# PEREGRINE CUSTOMER ORDER FORM

| Customer Information | |
|---|---|
| **Customer Name:** San Pablo Police Department | **Contact:** Lieutenant Brian Bubar |
| **Address:** 13880 San Pablo Avenue, San Pablo, CA 94806 | **Phone:** (707) 301-6032 |
| **Email:** brianb@sanpabloca.gov | **Fax:** (510) 215-3135 |

| Peregrine Services |
|---|
| **Effective Date:** December 18th, 2018. |
| **Initial Term:** One year from the Effective Date. |
| **Service Fee:** Fee for the Initial Term is $100,000. |
| **Users:** Customer may allow an unlimited number of employees of the San Pablo Police Department to access and use the Service.  During the Initial Term, Customer may allow San Pablo city personnel outside of the police department to access and use the Service at no additional cost to Customer upon Peregrine's prior written approval on an individual-by-individual basis. Peregrine may charge additional fees following the Initial Term for any users who are not employed by the City of San Pablo  upon written notice to Customer. |
| **Onboarding and Training Services:**  Peregrine will provide Customer with an introductory training session that provides an overview of the Service, background on accessible data sources as of the Effective Date and an introduction to the analytic capabilities of the Service. Peregrine will provide additional training, including refresher sessions and advanced training modules, from time to time upon mutual agreement of the parties at no charge. |
| **Professional Services:**  Deployment of Peregrine Service, including the Peregrine web and mobile phone applications, in accordance with the Agreement. The initial Customer Data sources that Peregrine will integrate with the Service for Customer are: Records Management System, Computer Aided Dispatch System, Gunshot database, Automated License Plate Reader database, Body Camera Video Database, Assessor database, Police Beats, AC Transit Routes, City Limits, Historical Call Data Records, Mobile Phone GPS Data, Physical Extraction Data. <br><br>Any additional data integrations during the Initial Term shall be subject to mutual written agreement of the parties.  Peregrine agrees to provide such integrations during the Initial Term at no additional cost to Customer. <br><br>Following the Initial Term all data integration services and corresponding fees will be set forth in an SOW. <br><br>For clarity, Peregrine will provide any other Professional Services and, after the Initial Term, all data integration services in accordance with Section 2.2 of the Terms and Conditions. |

Peregrine services are provided subject to the terms set forth above on this Order Form together with the attached terms and conditions (the "**Terms and Conditions**," and together with this Order Form, the "**Agreement**"). Any capitalized term used in this Order Form but not defined herein shall have the meaning ascribed to it in the Terms and Conditions. By signing this Order From, Peregrine and Customer each agree to the terms and conditions set forth in this Agreement.  In the event of any conflict between this Order Form and the Terms and Conditions, the terms of this Order Form shall govern to the extent of such conflict. This Order Form may be executed in counterparts (which may be delivered by electronic mail of .pdf files), each of which counterparts, when so executed and delivered, shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument.

**Peregrine:**

By:⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯

Name:  Nicholas Noone

Title:    President & CEO

**Customer:**

By: ⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯

Name:⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯

Title: ⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯

Attest:

⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯

City Clerk, City of San Pablo

# TERMS AND CONDITIONS

These Terms and Conditions govern the provision of the services described on the attached Order Form ("**Order Form**") by Peregrine Technologies, Inc. ("**Peregrine**") to you ("**Customer**"). By executing an Order Form with Peregrine, Customer agrees to be bound by these Terms and Conditions.

## 1. Definitions.

"**CJIS Security Policy**" means the FBI CJIS Security Policy document as published by the FBI CJIS Information Security Officer, currently located at https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center.

"**Criminal Justice Information Services Division**" or "**CJIS**" means the FBI division responsible for the collection, warehousing, and timely dissemination of relevant criminal justice information to the FBI and to qualified law enforcement, criminal justice, civilian, academic, employment and licensing agencies.

"**Customer Data**" means any of Customer's data, information, documents or electronic files that are provided to Peregrine via the Services or otherwise in connection with this Agreement, including any databases Customer procures from third party vendors for Peregrine's integration with the Service.

"**Documentation**" means the materials supplied by Peregrine hereunder, in any media, including any and all installer's, operator's and user's manuals, training materials, guides, functional or technical specifications or other materials for use in conjunction with the Service.

