



PENELOPE SUPPORT SERVICE

Athena Software

Effective Date: May 13, 2015

This Agreement is provided in addition to the Order Form addendum which accompanies it and, governs the purchase and delivery of the Penelope Support Service. By submitting the Order Form, the Customer agrees to the terms and conditions of this Agreement. Except where this Agreement explicitly states otherwise, the terms of this Agreement are separate from the terms of the Master Agreement. This Agreement only applies to the applicable Products and Services as listed in the applicable Order Form.

Fees for the Support Term are due in advance of the Support Term, unless otherwise stated in the Customer's Order Form. Athena reserves the right to withhold delivery of any services under this Agreement until such payment is made. The fees for this Penelope Support Service are based on the total number of Concurrent Users the Customer is licensed for. If the Customer increases the number of Concurrent Users, Athena shall increase the support fees accordingly.

The terms and conditions of this Agreement, are subject to change at Athena's discretion; however these changes will not result in a material reduction in the level of the services provided for the Software during the Support Term.

1. DEFINITIONS

1.1. The following terms shall have the meaning set forth below:

- (a) "**Agreement**" means this Penelope Support Service agreement.
- (b) "**Athena**" means 1561599 Ontario inc. operating as Athena Software.
- (c) "**Concurrent User**" means any User that is logged into the Software.
- (d) "**Customer**" means the organization, company or otherwise legal entity that purchased this product by submitting an Order Form.
- (e) "**Documentation**" means the electronic files and printed materials created by Athena and made available through our online support website.
- (f) "**First Line Support**" means an internal process of the Customer that provides direct support and assistance for the Software to the Customer's own Users.
- (g) "**Master Agreement**" means the Master Product and Service Agreement executed between the Customer and Athena.
- (h) "**Order Form**" means an ordering document specifying the product and services to be provided hereunder that is entered into between the Customer and Athena, including any addenda and supplements thereto.
- (i) "**Software**" means specifically Penelope Case Management Software and any licensed modules.

- (j) **“Support Contact”** means a person(s) the Customer designates to act as a liaison between the Customer and Athena for support services provided under this Agreement.
- (k) **“Support Notifications”** means a general or public announcement from Athena to all of Athena’s clients concerning matters related to this Agreement.
- (l) **“Support Term”** means the duration of time for which the services provided herein are valid and which is more fully defined in Section 10.1 of this Agreement.
- (m) **“Supported Browsers”** means specific third party web browsers (and versions thereof) that Athena recommends for use in order for the Software to function in accordance with the Documentation. A list of Supported Browsers is available upon request.
- (n) **“Supported Release”** means the specific version of the Software that is the current release or a release made within the last 6 (six) months.
- (o) **“System Requirements”** means specific third party software and platform in order to function in accordance with the Documentation. The System Requirements are available upon request.
- (p) **“Upgrades”** means any future release of the Software which is made generally available to all of Athena’s end-users. Upgrades are cumulative in that all changes made in previous upgrades are included in the most current upgrade.
- (q) **“User”** means any employee or contractor, consultant, agent or other individual working on the behalf of the Customer, that the Customer authorizes to access the Software.

2. TECHNICAL SUPPORT

- 2.1. Athena will provide the Customer the technical support services with all necessary care and skill and be performed and/or attended by, suitably trained, skilled and experienced personnel that would be consistent with industry standards.
- 2.2. Athena will provide technical support for issues covering installation, configuration and use of Software provided that:
 - (a) the Software version is a Supported Release;
 - (b) the source code, database or any other Software files are unaltered;
 - (c) the Customer is using the approved System Requirements; and
 - (d) the Software is being accessed by a Supported Browser.
- 2.3. Athena may, at its sole discretion, provide technical support services where the conditions of paragraph 2.2 are not met. Any support provided under this paragraph are performed as a courtesy to the Customer and shall in no way create an implied or written waiver of the conditions of paragraph 2.2, or create any obligations relating to further support requests.
- 2.4. The Customer is required to establish and maintain a First Line Support for the Software directly to the Customer’s Users. First Line Support shall include but is not limited to:
 - (a) a direct response to the Users with respect to inquires concerning the performance, functionality or operation of the Software;
 - (b) a direct response to the Users with respect to problems or issues with the Software;

- (c) a diagnosis of the problem or issue of the Software; and
- (d) a resolution of problems or issues of the Software.

