

FY16



Pegasus Partner Accreditation Agreement





The Pegasus Partner Programme

The Pegasus Partner Programme encompasses all products in our portfolio but the minimum representation is Opera 3.

The Pegasus Partner Programme comprises one level of accreditation, **Pegasus Solutions Partner**, and an additional level of certification, **Pegasus Centre of Excellence**.

The criteria for admission into each of the above are based on an AMC retention target of 96% and achieving and maintaining the correct numbers of accredited personnel.

Costs

An initial sign-up fee of £2,500* (which is not applicable to existing Partners), plus the following monthly sums, payable by Direct Debit, in advance:

Pegasus Solutions Partner accreditation	£300 per month*
Centre of Excellence certification	Additional £100 per month*

** Subject to VAT*

Additional locations

The second additional location will be subject to 75% of the monthly fees outlined above. Subsequent locations will be subject to 50% of the monthly fees outlined above.



Centre of Excellence



Pegasus recognises that some Partners make a significant investment in Opera 3 in terms of sales and support, above and beyond the requirements set out in the Accreditation Agreement. In-depth product knowledge and understanding enable them to present Opera 3 to its full potential to prospective clients as well as offer outstanding after-sales service and support. In recognition of their commitment, Pegasus awards these Partners Centre of Excellence status.

Centre of Excellence Partners are offered an **extra 5% margin** on AMCs only (up to a maximum of 50%).

In order to maintain the extra 5% margin on Opera II AMCs, Partners must achieve their annual migration targets.

To achieve Centre of Excellence status, Partners must meet the following criteria:

- Have a minimum of 5 accredited personnel per location who have completed and passed the Opera 3 Accreditation course AND have completed and passed all Opera 3 update courses within 3 months of product release.
- Have a minimum of 5 accredited personnel per location who have completed and passed the Centre of Excellence exam.
- Maintain a 45% margin on their sales.
- Provide 10 customer reference sites per year per location who agree to be contacted by Pegasus to verify the level of service provided by the Partner in relation to Pegasus products. The same reference sites can't be used for two consecutive years.

Eligible Partners can apply for Centre of Excellence status by forwarding details of their reference sites to Pegasus Customer Services.

Centre of Excellence status is granted at the discretion of Pegasus and is valid for the financial year in which it is awarded.

Pegasus reserves the right to alter the criteria without written notice.



Programme criteria

Pegasus Partner Personnel

The requirements for Pegasus-accredited technical and sales personnel are based on the Partner's number of customers. All Partners must have at least 2 fully accredited technical contacts for each product they represent. In addition, the ratio of accredited personnel to customers must not be less than 1 fully accredited technical contact per 100 customers.

Number of customers	Up to 200	201-300	301-400	401-500	501-600
Minimum number of accredited technical personnel per product	2	3	4	5	6
Minimum number of sales personnel	1	2	3	3	4

Please note that the minimum personnel requirements are a continuing obligation and in any event Pegasus reserves the right to vary the standard personnel level requirements at any time upon prior written notice to the Partner.

Pegasus Partner evaluation

Pegasus Partners are evaluated by Pegasus in April and October. As well as licence sales and AMC retention, the Partner performance evaluation process to determine Partner margins for the next two quarters shall include, but shall not be limited to, the criteria set out below:

- Provide a monthly sales pipeline in the first 10 days of each month.
- Provide a quarterly sales and marketing plan, including regular planned activity such as events, mailings etc for each of the products for which they are accredited.
- Adhere to our payment terms.
- Maintain the minimum levels of sales and support personnel according to their Partner status and customer base size.
- Ensure that support staff are trained on the latest versions of software within the timescales stipulated by Pegasus.
- Provide two case study candidates per annum.



Programme criteria

Pegasus Partner obligations

Pegasus Partners must:

- Proactively market and sell within their authorised territory all Pegasus products for which they are accredited.
- Place orders using the official Product Order and Annual Maintenance Contract forms (in the latter case only where the customer purchases a perpetual Licence of the Pegasus product).
- Collect Annual Maintenance Contract (AMC) payments on behalf of Pegasus from customers who have purchased a perpetual Licence. Such invoices must be issued in the Partner's own name and, if the invoice includes other sums, clearly show the Pegasus Annual Maintenance Contract fee as a separate item.
- Collect Subscription payments from Licence Subscription customers on behalf of Pegasus. Such invoices must be issued in the Partner's own name and, if the invoice includes other sums, clearly show the Pegasus Subscription fee as a separate item.
- Provide the mandatory information for each customer when placing an order, as requested on the official Product Order Forms.
- Agree to Pegasus contacting their Pegasus customers directly.
- Ensure that the appropriate number of technical and sales personnel attend the training courses on the Pegasus solutions they represent and pass the relevant exams, as well as any update training courses as advised by Pegasus. When the number of accredited Partner personnel falls below the required levels as a result of personnel leaving or as a result of an upward change in Partner level or as a result of an increase in customer base, a grace period of six months will be given for the required number of staff to be reached.
- Have experience installing and supporting the latest versions of Microsoft Windows operating systems and Microsoft Office applications used by small and medium-sized companies.
- Operate a dedicated Support Desk permanently manned by accredited staff who are available to customers during normal office hours.
- Keep the most recent copies of software installed at each location.
- Trade from appropriate and recognised business premises, maintain a supply of marketing collateral in the demonstration and reception areas at each location and ensure that sales staff have access to this.
- It is preferred that Partners have a recognised hardware dealership and maintain suitably trained personnel who can provide support on hardware and software related issues.



Programme benefits

What Pegasus offers Partners

The accreditation fee charged contributes towards the services Pegasus provides to Partners and is equally divided between the following areas:

SALES & MARKETING

- Sales Leads service
- Deal registration
- Relationship with a personal Business Development Manager
- Find a Partner facility for prospective customers on the Pegasus website
- Free of charge access to marketing materials
- Marketing consultancy
- Assistance with customer events and seminars from a Pegasus Product Specialist

SUPPORT

- Prioritised incident responses
- Incident escalation procedure
- 24 hour incident logging
- Partner setting of incident priority
- Dedicated telephone line
- Incident update alerts via e-mail
- Telephone pick-up and response times as defined in the Pegasus Service Level Agreement

Please note that Pegasus will only provide product support to individuals accredited by Pegasus. The support responsibilities of Pegasus and its Partners are defined in the Pegasus Service Level Agreement.

TRAINING

- Free product accreditation and update training for Partner staff*
- Training schedule consisting of product accreditation and update courses**
- Online training booking system
- Online exam centre
- On-site training available on request
- Bespoke courses available on request

* Excluding Capital Gold and Capital Gold Payroll, on-site and bespoke training. In addition, online exams associated to all courses are chargeable.

** Update courses will run for a set period only. Pegasus reserves the right to charge for any additional training courses required as a result of Partners failing to attend the scheduled courses while available, unless all the scheduled courses were fully booked.

Pegasus Partner Application form

Please complete and return to: Customer Services, Pegasus Software, Orion House, Orion Way, Kettering, NN15 6PE

Sales method: **Licence Purchase** **Licence Subscription**

Pegasus Account Number (if applicable): _____ Company name: _____

Number of locations: _____ Address: _____

_____ Postcode: _____

Tel: _____ Fax: _____ E-mail: _____ Website: _____

Contacts: (Title/First Name/Surname)

Managing Director: _____ E-mail: _____

Sales Manager: _____ E-mail: _____

Support Manager: _____ E-mail: _____

Training Manager: _____ E-mail: _____

Marketing Manager: _____ E-mail: _____

Payroll Contact: _____ E-mail: _____

AMC Contact: _____ E-mail: _____

Sales Person* 1: _____ E-mail: _____

Sales Person* 2: _____ E-mail: _____

Sales Person* 3: _____ E-mail: _____

Support Person* 1: _____ E-mail: _____

Support Person* 2: _____ E-mail: _____

Support Person* 3: _____ E-mail: _____

Support Person* 4: _____ E-mail: _____

Support Person* 5: _____ E-mail: _____

* When applying to become a Partner a single individual cannot be considered for more than one category

Annual Turnover: _____ Pegasus-related turnover: _____ Number of staff: _____

Number of Pegasus-related staff: _____ Number of Sales staff: _____ Number of Support staff: _____

Number of years trading: _____ Number of years as a Pegasus Partner: _____

Visual FoxPro Experience/Qualifications: _____

Microsoft SQL Server Experience/Qualifications: _____

.NET Experience/Qualifications: _____

Microsoft Experience/Qualifications: _____

Vertical markets specialised in (if applicable): _____

Hardware dealerships (if applicable): _____

Non Accounting software dealerships (if applicable): _____

Accounting software dealerships: Pegasus Sage 50 Sage 200 Access Exchequer SAP Microsoft

Other (please state): _____

I hereby certify that the information contained on this form is correct and that we abide by the Pegasus Partner Accreditation Agreement Terms and Conditions.