"**Professional Services**" has the meaning specified in Section 2.2.

"**Service**" means Peregrine's web and iOS mobile applications that assist Users with criminal investigations and police leadership decision making. For purposes of this Agreement, the Service is exclusive of Professional Services that may be rendered upon mutual agreement of the parties in accordance with Section 2.2.

"**SOW**" has the meaning specified in Section 2.4.

"**Third Party Data**" means any third party databases that Peregrine licenses from third party vendors and makes accessible via the Service. For clarity, Third Party Data does not include any Customer Data.
"**Users**" means the individuals authorized by Customer to use the Service in accordance with the terms in the Order Form (including number and type of individuals who may access the Service) and that have been supplied user identifications and passwords by Peregrine.

## 2. Provision of the Service and Additional Services.

**2.1 Service.** During the Term and subject to the terms and conditions of this Agreement, Peregrine shall provide Customer with the right to: (a) access and use the Service for up to the number of Users set forth in the Order Form, and (b) to download and reproduce the applicable Documentation solely for internal use in association with the Service. In addition, Peregrine shall provide Customer with (i) authentication credentials for individual Users upon written request from authorized personnel of Customer, (ii) onboarding and training services as set forth in the Order Form ("**Onboarding and Training Services**"), (iii) telephone and standard technical support to Customer ("**Technical Support**").

**2.2 Performance Standards/Description of System.** The Service to be provided includes integrating the technology and Customer Data sources listed under Professional Services on the Contract Order Form so that an individual User can access all of that Customer Data using a web application and the Customer can analyze and prepare reports with the aggregated information.

**2.3 Response Time**. Customer operates 24/7 as a police department. Services shall be operational at least 99.9% of the time (excluding scheduled maintenance performed outside of normal business hours). Technical Support requires Peregrine to acknowledge a problem with the Service or its application by notifying the Customer Contact on the Customer Order Form as soon as possible but not more than 4 hours from Customer notifying Peregrine of the problem. If such problem materially affects the current use of the Service**,** then Peregrine shall also contact the San Pablo Watch Commander at 510-724-1111. Peregrine shall then outline the steps to be taken to ensure that the data is available and the Services operational at least 99.9% of the time (excluding scheduled maintenance performed outside of normal business hours).

**2.4 Professional Services.** Except as set forth in the Order Form, in the event that Customer requests that Peregrine perform data integration, configuration or implementation services regarding the Service, including integration of Customer Data or Third Party Data and

creation of specific modifications to the Service (but excluding any Onboarding and Training Services), Peregrine will discuss the scope and fees for such services and, if agreed, such work will be performed pursuant to a statement of work executed by the parties and referencing this Agreement that describe such scope and fees (an "**SOW**," and such services, the "**Professional Services**"). Any fees associated with the Professional Services shall be set forth in the applicable SOW and Customer shall pay such fees in accordance with Section 4.2 below.

Professional Services shall also include at no additional costs Peregrine's assistance in responding to Public Records Act requests and subpoenas.

**2.5    Access and Policies.**    Customer will permit Peregrine access to Customer's offices and any other facilities necessary for Peregrine to provide the Service, Onboarding and Training Services, Technical Support, and any Professional Services. Peregrine agrees to, and cause its personnel to, abide by Customer's facilities access and use policies as provided by Customer to Peregrine in writing in advance of any on-site visits. Customer will also permit and enable Peregrine to have offsite access to Customer Data and the Customer's production platform for the Service in order to provide the Service, Technical Support and Professional Services. Peregrine agrees to comply with the CJIS Security Policy in connection with its access to Customer Data, including CJIS-defined policies for remote access.

## 3.    Use of Service.

**3.1    Users**.    Customer may grant access to the Service to only the number and type of Users specified on the Order Form. Customers shall ensure that its Users do not share or transfer their User credentials to other Customer employees or any other individuals.

**3.2    Customer Responsibilities.**    Customer is responsible for all activities that occur under User accounts. Customer also shall: (a) ensure it has all rights necessary for Peregrine to integrate the Customer Data with the Service; (b) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (c) prevent unauthorized access to, or use of, the Service, and notify Peregrine immediately of any unauthorized access or use; and (d) comply with all applicable laws in using the Service. Customer agrees to provide its Users with the applications necessary to run the Service as set forth in the Documentation.