If, after reasonable commercial efforts, the Customer is unable to diagnose or resolve the issue of the Software, the Customer may contact Athena for technical support as directed by Athena.

2.5. Technical support is solely for the Software, as defined in paragraph 2.2, and does not cover such matters relating to help material readily available to the Customer, an end-to-end support solution for the Customers' deployment of the Software and such. Additional services may be provided by Athena to cover such issues. For clarity, technical support does not include issues such as:

- (a) an explanation of features or abilities that can be found in the Documentation, the help materials or other forms of documentation provided by Athena;
- (b) training on features, changes or use of the Software;
- (c) issues with connectivity to the Software such the Customer's own network, firewall, routing, and proxy server;
- (d) issues with the operating system, browser, any required software or any third party software;
- (e) issues with ODBC connectivity, Microsoft Excel pivot tables or any third party reporting tools;
- (f) issues relating to data import or export; or
- (g) professional services related to the use of the Software including, but not limited to, business and deployment consultation.

3. AVAILABILITY AND RESPONSE TIME

3.1. Athena will provide the support services to the Customer during normal business hours based on the country location of the Customer:

Country	Company	Hours	Phone
Worldwide excluding specific location below	Athena Software 33 Dupont Street East Main Floor Waterloo Ontario N2J 2G8 Canada	9:00am to 5:00pm (Canadian Eastern Time), Monday to Friday excluding all national and provincial holidays.	1-866-806-6014
Australia and Pacific Region	Australian Institute for Social Relations 49A Orsmond St. Hindmarsh, South Australia, 5007 Australia	9:00am to 5:00pm (Australian Central Standard Time), Monday to Friday excluding all national and state holidays.	02 8005 8037
New Zealand	Athena Software 33 Dupont Street East Main Floor Waterloo Ontario N2J 2G8 Canada	9:00am to 5:00pm (New Zealand Standard Time), Monday to Friday excluding all national and local holidays.	1-866-806-6014

- 3.2. Athena will, subject to availability defined in paragraph 3.1, use commercially reasonable efforts to respond to each technical support request based on the severity of the support request as described below. Athena can not guarantee any resolution time nor the outcome of any resolution of a support request. These response times are defined as:

Severity	Meaning	Response Time
Critical	<p>The Customer's production use of the Software is stopped or so severely impacted that no User can reasonably continue to work. The Customer has restarted the Software and the problem persists. Critical requests have one or more of the following characteristics (a) data corruption, (b) software hangs causing unacceptable delays shortly after restart, (c) the Software is inaccessible to all Users or (d) the Software will not start up successfully.</p> <p>All critical support requests must be submitted through the means instructed by Athena's Documentation otherwise the support request will not be assigned a critical severity.</p>	1 hour
High	The Customer experiences a severe loss of service. Important features are unavailable with no acceptable workaround, however, operations can continue in a restricted fashion.	1 business day
Normal	The Customer experiences minor loss of service or a feature / operation generated a result that was not expected. The impact is isolated and an inconvenience however the operations can continue.	2 business days
Low	The Customer requests information, an enhancement, or documentation clarification regarding the Software but there is no impact on the operation of the Software, no loss of service and the result does not impede the operation of the software.	3 business days

Each support request will be assigned a severity level that determines when the response time is expected. Actual response times may vary and may be responded to earlier than listed.

Any support request may appear to be important to the user's immediate task at hand however the classification system above is designed to ensure all support requests from Athena's Users are treated fairly and timely with respect to their severity. Athena, at its sole discretion, will assign the severity of any support request. A Customer's own deadline or timeline may be factored in but this would be at the discretion of Athena and Athena is not obligated to alter its response time based on such factors.

- 3.3. Athena will provide the Customer emergency support during off hours for all Critical support requests provided that the Customer notifies Athena of such critical request by the means instructed by Athena's support website. Athena will use commercially reasonable efforts to respond within 2 (two) hours of any such request.

4. UPGRADES

- 4.1. Athena will, at no additional cost, provide the Customer with any Upgrades to the Software provided that the date of release of the Upgrade is during the Support Term. Upgrades may

become available on a if-and-when basis, from time-to-time as determined by Athena. Athena is under no obligation to provide any future Upgrade.