Signed: _____ Date: _____

Name (block capitals): _____ Position: _____

FOR OFFICE USE ONLY

Application approved by: _____ Date: _____

Account No: _____ Status granted: _____

Account Manager: _____ Sales & Marketing Director: _____

Pegasus Partner Accreditation Agreement

Terms and Conditions

If we, Pegasus Software, accept your application to act as a Pegasus Partner, the following terms and conditions shall apply:

1. Interpretation

"Accreditation Form" means the Pegasus Partner Accreditation Form on which you applied to become a Pegasus Partner.

"Annual Maintenance Contract" or AMC means such fees payable by Licensees pursuant to end-user Software Licences in respect of Licensed Materials, determined in accordance with the Pegasus Partner Price List.

"Application" means your application to become a Pegasus Partner.

"Designated Partner" means the Pegasus Partner or other accredited Partner who is from time to time appointed as such in respect of a Licensee.

"Effective Date" means the date we communicate our acceptance of your Application.

"Software Licence" means a licence in our standard form granted by us in respect of Licensed Materials.

"Full Release" means a release of the Licensed Program or part thereof issued to reflect changes in relevant taxation or other United Kingdom legislation, and/or otherwise incorporating changes to or enhancements of functionality and/or changes previously issued in a Service Pack or Service Release; such releases being denoted by a change in any of the first three digits of the version number of the Licensed Program.

"Intellectual Property Rights" means copyright, rights in trade marks (whether or not registered), rights in confidential know-how and any other intellectual property rights subsisting in respect of the Licensed Materials.

"Licensed Materials" means copies of the Licensed Program plus all related user manual(s) and on-line and other documentation supplied by us.

"Licensed Program" means all or any Modules of Pegasus products issued by us, including any improvement, modification or correction thereto

"Licensee" means any person with whom a Software Licence is in force.

"Module" means a Pegasus product application or system module.

"Partner Price List" means the list, issued by us from time to time, of Pegasus Partner purchase prices of Pegasus products and other prices (including without limitation prices for upgrades, and Annual Maintenance Contract fees) relating to Pegasus computer software supplied by us.

"Partner" means a person accredited by us to supply Pegasus products.

"Service Pack" means a release of the Licensed Program which is not a Full Release; such releases being denoted by a change in either or both of the last two digits of the version number of the Licensed Program.

"Service Release" same as Service Pack.

"Territory" means the United Kingdom of Great Britain and Northern Ireland plus any others at the discretion of Pegasus.

2. Appointment

2.1 If we accept your Application, you shall be deemed appointed a Pegasus Partner, on these terms and conditions and with effect from the Effective Date.

2.2 As a Pegasus Partner, you will be a Partner, supplying Licensed Materials on your own account. You shall not incur any liability on our behalf or purport to bind us in any way.

2.3 Nothing in this Agreement shall prevent you acting as a Partner for Pegasus products other than the Licensed Program, or from supplying competing products.

3. Supply of Licensed Materials

3.1 You must order Licensed Materials from us on our official "Annual Maintenance Contract and Product Order Form" and signed by a duly authorised representative of the prospective Licensee. You shall when ordering provide us with all information necessary or desirable to enable us to supply the Licensed Materials required and to comply with all labelling, marking and other applicable legal requirements in the Territory relating to the Licensed Materials.

3.2 Before ordering Licensed Materials you shall use best endeavours to ensure that they will be fit for and appropriate to the purpose and requirements of the prospective Licensee named in the relevant order form, and you shall supply the same only to that prospective Licensee.

3.3 There is third party software included in the Licensed Program and details of the licences governing the use of such software will be made available to the Designated Partner via the Partner website. You shall comply in all respects with the copyright requirements and terms of supply. You shall also be responsible for bringing such information to the notice of the Licensee.

4. Financial

4.1 You shall promptly provide to us such information in respect of Licensees and Licensed Materials as will enable us accurately to calculate all sums payable by you to us and all Annual Maintenance Contract fees payable by Licensees in respect of which you are the current Designated Partner.

4.2 Sums payable by you to us for supply of Licensed Materials will be as stated in the Pegasus Partner Price List from time to time. You shall pay such sums in accordance with our standard payment terms from time to time as stated on our invoice.

4.3 Breaching the terms of this Agreement or any of our guidelines or policies may result in Pegasus applying an immediate decrease in the margin you receive in respect of the sums detailed within the Pegasus Partner Price List.