**3.3    Use Restrictions.**    Customer shall use the Service solely for its internal business purposes in accordance with this Agreement. Customer shall not, and shall ensure Users

do not knowingly: (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party; (b) send spam or otherwise duplicative or unsolicited messages via the Service; (c) send or store infringing or unlawful material; (d) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (e) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (f) attempt to gain unauthorized access to the Service or its related systems or networks.

Peregrine shall not: (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Customer Data available to any third party except as provided in Section 6.1; (b) send spam or otherwise duplicative or unsolicited messages via the Service; (c) send or store infringing or unlawful material; (d) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (e) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (f) attempt to gain unauthorized access to the Service or its related systems or networks

**3.4    CJIS Requirements.** Customer certifies that it and its Users will comply with the following CJIS requirements: (a) Customer agrees to use training, policy and procedures to ensure Users use proper handling, processing, storing and communication protocols for Customer Data and any Third Party Data; (b) Customer agrees to protect the Service and any Third Party Data by monitoring and auditing staff user activity to ensure that it is only within the purview of system application development, system maintenance and the support roles assigned; (c) Customer will only provide access to the Service and any Third Party Data through Customer-managed role-based access and applied sharing rules configured by Customer;; (d) Customer agrees to perform independent employment background screening for its staff at Customer's own expense; and (e) Customer agrees to reinforce staff policies for creating User accounts with only one Customer domain email address for each User, with exceptions only as granted in writing by Peregrine.

**3.5**    Peregrine certifies that it and its employees and agents  will remain in compliance with CJIS requirements including but not limited to  the following CJIS requirements: (a) Peregrine agrees to use training, policy and procedures to ensure proper handling, processing, storing and communication protocols for Customer Data and any Third Party Data; (b) Peregrine agrees to protect the Service, Customer Data and any Third Party Data by monitoring and auditing activity to ensure that it is only

within the purview of system application development, system maintenance and the support roles assigned; (c) Peregrine shall only provide access to the Service and any Third Party Data through Customer-managed role-based access and applied sharing rules configured by Customer; (d) Peregrine agrees to create and retain for 26 months activity transaction logs to enable auditing by Customer, CJIS and any Third Party Data owners; and (e) Peregrine agrees to perform independent employment background screening for its staff per CJIS requirements at Peregrine's own expense. **Operation Restrictions.** Under certain circumstances, it may be dangerous to operate a moving vehicle while attempting to operate a laptop, mobile device or other touch screen and any of their applications. Customer agrees that the Users will be instructed to only utilize the interface for the Service at times when it is safe to do so. Peregrine is not liable for any accident caused by a result of distraction such as from viewing the screen while operating a moving vehicle.

**3.6    Transition**.  In the event Peregrine becomes subject to bankruptcy or similar proceedings or otherwise ceases to provide the Service during the term of this Agreement, in each case without a successor entity, Peregrine shall at no charge to Customer (i) provide all Customer Data in Peregrine's possession to Customer in an industry-standard format and (ii) provide Customer assistance as reasonably necessary to facilitate Customer's transition to another provider of services.

**3.7    Customer Logo.** Peregrine may use Customer's name and logo in Peregrine's lists of customers during the term of the Agreement only provided that such use will comply with any standard trademark guidelines provided by Customer to Peregrine.

## 4.  Fees & Payment.

**4.1    Fees.** Customer shall pay the fees for the Service as specified in the Order Form and in any SOWs.

**4.2    Payment Terms.** Except as set forth on the Order Form, Customer shall pay all fees within thirty (30) days of Peregrine issuing an invoice approved by the City.

**4.3    Taxes.** If Peregrine has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer unless Customer provides Peregrine with a valid tax exemption certificate authorized by the appropriate taxing authority.

## 5.  Proprietary Rights.

**5.1    Peregrine Technology.** The Service includes (a) the Peregrine name, the Peregrine logo, and other trademarks and service marks; (b) audio and visual information, documents, software and other works of authorship, including training materials; (c) other technology, including graphical user interfaces, workflows, products, processes, algorithms, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information provided by Peregrine under this Agreement; and (d) the work product or other results of Professional Services (collectively, "**Peregrine Technology**"). Peregrine owns and shall retain all rights in the Peregrine Technology. Other than as expressly set forth Section 5.2 below, no license or other rights in or to the Peregrine Technology or related intellectual property rights are granted to Customer or Users, and all such licenses and rights are hereby expressly reserved to Peregrine. For clarity, "Peregrine Technology" does not include Customer Data.