- 4.2. Up on the provision of an Upgrade, the terms and conditions, including any warranty and limitations of liability, shall be governed by the Customer's original license agreement unless the Upgrade is accompanied with a revised license agreement where those terms and conditions shall apply.
- 4.3. Any Upgrade may include new functionality or operations, changes to (alterations or enhancements) functionality or operations, or removal of specific functionality or operations in the Software. However Athena will not materially decrease the overall functionality of the Software.
- 4.4. The Customer acknowledges that Athena will communicate the release of any Upgrades through their online help site. Athena may notify the Support Contacts, however, it is the responsibility of the Customer to follow and monitor the announcement of any new releases.
- 4.5. The Customer is responsible for copying, downloading and installing any Upgrade. Athena will provide the Customer instructions on how to apply an Upgrade. Athena can provide additional services relating to applying an Update for the Customer. These services may be purchased separately, under its own terms and conditions and for which additional Fees may apply, at the option of the Customer.

5. SUPPORT CONTACTS

- 5.1. The Customer's Support Contacts are the sole liaisons between the Customer and Athena. Any Support Contacts must have, at a minimum, initial basic understanding of the Software, a baseline understanding of the environment the Software is deployed in, and, as needed, supplemental training appropriate for the specific role. The Customer is responsible for assigning and communicating to Athena any changes to the Support Contacts. The Customer is permitted to change the Support Contacts from time to time.
- 5.2. The number of Support Contacts is based on the number of licensed Concurrent Users as follows:

Number of Concurrent Users	Primary Support Contacts	Backup Support Contacts
up to 24	2	1
25 to 99	4	2
over 100	5	4

- 5.3. Athena will provide access to a web portal for each Primary Support Contact for the purposes of submitting any support request. Any support request must be submitted through this web portal unless otherwise provided for in the purchased support service. Access to the web portal uses named accounts for each Primary Support Contact and these user accounts cannot be shared with other individuals.
- 5.4. The Customer acknowledges that the Support Contacts may receive news and other general announcements from Athena concerning the matters related to this Agreement. This correspondence is optional, however, opting out of such communications may adversely impact or impair Athena's ability to meet its obligations under this Agreement.

6. ADDITIONAL SERVICES

- 6.1. Athena will make Documentation available to the Customer that describes the Software and how to properly use the Software. This Documentation may come in various media forms and will be updated as Upgrades are released.
- 6.2. The Customer's Users may attend any webinars conducted by Athena (herein "**Penelope Webinars**"). Penelope Webinars are held periodically and have a limited capacity. Participation is based on a first come first served basis. The numbers of Users that can attend at no charge is equal to the number of Primary Support Contacts. Additional Users may attend for an additional fee.
- 6.3. If the Customer has purchased the "Premium Support" as defined in the Order Form, then the Customer will be entitled, during this Support Term, to these additional services:
 - (a) Athena will provide a periodic review of the Customer's utilization of the Software and provide guidance on the Customer's use of the Software in terms of best practices for the Software (herein "**Health Check**"). The Health Check does not include the delivery of any professional services (such as training). Health Checks will be conducted 2 times a year.
 - (b) Up to twice as many additional Users (as defined in paragraph 6.2) may be able to attend Penelope Webinars for no additional charge. Participation is based on a first come first served basis and Premium Support does not allow for any priority of any kind except for the additional participation.
 - (c) The Customer will have a total of 14 days over a 12 month period where they may exceed their maximum number of Concurrent Users without cost (herein "**Uplift**"). On any specific day where this Uplift is needed, there is no limit of Concurrent Users. Uplift is enabled via a license key provided by Athena upon purchase of Premium Support and only available for Supported Releases.
 - (d) The Customer will be entitled to a 10% discount on certain professional services delivered by Athena (herein "**Preferred Rates**"). Some limitations apply where the Preferred Rates cannot be used in combination with other promotional offers or discount offered by Athena. To be eligible for any Preferred Rates the professional services shall be purchased (by submitting an Order Form) and scheduled during the Support Term. Contact Athena for which professional services are eligible for Preferred Rates.
 - (e) Athena will provide the Customer some level of cost certainty with respect to subsequent and continuous purchases of Premium Support (herein "**Price Protection**"). The Customer may purchase additional Concurrent Users for the Software, excluding any modules, and related Premium Support at the per unit rate in effect at the beginning of Support Term irrespective of any list price increases during the Support Term. These rates will remain in effect for the next continuous support term purchase of Premium Support (or equivalent plan with similar Price Protection wording) by the Customer. This Price Protection ends when the Customer elects not to purchase the Premium Support (or equivalent plan with similar Price Protection wording) for any period or after eight (8) years of continuous Price Protection, at which time Athena can offer the Customer rates in effect at that time.

