- (e) Force Majeure will be handled in accordance to Appendix A, Section 11C of DIR Contract No. DIR-TSO-3828.
- (f) Neither a failure of a party to exercise any power or right under this Agreement, nor a custom or practice of the parties with regard to the terms or performance under this Agreement, will constitute a waiver of the rights of such party to demand full compliance with the terms of the Agreement.
- (g) This Agreement may be signed in counterparts, including facsimile counterparts or electronic signatures, each of which will be legally binding.
- (h) DIR Contract No. DIR-TSO-3828, this Agreement and its Schedules constitute the entire understanding of the parties with respect to the Software and supersedes all previous agreements, statements and understandings from or between the parties regarding the subject matter of this Agreement. This Agreement also supersedes any conflicting language contained in any applicable past or future purchase order regarding the subject matter of this Agreement. This Agreement shall not be modified except in a writing signed by an authorized representative of each party.
- (i) If any portion of this Agreement is declared by a court of competent jurisdiction to be overbroad or unenforceable, the remainder of this Agreement will be valid and enforceable to the fullest extent permitted.
- (k) This Agreement will be governed by the laws of Texas, excluding its conflicts of laws provisions.
- (l) The export and re-export of the Software and any Pegasystems technology is subject to export controls under the laws and regulations of the United States, and may also be subject to export and import controls under the laws and regulations of other countries. Customer agrees, at all times, to comply fully with these controls, laws and regulations. Furthermore, Customer represents and warrants that it is not subject to the restrictions of the export control laws and regulations of the United States.
- (m) *This subsection applies when any Software is acquired directly or indirectly by or on behalf of the United*



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

*States Government:* The Software is a commercial product, licensed on the open market; developed entirely at private expense; and without the use of any U.S. Government funds. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c) of the Commercial Computer Software Restricted Rights clause at FAR 52.227-19. Use, duplication and disclosure by DOD agencies is subject solely to the terms of this Agreement as stated in DFARS 227.7202.

DRAFT



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

**LICENSE SCHEDULE No. ....**

THIS LICENSE SCHEDULE is entered into as of \_\_\_\_\_, 200\_\_ (the “**Effective Date**”) by and between Pegasystems Inc. (“**Pegasystems**”) and the Customer identified below and is subject to the terms and conditions of DIR Contract No. DIR-TSO-3828 and the Software License, Maintenance and Technical Services Agreement (the “**Agreement**”) dated \_\_\_\_\_, 2010\_\_\_\_. In the event of a conflict between the terms of DIR Contract No. DIR-TSO-3828, the Agreement and this License Schedule, DIR Contract No. DIR-TSO-3828 shall control, only to the extent such sections of the DIR Contract No. DIR-TSO-3828 are expressly referred to in the Agreement.

GENERAL INFORMATION	
Name of Customer	State of Texas
Address	
Billing Contact	Name
	Address
	Tel / Fax / Email
Sales Contact	Name
	Address
	Tel / Fax / Email

License. Pegasystems grants the Customer a license to use the Software on a System on the following terms:	
Software	<ul style="list-style-type: none"> <li>[ <i>INSERT PRODUCT NAMES</i> ]</li> <li>The Services and Connectors specified below</li> </ul>
Licensed Purpose	Customer may use the Software listed above to [INSERT PURPOSE CLAUSE].
Affiliate Use Permitted	Yes _____ No _____
System Usage Rights	Services and/or Connectors A total of X Services and/or Connectors now generally available.  For the avoidance of doubt, each Service and Connector allows integration with an unlimited number of applications using the applicable integration method.
	No. of Regular Users
	No. of Occasional Users
	No. of annual Invocations
Term	Perpetual
Delivery & Acceptance	The Software will be accepted upon delivery (“Acceptance”). This Acceptance is not dependent on any remaining services, conditions, or contingencies, and there are no other written or verbal agreements with respect to this acceptance.
Delivery	<input type="checkbox"/> Check this box if the Software has already been delivered.
	<input type="checkbox"/> Check this box to receive delivery by electronic means.
	Country and state (if applicable) for Software delivery
	Email address for electronic delivery
License Fee	US\$
Payment	One- time payment to be invoiced on Effective Date

Annual Software Maintenance. Pegasystems will provide maintenance as follows:	
The [ <i>INSERT LEVEL</i> ] level of Maintenance as more fully described in the Maintenance Schedule attached to the Agreement	No Maintenance to be provided
	[ <i>INSERT LEVEL</i> ] Level ([ <i>INSERT %</i> ]) of applicable license fee
Annual Maintenance Fee	US\$
Term Start Date	Effective Date of License
Maintenance Term and Payments	Annual, with optional renewals and annual payments., in accordance with Section 3 of the Agreement