**5.2    License Grant.**  Peregrine grants Customer, during the term of this Agreement, a worldwide, non-exclusive, non-transferable (except in accordance with Section 12.6), non-sublicenseable right to access and use the Service, and to permit the number and type of Users specified on the Order Form the right to access and use the Service during the terms of the applicable User subscriptions, in each case solely in accordance with the terms of this Agreement.

**5.3    License Restrictions.**  Customer shall not (a) modify, copy or create derivative works based on the Service or Peregrine Technology; (b) create Internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets; or (c) disassemble, reverse engineer, or decompile the Service or Peregrine Technology, or (d) access the Service in order to (i) build a competitive product or service, (ii) build a product or service using similar ideas, features, functions or graphics of the Service, or (iii) copy any ideas, features, functions or graphics of the Service.

## 6.  Data Access, Sharing and Security.

**6.1    Customer Data.**  Customer owns Customer Data. Peregrine may access, reproduce, and use Customer Data to provide the Service, including to provide Technical Support, Onboarding and Training Services and any Professional Services. Customer agrees that Peregrine may generate technical logs, data and insights about Customer's usage of the Service (e.g., frequency of logins) and may use such logs, data and insights in aggregated and anonymized form that does not individually identify any person or entity, including Customer or its Users ("**Aggregated Data**") for Peregrine's internal business purposes and to operate and improve Peregrine's proprietary software and

services. Upon request, Peregrine shall provide such logs, data, insights or Aggregated Data to the City. Peregrine may choose to terminate the provision of any Customer Data via the Service if the provision of such data may be harmful to the Service, as determined by Peregrine in its reasonable discretion.

**6.2     CJIS Security Policy.** Peregrine has implemented procedures to allow for adherence to the CJIS Security Policy. The hosting facility for the Service uses state-of-the-art access control technologies that meet or exceed CJIS requirements. In addition, Peregrine has installed and configured solid network intrusion prevention appliances for adherence to CJIS requirements. Peregrine shall execute any documents required to comply with CJIS or other non-disclosure restrictions regarding Customer Data required to comply with applicable law, including but not limited to CLETS requirements.

Peregrine shall obtain Customer's written approval to use any hosting facility other than Azure Government Cloud at Microsoft or Amazon Government Cloud. Peregrine shall notify Customer if it changes from one approved cloud provider to another approved cloud provider.

**6.3     Third Party Data.** Any Third Party Data that Peregrine may provide via the Service is governed by the third party owner's retention policy. Peregrine does not provide any warranties with respect to any Third Party Data and Peregrine may choose to terminate the provision of any Third Party Data via the Service if Peregrine's applicable rights to such Third Party Data terminate or the provision of such data may be harmful to the Service, as determined by Peregrine in its reasonable discretion.

**6.4     Preservation of Customer Data**. Peregrine shall retain and preserve Customer Data in accordance with Customer's reasonable instructions and requests, including without limitation any retention schedules and/or litigation hold orders by the Customer to Peregrine, independent of where the Customer Data is stored.

## 7.   Confidentiality.

**7.1     Definition of Confidential Information.** The term "**Confidential Information**" means all confidential and proprietary information of a party ("**Disclosing Party**") disclosed to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the Customer Data, any Third Party Data, the Service, the Documentation, the Peregrine Technology, business and marketing plans, technology and technical information, product designs, and business

processes. The Agreement between the Customer and Peregrine is a public record.

**7.2     Confidentiality.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party except to perform its obligations or exercise its rights under this Agreement, except with the Disclosing Party's prior written permission on a case-by-case basis. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event with less than reasonable care. If the Receiving Party is compelled by law, including but not limited to the California Public Records Act, or a government authority to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent practicable and legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

**7.3     Exceptions.** The parties' obligations in Section 7.2 shall not apply to any information that: (a) is or becomes publicly available without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (d) is received from a third party without breach of any obligation owed to the Disclosing Party.

**7.4     Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this Section 7, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that such unauthorized disclosure or use may cause irreparable harm to the Disclosing Party for which any other available remedies are inadequate.