4.4.1 At least 60 days before each Annual Maintenance Contract associated to a perpetual licence in respect of which you are the Designated Partner is due for renewal we will issue to you a renewal notice in respect thereof. You shall promptly following our renewal notice issue invoices for the Annual Maintenance Contract (determined in accordance with the Partner Price List) becoming due for renewal of such Software Licences. Such invoices shall be issued in your own name (not ours) and, if the invoice includes other sums, shall clearly show the Annual Maintenance Contract as a separate item. Each such invoice issued by you shall include or incorporate by reference payment terms in respect of the Annual Maintenance Contract being invoiced which are consistent with the payment terms in the relevant Software Licence.

4.4.2 At least 60 days before each Licence Subscription (both licence and AMC fees) in respect of which you are the Designated Partner is due for renewal we will issue to you a renewal notice in respect thereof. You shall promptly following our renewal notice contact the relevant licencees to determine if they wish to renew their subscription.

4.5 Before the end of the month prior to that in which each Annual Maintenance Contract associated to a perpetual licence in respect of which you are the Designated Partner is due for renewal, or at such later time as we may decide, we will issue to you an invoice in respect of that proportion (determined in accordance with the Partner Price List) of the Annual Maintenance Contract due from the Licensee, that is payable by you to us.

4.5.1 Whether or not you have received payment from the Licensee, you shall pay each such invoice according to our standard payment terms from time to time as stated on the invoice. Provided that if any Licensee is withholding payment for an Annual Maintenance Contract because of what in our mutual opinion is a genuine dispute between the Licensee and us, which justifies the withholding of such payment, then your obligation to pay to us a proportion of that Annual Maintenance Contract will be suspended until you receive payment.

4.6 You agree to accept a Licensee's Annual Maintenance Contract cancellation request provided it is served upon you in writing at least 30 days prior to the Annual Maintenance Contract renewal date. If you receive verbal notification at least 30 days prior to the Annual Maintenance Contract renewal date you are obliged to promptly inform the Licensee of the requirement to put such request in writing. Pegasus reserves the right, in its sole discretion, to treat a purported notice of cancellation of an Annual Maintenance Contract served by Licensee as being valid notwithstanding the fact that it does not comply with the period agreed for service of such notice and in such circumstances, you agree: (i) to not dispute with Licensee (or Pegasus) whether notice has been validly served; and (ii) not to pursue the collection of the Annual Maintenance Contract from the Licensee (whether in part or whole).

4.7.1 You shall promptly notify us in writing if any Licensee fails to pay for any Annual Maintenance Contract by the renewal date in accordance with its Software Licence, or if any Licensee indicates to you its intention not to renew its Software Licence. If the Licensee is withholding payment because of a dispute between the Licensee and us then you and we will cooperate in trying to resolve the dispute. Each party shall promptly copy to the other any notice that it receives from any Licensee purporting to terminate a Software Licence (and, for the avoidance of doubt, we shall have the right to accept any such notice of termination even if it does not comply with the requirements for a termination notice set out in the Software Licence).

4.7.2 You shall promptly notify us in writing if any Licensee fails to pay for any Licence Subscription Contract, or if any Licensee indicates to you its intention not to renew its Software Licence. If the Licensee is withholding payment because of a dispute between the Licensee and us then you and we will cooperate in trying to resolve the dispute. Each party shall promptly copy to the other any notice that it receives from any Licensee purporting to terminate a Software Licence (and, for the avoidance of doubt, we shall have the right to accept any such notice of termination even if it does not comply with the requirements for a termination notice set out in the Software Licence).

4.8 All sums from time to time due from you to us under or in connection with this Agreement shall be paid in full, without deduction or setoff, within the terms stated on our invoice and by such method as we may reasonably require. If you fail to pay any sum when due then we will be entitled to:

4.8.1 charge you interest on the overdue sum, both before and after any judgement, at the rate of 4% per annum above the Barclays Bank Plc base rate per annum in force from time to time, such interest to run from the date payment becomes due until the actual date payment is received in full in cleared funds together with such interest; and/or

4.8.2 suspend performance of all or any of our obligations under this Agreement.

4.9 In the event of sale of your Pegasus Licensee base to another Partner, all outstanding sums owed by you to us must be repaid in full before the transfer of customers can be carried out.