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

**IN WITNESS WHEREOF**, the parties hereto, through their duly authorized officers, have executed this License Schedule.

**Pegasystems Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
(type or print)  
Title: \_\_\_\_\_  
(type or print)  
Date: \_\_\_\_\_

**Customer**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
(type or print)  
Title: \_\_\_\_\_  
(type or print)  
Date: \_\_\_\_\_

DRAFT



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

**STANDARD MAINTENANCE SCHEDULE**

This Maintenance Schedule is a binding agreement that is incorporated by reference into, and made a part of, the Software License & Maintenance Agreement dated \_\_\_\_\_, 20\_\_ and all applicable License Schedules with Pegasystems Inc. (together, the "Agreements"). In the event of a conflict between the terms of DIR Contract No. DIR-TSO-3828, the Agreements and the terms of this Maintenance Schedule, the terms of DIR Contract No. DIR-TSO-3828 will control.

Pegasystems will provide Customer maintenance services comprising Problem Resolution, Software Updates, Upgrades and access to the Pega Developer Network (together, "Support"). Pegasystems will provide Support in accordance with the procedures described in the Pegasystems Customer Support Handbook, as updated from time to time. Pegasystems may not update the Customer Support Handbook in a manner that would materially and adversely affect the rights of Customer to Support under this Maintenance Schedule.

Pegasystems will support Customer's use of the Software irrespective of its version as long as Customer renews this Maintenance Schedule for additional terms, but reserves the right to negotiate an additional Support fee if Customer is using a release older than three versions from the then-most current version.

**Problem Resolution**

Pegasystems will repair errors or problems with the Software so that the Software operates in substantial accordance with its Documentation. Problem Resolution includes:

- **Telephone Support:** Pegasystems will accept calls from Customers' designated contacts and work with the Customer to provide relief and/or a permanent solution.
- **Customers designated contacts:** Customer may change these contacts upon written notice to Pegasystems. Additional contacts may be added for an additional fee.
- **Access:** Access to Customer's systems shall be controlled at all times by the Customer. Access shall be provided to Pegasystems on an as needed basis, as approved by Customer. Customer agrees to allow Pegasystems to use a software tool to view Customer's desktop environment using a secure, encrypted connection in order to allow Pegasystems to provide real time response, access and resolution of issues or to promptly apply critical Software repairs. During any Support session in which Pegasystems has electronic access to Customer's systems, access to such systems must include persistent connectivity with reasonable throughput and bandwidth available to perform all necessary functions. All changes by Customer to electronic access should be communicated to Pegasystems in a timely manner.

The scope of Problem Resolution is as described in Table A and Table B below:

<b>Support Table A</b>	
<b>Problem Resolution Coverage</b>	<b>Standard</b>
Coverage	9AM – 5PM standard business days, if: in the US, US ET; in Europe, GMT; in Asia Pacific, Australian ET
Up to specified number of "Defined Names" authorized to contact Pegasystems for Technical Support	Up to 3 contact names
Number of Calls	Unlimited
Telephone support within coverage hours	Included
Secure access to Knowledge Base FTP site	Included
Severity 1 Target Response Time	1 hour *
Severity 2 Target Response Time	1 hour *
Severity 3 Target Response Time	4 hours *
Severity 4 Target Response Time	8 hours *
* Initial response during standard business days	



APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828

Support Table B	
Severity Level	Severity Level Description
1	Severity 1 is used in instances in which the Pegasystems production system is down or the Software is otherwise unusable resulting in massive disruption of production use. Pegasystems' goal for providing initial relief (such as an alternative method to restore system operations) for Severity 1 cases is within 4 hours. The timeframe for providing a permanent resolution for Severity 1 issues is dependent upon the specific situation, and is typically jointly determined by Customer and Pegasystems' support manager. Severity 1 cases are eligible for continuous effort by Pegasystems support personnel, provided that Customer's resources, are made similarly available, until relief is provided.
2	Severity 2 problems include those that involve disruption of a major feature or function of the Software due to a defect and have a significant impact on production (but do not result in extended downtime), or severely impair development efforts. The time frame for providing a permanent resolution for Severity 2 issues is dependent on the specific situation, and is typically jointly determined by the Customer and Pegasystems' support manager.
3	Severity 3 is Pegasystems' default severity, and is always used for new cases unless otherwise requested by Customer. Severity 3 problems include those that involve the failure of a feature or function which results in the Software not working as described in the Documentation.
4	Severity 4 problems include general questions about Software usage/functionality that do not involve errors. Non-Software issues such as requests for support network web site access, problems using the support network, or other issues that do not impact usability of the Software also fall into this category.