## 8.   Warranties & Disclaimers.

**Warranties.** Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Peregrine represents and warrants that: (1) it will provide the Service in a professional manner consistent with general industry standards; (2) it has title to the Services and software; (3) it has not and will not enter into agreements and will not take or fail to take action that causes its legal right or ability to grant such licenses to be restricted, that the Services will be free from all significant defects that

impede the primary function of the Services. Peregrine will repair or replace any Services with significant defects during the Term of the Agreement.

## 9. Indemnification and Insurance.

**9.1 Indemnification by Peregrine.** Subject to this Agreement, Peregrine shall at its expense defend Customer and its officers, directors and employees ("**Customer Indemnified Parties**") against any claim made or brought against any Customer Indemnified Party by a third party alleging that the Service as provided to Customer hereunder infringes any U.S. intellectual property rights of a third party (each, a "**Customer Claim**"), and shall pay any damages finally awarded by a court or agreed to by Peregrine in a settlement with respect to such Customer Claim; provided, that Customer (a) promptly gives written notice of the Customer Claim to Peregrine; (b) gives Peregrine sole control of the defense and settlement of the Customer Claim (provided that Peregrine may not agree to any settlement that imposes any liability or obligation on Customer); and (c) provides to Peregrine, at Peregrine's cost, all reasonable assistance. Peregrine shall have no obligation under this Section 9.1 or otherwise regarding claims that arise from or relate to (i) Customer's use of the Service other than as contemplated by this Agreement, or (ii) any modifications to the Service made by any entity other than Peregrine., If in Peregrine's opinion a Customer Claim is likely to be made, or if an existing Customer Claim may cause Peregrine liability, Peregrine may in its discretion (x) obtain a license to enable Customer to continue to use the potentially infringing portion of the Service, (y) modify the Service to avoid the potential infringement, or (z) if the foregoing cannot be achieved after using reasonable commercial efforts, terminate the Agreement or the license to the infringing portion of the Service and refund the amount of any pre-paid fees applicable to the portion of the terminated Services to be provided after the termination date.

**9.2 Insurance.**

**9.2.1. General, Automotive, and Employer's Liability, and Workers' Compensation Provisions**. On or before beginning any of the services or work called for by any term of this Agreement, Peregrine, at its own cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the City the insurance specified herein below with insurers and under forms of insurance satisfactory in all respects to the City. If Peregrine maintains higher limits than the minimums shown above, Customer shall be entitled to coverage for the higher limits.

**General Liability: $2,000,00 per occurrence/$4,000,000 aggregate** for bodily injury, personal injury and property damaging, including operations, products and completed operations.

**Cyber Insurance & Privacy policy: $1,000,000 per occurrence** shall include coverage for losses sustained from a data breach, including investigation, notification, damages, credit monitoring for at least two years. This may be a separate policy or included in Peregrine's general liability or professional liability coverage.

**Automotive Liability: $1,000,000** per accident for bodily injury and property damage for owned, hired and non-owned vehicles

**Workers' Compensation: as Required by the State of California and Employers' Liability of $1,000,000** bodily injury. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents and subcontractors.

**Professional Liability: $1,000,000** combined single limit

**9.2.2** The General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

- The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by Peregrine and with respect to liability arising out of work or operations performed by or on behalf of Peregrine including materials, parts or equipment furnished in connection with such work or operations.

- For any claims related to this project, Peregrine's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers.

- Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days prior written notice has been provided to the Customer.

**9.2.3** Peregrine shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

## 10. Limitation of Liability.

**10.1 Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, LOSS OF USE, COSTS OF

PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, MULTIPLE, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

## 11. Term & Termination.

**11.1     Term of Agreement.**    This Agreement commences on the Effective Date and continues for the duration of the term set forth on the Order Form ("I**nitial Term**"), unless earlier terminated in accordance with Section 11.2. Unless otherwise set forth in the Order Form, this Agreement shall automatically and successively renew without further action by either party for successive one (1) year terms (each such additional term, a "**Renewal Term**," and together with the Initial Term, the "**Term**"), unless either party provides notice of non-renewal at least thirty (30) days prior to the end of the Initial Term or then-current Renewal Term, as applicable. Peregrine may change the fees for the Service and other terms for the provision of the Service and the Professional Services applicable to a Renewal Term upon written notice to Customer at least forty-five (45) days prior to the end of the then-current term. [1]

**11.2     Termination.**

11.2.1     Customer may terminate this Agreement at any time by notifying Peregrine in writing thirty (30) days prior to the termination date.  If Customer terminates this Agreement for convenience prior to the end of the Initial Term, Peregrine will not refund or prorate any Service Fee.