5. Support of Licensed Programs and Appointment/Change of Designated Partners

5.1 You shall promptly supply all Licensees with a valid Annual Maintenance Contract for whom you are the Designated Partner all Full Releases made available to you by us. You shall promptly supply to all Licensees with a valid Annual Maintenance Contract for whom you are the Designated Partner and who have reported to you or to us any defect, error or other problem intended to be addressed by such Services Packs, all Service Packs which we supply to you. You shall also promptly supply such Service Packs to other Licensees with a valid Annual Maintenance Contract for whom you are the Designated Partner if requested by them or us. Subject as above supply of Services Packs will be at your own discretion (subject to your own contractual obligations to Licensees).

5.1.1 Unless we agree otherwise in writing, you shall offer to install (and if such offer is accepted, shall install with due care, skill and diligence) all Full Releases and Services Packs you supply to Licensees with a valid Annual Maintenance Contract for whom you are the Designated Partner upon reasonable terms and prices.

5.2 Unless we agree otherwise in writing, you shall offer to provide (and if such offer is accepted, shall provide) to Licensees with a valid Annual Maintenance Contract for whom you are the Designated Partner support in relation to the Licensed Program upon reasonable terms and prices.

5.3 We shall use our reasonable endeavours during our normal office hours (at present 9am to 5pm, Monday to Friday excluding UK bank and other public holidays) to provide to you by telephone, e-mail or other mutually acceptable methods of communication from time to time, and in response to your requests from time to time, second-line support in resolving operational, functional or related computing environment issues in relation to the Licensed Materials. We will normally supply this support without charge, but reserve the right to charge you at our standard rates from time to time in force, for any such support that we supply which is in addition to that which in our sole opinion you should reasonably need if you make proper use of the manuals and other instructions provided to you in relation to the Licensed Materials, and taking into account the training provided to you by us. In particular (without limitation) we reserve the right to charge for any such support provided to your employees who have not undertaken the training stipulated in the Agreement.

5.4 You must submit support queries to Pegasus in accordance with the Service Level Agreement.

5.5.1 We may in our absolute discretion, after consulting with you, at any time transfer any Licensee from one Designated Partner to another if you do not maintain the correct number of accredited technical personnel or if your performance as a Pegasus Partner is not to a standard which is acceptable to Pegasus and/or its Licensees. Unless specifically agreed by Pegasus, the Partner accepting the transferred Licensee shall not be entitled to charge for AMC revenue until the normal renewal date. For the avoidance of doubt if the AMC renewal is due when the transfer occurs we will review the situation and determine which Partner the Licensee is obliged to pay. You agree to cooperate fully with Pegasus in relation to any such transfer.

5.5.2 We may in our absolute discretion, after consulting with you, at any time transfer any Licensee (excluding Opera 3 Licensees) from one Designated Partner to another if that Licensee requests such a transfer. Unless specifically agreed by Pegasus, the Partner accepting the transferred Licensee shall not be entitled to charge for AMC revenue until the normal renewal date. For the avoidance of doubt if the AMC renewal is due when the transfer occurs we will review the situation and determine which Partner the Licensee is obliged to pay. You agree to cooperate fully with Pegasus in relation to any such transfer.

6. Your General Obligations

You shall:

6.1 pay to us in accordance with the payment terms of our invoice to you all fees due under this Agreement (which shall be at our standard rates in force from time to time) becoming due in accordance with the Accreditation Form.

6.2 at all times comply with the criteria and obligations set out in this Agreement.

6.3 at all times comply with the criteria governing the sale and support of the Licensed Materials (as stated on our websites).

6.4 act loyally and faithfully to us and in such manner as will not prejudice our business interests or the interests of our Partner channel (in relation to the Licensed Program or otherwise).

6.5 not try to induce, encourage or persuade Licensees associated with another Pegasus Partner (ie for whom you are not the Designated Partner) to transfer their AMC to you (unless you have that Pegasus Partner's written consent). For the avoidance of doubt this includes arrangements with a third party to obtain referrals from other Pegasus Partners.

6.6 not seek customers, establish any branch or maintain any distribution depot for the Licensed Programs outside the Territory without our express permission. For the avoidance of doubt, this shall not prevent installation of the Licensed Program at remote sites outside the Territory for customers whose head office is within the Territory.

6.7 notify Pegasus of any intention to purchase another Partner's Pegasus Licensee base **prior to any** related negotiations taking place. Pegasus will

then consider the suitability of transferring the customer base and confirm whether or not Pegasus will allow the AMC transfers to take place and, if approving, confirm the relevant transfer fee.