Pegasystems is not responsible for errors caused by (a) non-Pegasystems' software or hardware, (b) unauthorized modifications to the Software, or (c) failure to follow the operating procedures described in the Software documentation, or those errors that Customer cannot reproduce under test conditions.

**Software Updates**

Software Updates support the evolution of the Software. They periodically consist of:

- Service Packs: sets of modifications for published generally available Software releases primarily designed to address functional defects only.
- Documentation Updates: reflect changes to Software, documentation and help files.

**Upgrades**

Upgrades provide new functionality and enhancements to the Software within the functional domain of the licensed components.

Installation of Software Updates and Upgrades by Pegasystems' personnel can be provided at Pegasystems' then-current hourly technical services fees, plus applicable expenses.

**Pega Developer Network**

The Pega Developer Network ("PDN") is the primary technical resource for Customer's Software developers and system administrators. The PDN contains a broad range of technical articles including troubleshooting and "How-To" information, a comprehensive and searchable knowledgebase to help developers speed their application development, and a library of shared component examples, and copies of formal product documentation and PRPC Help systems. The PDN also enables members to access Pegasystems' on-line support resources in order to submit defect reports and enhancement suggestions, and to review all issues associated with the user's PDN account.



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

In the event that Customer believes that any support obligation specified in this Maintenance Schedule has not been provided within the required timeframes or specifications, the following escalation process will apply:

<b>Escalation Process</b>			
If escalation is needed, Customer should:			
<ul style="list-style-type: none"> <li>• Call Pegasystems' Global Customer Support using the phone number in the Pegasystems Customer Support Handbook.</li> <li>• Provide the Support engineer with your service request (SR) number and ask to speak to a Support manager.</li> <li>• Escalation begins from time that the service request is called in by Customer and clarified and understood by Pegasystems.</li> <li>• A Support manager will ensure that appropriate additional resources are engaged until the issue is resolved to Customer's reasonable satisfaction or until the matter is closed.</li> </ul>			
<b>Severity Level</b>	<b>Escalation Levels</b>		
	<u>Senior Customer Support</u>	<u>Customer Support Manager</u>	<u>Development/Engineering</u>
<b>1</b>	Within 2 hours	Within 4 hours	Within 4 hours
<b>2</b>	Within 4 hours	Within 8 Hours	After 1 business day
<b>3 or 4</b>	Within 2 business days	Within 2 business days	After 3 business days

DRAFT



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

**PREMIUM MAINTENANCE SCHEDULE**

This Maintenance Schedule is a binding agreement that is incorporated by reference into, and made a part of, the Software License & Maintenance Agreement dated \_\_\_\_\_, 20\_\_ and all applicable License Schedules with Pegasystems Inc. (together, the "Agreements"). In the event of a conflict between the terms of DIR Contract No. DIR-TSO-3828, the Agreements and the terms of this Maintenance Schedule, the terms of DIR Contract No. DIR-TSO-3828 will control.

Pegasystems will provide Customer maintenance services comprising Problem Resolution, Software Updates, Upgrades and access to the Pega Developer Network (together, "Support"). Pegasystems will provide Support in accordance with the procedures described in the Pegasystems Customer Support Handbook, as updated from time to time. Pegasystems may not update the Customer Support Handbook in a manner that would materially and adversely affect the rights of Customer to Support under this Maintenance Schedule.

Pegasystems will support Customer's use of the Software irrespective of its version as long as Customer renews this Maintenance Schedule for additional terms, but reserves the right to negotiate an additional Support fee if Customer is using a release older than three versions from the then-most current version.

**Problem Resolution**

Pegasystems will repair errors or problems with the Software so that the Software operates in substantial accordance with its Documentation. Problem Resolution includes:

- **Telephone Support:** Pegasystems will accept calls from Customers' designated contacts and work with the Customer to provide relief and/or a permanent solution.
- **Customers designated contacts:** Customer may change these contacts upon written notice to Pegasystems. Additional contacts may be added for an additional fee.
- **Access:** Access to Customer's systems shall be controlled at all times by the Customer. Access shall be provided to Pegasystems on an as needed basis, as approved by Customer. Customer agrees to allow Pegasystems to use a software tool to view Customer's desktop environment using a secure, encrypted connection in order to allow Pegasystems to provide real time response, access and resolution of issues or to promptly apply critical Software repairs. During any Support session in which Pegasystems has electronic access to Customer's systems, access to such systems must include persistent connectivity with reasonable throughput and bandwidth available to perform all necessary functions. All changes by Customer to electronic access should be communicated to Pegasystems in a timely manner.