11.2.2     A party may terminate this Agreement for cause upon thirty (30) days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period. Peregrine shall not terminate this Agreement for cause or suspend Services without a meeting occurring between Peregrine's CEO and Customer's Chief of Police to negotiate in good faith the resolution of the dispute.  Termination shall not relieve Customer of the obligation to pay any fees accrued or payable to Peregrine prior to the effective date of termination; nor relieve Peregrine of assisting Customer with any transitions with its operations.   For termination due to breach by Peregrine, Peregrine will refund Customer a pro-

rated amount of the Service Fee within thirty (30) days of invoice issue date.

**11.3     Data.**    Upon expiration or termination of this Agreement, Peregrine shall have no obligation to maintain or provide any Customer Data or Third Party Data. Unless legally prohibited, Peregrine shall delete all Customer Data in its systems or otherwise in its possession or under its control, but only after providing City 90 days' notice of such intent in order to allow determination of the legality of doing so.

**11.4     Survival.** The following provisions shall survive termination or expiration of this Agreement: Sections 3.6, 4, 5 (excluding Section 5.2), 6.1, 6.2, 6.3, 7, 8, 9.1, 10, 11.3, 11.4, and 12.

## 12.  General Provisions.

**12.1     Relationship of the Parties.**    This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.   There are no third-party beneficiaries to this Agreement.

**12.2     Force Majeure.**    Neither party shall be liable by reason of any failure or delay in performance of its obligations under this Agreement (except for the payment of money) on account of events beyond the reasonable control of such party, which may include Internet denial-of-service attacks, strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, governmental action, labor conditions, earthquakes, and material shortages (each, a "**Force Majeure Event**"). Upon the occurrence of a Force Majeure Event, the non-performing party will be excused from any further performance of its obligations affected by the Force Majeure Event for so long as the event continues and such party continues to use commercially reasonable efforts to resume performance.

**12.3     Federal Government.**    Any use, copy or disclosure of the Service by the U.S. Government is subject to restrictions as set forth in this Agreement and as provided by DFARS 227.7202-1(a) and 227.7202-3(a)(1995), DFARS 252.227-7013(c)(1)(ii)(October 1998), FAR 12.212(a)(1995), FAR 52.227-19, or FAR 52.227(ALT III), as applicable.

**12.4     Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (a) personal delivery; (b) the second business day after mailing; (c) the second business day after sending by

confirmed facsimile; or (d) after confirmed receipt of an email. Notices to Peregrine shall be addressed to the attention of Nick Noone, CEO, Peregrine Technologies, nick@peregrine.io, with a copy to ben@peregrine.io. Notices to Customer are to be addressed to the individual identified in the Order Form with a copy to the City Manager and City Clerk of the City of San Pablo.

**12.5 Waiver; Cumulative Remedies Severability.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**12.6 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the other party. Notwithstanding the foregoing, Peregrine may assign this Agreement, together with all rights and obligations hereunder, without consent of Customer, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its stock or assets that relate to this Agreement. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**12.7 Subcontracting**. Peregrine will not subcontract any services under this Agreement without City's prior written consent, which shall not be unreasonably withheld.

**12.8 Governing Law.** This Agreement shall be governed by the laws of California. The state and federal courts located in San Francisco, CA shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts provided that nothing in this Section 12.7 prohibits either party from seeking or obtaining in any jurisdiction injunctive or similar relief in connection with the enforcement of this Agreement.

**12.9 Construction.** The division of this Agreement into Sections and the insertion of captions and headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms "this Agreement," "hereof," "hereunder" and any similar expressions refer to this Agreement and not to any particular Section or other portion hereof. The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the construction or interpretation of this Agreement. As used in this Agreement, the words "include" and "including," and variations thereof, will be deemed to be followed by the words "without limitation" and "discretion" means sole discretion

**12.10 Entire Agreement.** This Agreement constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding the Order Form) shall be incorporated into or form any part of this Agreement, and all such terms or conditions are hereby rejected and shall be null and void.