- 6.8** notify Pegasus of any intention to sell your Pegasus Licensee base to another Partner **prior to any** related negotiations taking place. Pegasus will then consider the suitability of transferring the customer base and confirm whether or not Pegasus will allow the AMC transfers to take place.
- 6.9** not obtain copies of the Licensed Materials from any person other than us.
- 6.10** not provide copies of the Licensed Materials to Licensees who have allowed their AMC to lapse (with the exception of demonstration versions of the Licensed Program).
- 6.11** not provide copies of the Licensed Materials to Licensees who are associated to another Pegasus Partner i.e. for whom you are not the Designated Partner (with the exception of demonstration version of the Licensed Program).
- 6.12** not provide copies of the Licensed Materials to non Licensees (with the exception of demonstration software).
- 6.13** not assist, or knowingly allow, a Licensee to breach our Licensed Materials terms and conditions.
- 6.14** adhere to the Pegasus corporate and product logo guidelines when reproducing any advertising or promotional literature incorporating trade names and/or marks of Pegasus (whether or not registered) relating to Licensed Materials. Illustrations or other copyright materials owned by us must not be used without our prior written permission.
- 6.15** not try to persuade any of our employees to leave us and/or to join you.
- 6.16** upon request supply to us a copy of your terms and conditions of business which you use in dealings with Licensees and other customers.
- 6.17** provide a sales pipeline/forecast as and when required.
- 6.18** provide customer references/win stories in accordance with your accreditation level.

7. Intellectual Property Rights

- 7.1** You shall promptly upon becoming aware of the same fully notify us in writing of any actual, threatened or suspected infringement of any Intellectual Property Right or any claim by any third party that the possession, supply or use of any Licensed Materials infringes the rights of any other person. You shall at our expense do all such things as we may request to assist us in relation to such infringement or claim.
- 7.2** You shall not do or authorise any third party to do any act which would or might be inconsistent with any Intellectual Property Right.

8. Confidentiality

Neither party shall divulge or communicate to any person (other than to those of its officers, employees or agents whose province it is to know the same) any confidential information relating to the other party or any of the other party's associated companies. Nor shall either party use such information of the other except for the purposes of this Agreement. Your obligations under this Clause apply in particular (without limitation) to any confidential information comprised in or relating to the Licensed Materials. This Clause shall survive the termination of this Agreement, howsoever occurring.

9. Liability

- 9.1** We do not exclude or restrict our liability in negligence for death or personal injury, or for fraud, or insofar as any exclusion or limitation of our liability is otherwise prohibited, void or unenforceable by law. All other provisions of this Agreement shall be deemed to be subject to this Clause 9.1
- 9.2** Subject to Clause 9.1, the only warranties given by us in relation to Licensed Materials supplied by us are as stated in the Software Licence under which they are supplied, and such warranties are given direct to the Licensee and are in all respects subject to the terms and conditions of the relevant Software Licence. We do not make or give, nor have any of our servants or agents the authority to make or give on our behalf, any representation or warranty in relation to any Licensed Materials or otherwise in relation to this Agreement and all such representations and warranties, whether express or implied by law, trade custom, course of dealing or otherwise, are hereby expressly excluded to the fullest extent all such representations and warranties, whether express or implied by law, trade custom, course of dealing or otherwise, are hereby expressly excluded to the fullest extent permitted by law.
- 9.3** Subject to Clause 9.1, we will not be liable to you, in contract, in tort or otherwise, for any loss or damage whatsoever howsoever arising out of or in connection with this Agreement or the Licensed Materials. In particular, but without prejudice to the generality of the foregoing, in no circumstances will we be liable to you for any such loss or damage being financial loss of any kind, including without limitation loss of goodwill, loss of profit or opportunity, extra costs incurred or loss of any savings which might have accrued.
- 9.4** If notwithstanding Clauses 9.2 and 9.3 we are found liable to you in excess of liability expressly accepted by us then, subject to Clause 9.1, our aggregate liability to you, in contract, in tort or otherwise, arising in any way out of or in connection with this Agreement or the Licensed Materials, shall be limited to £10,000 or, if less, the amount of all accreditation fees paid by you to us during the period of 12 months immediately prior to the events giving rise to your claim, in respect of your accreditation or continued accreditation as a Pegasus Partner.
- 9.5** In the event of any complaint or claim by any Licensee arising out of or in connection with any Licensed Materials or any Software Licence:
 - 9.5.1** both parties shall use reasonable endeavours to offer to the complainant as soon as is possible appropriate advice or instructions to mitigate the adverse effects on the complainant's business of the matter which is the subject of the complaint or claim.
 - 9.5.2** each party shall at the other's request promptly copy to the other any written communication which it receives in relation thereto.
 - 9.5.3** insofar as the complaint or claim relates to the Licensed Materials you shall not make any admission in relation thereto, or attempt to settle or compromise with the complainant, except as we may expressly in writing instruct.
 - 9.5.4** each party shall upon request provide to the other reasonable cooperation in attempting to resolve the complaint or claim.
 - 9.5.5** insofar as we are, pursuant to the terms of the relevant Software Licence, responsible for compensating the complainant and/or providing any other remedy in respect of the complaint or claim, we will do so.
 - 9.5.6** subject to Clause 9.5.5 we shall have no other liability in respect of the complaint or claim (and in particular but without limitation we shall have no liability if and to the extent that the complaint or claim results from any alteration of any Licensed Materials by you or any person on your behalf or other person or from any supply or failure by you to supply any services).