The scope of Problem Resolution is as described in Table A and Table B below:

<b>Support Table A</b>	
<b>Problem Resolution Coverage</b>	<b>Premium</b>
Coverage	<ul style="list-style-type: none"> <li>• For Severity 1 (Down Production Emergencies): 24 X 7</li> <li>• For all other Severity Levels: 9AM – 5PM standard business days, if: in the US, US ET; in Europe, GMT; in Asia Pacific, Australian ET</li> </ul>
Up to specified number of "Defined Names" authorized to contact Pegasystems for Technical Support	Up to 5 contact names
Number of Calls	Unlimited
Telephone support within coverage hours	Included
Secure access to Knowledge Base FTP site	Included
Severity 1 Target Response Time	15 minutes **
Severity 2 Target Response Time	1 hour *
Severity 3 Target Response Time	4 hours *
Severity 4 Target Response Time	8 hours *
* Initial response during standard business days	
** Initial response, 24x7	



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

Support Table B	
Severity Level	Severity Level Description
1	Severity 1 is used in instances in which the Pegasystems production system is down or the Software is otherwise unusable resulting in massive disruption of production use. Pegasystems' goal for providing initial relief (such as an alternative method to restore system operations) for Severity 1 cases is within 4 hours. The timeframe for providing a permanent resolution for Severity 1 issues is dependent upon the specific situation, and is typically jointly determined by Customer and Pegasystems' support manager. Severity 1 cases are eligible for continuous effort by Pegasystems support personnel, provided that Customer's resources are made similarly available, until relief is provided.
2	Severity 2 problems involve disruption of a major feature or function of the Software due to a defect and have a significant impact on production (but do not result in extended downtime), or severely impair development efforts. The time frame for providing a permanent resolution for Severity 2 issues is dependent on the specific situation, and is typically jointly determined by the Customer and Pegasystems' support manager.
3	Severity 3 is Pegasystems' default severity, and is always used for new cases unless otherwise requested by Customer. Severity 3 problems include those that involve the failure of a feature or function which results in the Software not working as described in the Documentation.
4	Severity 4 problems include general questions about Software usage/functionality that do not involve errors. Non-Software issues such as requests for support network web site access, problems using the support network, or other issues that do not impact usability of the Software also fall into this category.

Pegasystems is not responsible for errors caused by (a) non-Pegasystems' software or hardware, (b) unauthorized modifications to the Software, or (c) failure to follow the operating procedures described in the Software documentation, or those errors that Customer cannot reproduce under test conditions.

**Software Updates**

Software Updates support the evolution of the Software. They periodically consist of:

- Service Packs: sets of modifications for published generally available Software releases primarily designed to address functional defects only.
- Documentation Updates: reflect changes to Software, documentation and help files.

**Upgrades**

Upgrades provide new functionality and enhancements to the Software within the functional domain of the licensed components.

Installation of Software Updates and Upgrades by Pegasystems' personnel can be provided at Pegasystems' then-current hourly technical services fees, plus applicable expenses.

**Pega Developer Network**

The Pega Developer Network ("PDN") is the primary technical resource for Customer's Software developers and system administrators. The PDN contains a broad range of technical articles including troubleshooting and "How-To" information, a comprehensive and searchable knowledgebase to help developers speed their application development, and a library of shared component examples, and copies of formal product documentation and PRPC Help systems. The PDN also enables members to access Pegasystems' on-line support resources in order to submit defect reports and enhancement suggestions, and to review all issues associated with the user's PDN account.



**APPENDIX D TO DIR CONTRACT NO. DIR-TSO-3828**

In the event that Customer believes that any support obligation specified in this Maintenance Schedule has not been provided within the required timeframes or specifications, the following escalation process will apply:

<b>Escalation Process</b>			
If escalation is needed, Customer should:			
<ul style="list-style-type: none"> <li>• Call Pegasystems' Global Customer Support using the phone number in the Pegasystems Customer Support Handbook.</li> <li>• Provide the Support engineer with your service request (SR) number and ask to speak to a Support manager.</li> <li>• Escalation begins from time that the service request is called in by Customer and clarified and understood by Pegasystems.</li> <li>• A Support manager will ensure that appropriate additional resources are engaged until the issue is resolved to Customer's reasonable satisfaction or until the matter is closed.</li> </ul>			
<b>Severity Level</b>	<b>Escalation Levels</b>		
	<u>Senior Customer Support</u>	<u>Customer Support Manager</u>	<u>Development/Engineering</u>
<b>1</b>	Within 2 hours	Within 4 hours	Within 4 hours
<b>2</b>	Within 4 hours	Within 8 Hours	After 1 business day
<b>3 or 4</b>	Within 2 business days	Within 2 business days	After 3 business days

DRAFT