10. Termination

- 10.1** Either party may terminate this Agreement by giving to the other at least 3 months written notice of termination expiring on or at any time after the first anniversary of the Effective Date.
- 10.2** Either party may terminate this Agreement by giving to the other a written notice of termination having immediate effect if that other party commits a material breach of this Agreement and fails to remedy that breach within 30 days after a written notice to that other party identifying the breach and requiring it to be remedied.
- 10.3** Either party may terminate this Agreement by giving to the other a written notice of termination having immediate effect if that other party passes a resolution for winding up, or if a petition is presented to wind that other party up, or if that other party goes into liquidation, or if a receiver or administrative receiver is appointed over all or any part of that other party's undertaking or assets, or if that other party compounds or makes any arrangement with or for the benefit of its creditors or is unable to pay its debts as they fall due, or if it ceases trading.
- 10.4** We may terminate this Agreement by giving to you a written notice of termination having immediate effect if you undergo any change of control which results in you being controlled by a competitor of ours, or if a competitor of ours at any time has or acquires any direct or indirect equity interest in you.
- 10.5** We may terminate this agreement if you fail to provide trained staff as stipulated in this agreement, or at our discretion where untrained staff repeatedly attempt to use the Pegasus Services department.
- 10.6** The right to terminate this Agreement shall be without prejudice to any other right or remedy of either party under or in relation to this

Agreement, all accrued rights of the parties shall survive termination, and any provisions of this Agreement which, in order to give full effect to their meaning, need to survive termination of this Agreement shall remain in full force and effect after termination. Termination of this Agreement will not entitle you to any refund of accreditation fees or any other costs or expenses that you may have incurred pursuant to or in connection with this Agreement.

10.7 If you serve notice of termination on us you must pay all monies due in relation to any existing subscription contacts unless you have arranged for the transfer of the contracts to another Pegasus Partner and Pegasus has agreed such transfer.

10.8 Once notice of termination has been served (either by you or us), howsoever arising:

10.8.1 Subject to sub-clause 10.8.2 below your rights and obligations under clauses 4.4 and 4.5 shall be suspended with immediate effect.

10.8.2. Any sums due to Pegasus must be paid in full without set-off or deduction.

10.8.3 You must promptly notify us of any and all AMC revenue you have already collected or which is or shall be due from Licensees but which has not been invoiced by Pegasus. We will then invoice you accordingly (terms of payment will be agreed by us at such a time but in default of agreement, within 30 days of invoice date).

10.8.4 You must not issue any further invoices in respect of AMC to Licensees unless you have our prior written permission to do so. If we do grant such permission terms of payment will be agreed by us at such a time.

10.8.5 You must not issue any support contracts in relation to the Licenced Program which will extend beyond the term of this Agreement.

10.8.6 You will issue Licensees with existing support contracts in relation to the Licensed Program pro-rata credits for support paid, which covers the period from when your appointment as a Pegasus Partner ceases to the end of the support contract. This will not apply if you have arranged for the transfer of Licensees to another Pegasus Partner who has agreed to honour the existing support contract and Pegasus has authorised such transfer.

10.8.7 No Licensees will be permitted to transfer to you.

10.8.8 In order that we can ensure continuing support of the Licensed Programs to all Licensees, you shall not in any way prevent or hinder us or any other persons authorised by us from contacting such Licensees to inform them of your termination, or from appointing a new Designated Partner for each Licensee.

10.9 Upon termination of this Agreement, howsoever arising:

10.9.1 you shall forthwith take all steps necessary or desirable to make clear to third parties that you are no longer a Pegasus Partner.

10.9.2 you shall forthwith deliver to us or otherwise dispose of (as we may direct) all Licensed Materials, advertising materials, stationery, brochures, signs and other items bearing Pegasus product names which are then in your possession or control.

10.9.3 you shall forthwith uninstall all Partner copies of the Licensed Program, which copies shall be returned to Pegasus or alternatively destroyed subject to our prior written consent.

10.10 you shall not make any use of your former connection with us or with any company in the same group of companies as us.

11. General

11.1 Neither the waiver nor the giving of time by either party in respect of breach by the other of any term of this Agreement shall release that other therefrom or from any other term of this Agreement, or exonerate that other party from any breach of this Agreement, nor prevent the later enforcement of any term of this Agreement.

11.2 This Agreement embodies the entire understanding of the parties concerning the subject matter hereof and supersedes any prior arrangements, understandings, promises or agreements existing between the parties hereto concerning the subject matter of this Agreement. No addition, amendment to or modification of this Agreement shall be effective unless in writing and signed by or on behalf of us and you.

11.3 If the whole or any part of any term, condition or provision of this Agreement shall be determined invalid, unlawful or unenforceable to any extent then such term, condition or provision (or the part thereof determined unlawful) shall be severed from the remainder of this Agreement which shall remain valid and enforceable to the fullest extent permitted by law. This Clause shall apply in particular (but without limitation) to Clause 9.

11.4 The headings herein are for convenience only and shall not affect the interpretation of this Agreement.

11.5 You shall not assign or purport to assign any or all of the benefit or burden of this Agreement without the prior written agreement of Pegasus. We shall be entitled to assign the benefit and/or burden of this Agreement and this Agreement shall bind and shall endure for the benefit of any assignee of ours. We shall give you written notice of any such assignment that we make.

11.6 Any notice or other communication to be given under this Agreement shall be in writing sent to the business address of the recipient party (or to such new address as shall have been notified in writing by that party). Any notice or communication shall be deemed to have been given at the time when delivered (if delivered by hand) or when it would have been received in due course of post (if sent by ordinary pre-paid first class post) or when transmitted (if sent by facsimile or e-mail transmission). Any facsimile or e-mail transmission must be confirmed by ordinary pre-paid first class post.

11.7 Any dispute or claim between you and us which arises out of or in connection with this Agreement and is not resolved to the satisfaction of both parties shall be referred for alternative dispute resolution ("ADR") to a mediator appointed to the post by agreement or, in default of agreement, by the Centre for Dispute Resolution in England, or such body as may from time to time replace it. If the matter has not been resolved by an ADR procedure within 180 days of its initiation, then the Courts of England shall have jurisdiction in accordance with Clause 11.10.

11.8 The costs of the mediator shall be borne equally by you and us.

11.9 The Direct Debit mandate will only be used for collecting your monthly Pegasus Partner accreditation fees and subscription payments.

11.10 This Agreement shall be governed and construed in all respects in accordance with English law and you and we hereby submit to the non-exclusive jurisdiction of the English courts in respect of all disputes and claims arising out of or in connection with this Agreement.

Credit Information

IF YOU ARE AN EXISTING PEGASUS PARTNER YOU DO NOT HAVE TO COMPLETE THIS PAGE

Payment Terms: Cash with order for all orders received within six months of approval of Application for Partner Accreditation.

Credit Terms: Payment to be made by the end of the month following the month of invoice.

Type of business: Limited Company Partnership Sole Trader

Other (please specify): _____

Date business first established: _____ Number of branches run by the business: _____

Business name: _____

Address: _____

Telephone number: _____

Registered Office address: _____

Company Registration Number: _____

Bankers: _____

Address: _____

Sort Code: _____ Account Name: _____ Account Number: _____

Trade reference 1: _____ Tel No: _____

Address: _____

Trade reference 2: _____ Tel No: _____

Address: _____

Anticipated sales value per annum: Pegasus Opera 3 £ _____

Pegasus Opera 3 SQL £ _____

Pegasus CIS £ _____


Amount of credit required: £ _____

FOR OFFICE USE ONLY

Amount of Credit Approved: £ _____ Credit Manager: _____ Date: _____

Finance Director: _____ Date: _____



Pegasus Software Orion House, Orion Way, Kettering NN15 6PE
T: +44 (0)1536 495000 **F:** +44 (0)1536 495001 **E:** info@pegasus.co.uk
www.pegasus.co.uk  **@PegasusSoftware**