7. DISCLAIMER OF WARRANTY

- 7.1. OTHER THAN AS PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS, ATHENA MAKES NO WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT

TO SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR CONDITIONS OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON DURATION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT APPLY TO THE CUSTOMER.

- 7.2. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ATHENA, ITS DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES (COLLECTIVELY, "AGENTS") SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY. THE CUSTOMER ASSUMES THE ENTIRE RISK AS TO THE USE AND PERFORMANCE OF SERVICES AND THE APPLICATION OF THE DOCUMENTATION IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, CURRENTNESS, OR OTHERWISE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, BOTH PARTIES EXPRESSLY WAIVE THE APPLICABILITY OF THE UNIFORM COMMERCIAL CODE AND ANY OTHER STATUTORY COMMERCIAL TERMS.

8. LIMITATION OF LIABILITY

- 8.1. THIS SECTION APPLIES ONLY IN RELATION TO THE SERVICES SUBJECT TO THIS AGREEMENT; ATHENA IS NO WAY LIABLE IN ANY WAY FOR THE SERVICES PROVIDED HEREUNDER UNDER THE MASTER AGREEMENT AND ANY SECONDARY AGREEMENTS. ANY LIABILITY FOR PROFESSIONAL SERVICES REQUIRED UNDER THE ORDER FORM SHALL BE SUBJECT TO THE MASTER AGREEMENT AND NOT THIS AGREEMENT.
- 8.2. IN NO EVENT SHALL ATHENA AND ITS AGENTS BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT DAMAGES, SPECIAL DAMAGES, CONSEQUENTIAL DAMAGES, OR INCIDENTAL DAMAGES, LOSS OF REVENUES OR PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, DATA LOSS, AND THE LIKE, ARISING OUT OF THE USE OR INABILITY TO EITHER USE THE SERVICES EVEN IF ATHENA OR ITS AGENTS HAVE BEEN ADVISED OF THE POSSIBILITY OR SUCH DAMAGES OR CLAIM.
- 8.3. IN NO EVENT SHALL ATHENA SOFTWARE'S AGGREGATE LIABILITY EXCEED THE FEES PAID BY THE ORGANIZATION PURSUANT TO THIS AGREEMENT OR THE APPLICABLE ORDER FORM FOR THE SUPPORT SERVICES DESCRIBED HEREIN DURING THE TWELVE (12) MONTH PERIOD DIRECTLY PRECEDING THE DATE ON WHICH SUCH LIABILITY AROSE.
- 8.4. THE LIMITATIONS OF LIABILITY STATED IN THIS SECTION SHALL APPLY WHETHER OR NOT THE ALLEGED BREACH OR DEFAULT IS A BREACH OF A FUNDAMENTAL CONDITION OR TERM.
- 8.5. THE LIMITATIONS OF LIABILITY STATED IN THIS SECTION SHALL APPLY REGARDLESS OF THE FORM THAT THE CAUSE OF ACTION TAKES, INCLUDING FOR BREACH OF CONTRACT, RESCISSION OF CONTRACT, NEGLIGENCE, TORT, OR UNDER ANY OTHER EQUITABLE DOCTRINE.
- 8.6. EACH SUBSECTION ABOVE IS AN INDEPENDENT LIMITATION OF LIABILITY. TO THE EXTENT THAT ANY SUCH LIMITATION OF LIABILITY DOES NOT APPLY DUE TO A STATUTORY PROVISION, THE OTHER SUBSECTIONS SHALL CONTINUE TO BE IN FORCE DESPITE THE INAPPLICABILITY OF THE OTHER SUBSECTION.

9. OTHER TERMS

- 9.1. The defined terms of the Master Agreement apply to this Agreement except to the extent that such defined terms are defined in this Agreement. The following paragraphs and sections from the Master Agreement shall be included as part of this Agreement as if they were originally written in as part of this Agreement:
- (a) the section titled “Payment of Fees, Invoicing and Sales Tax”;
 - (b) the section titled “Confidentiality”; and
 - (c) the section titled “Miscellaneous”.

10. TERM AND TERMINATION

- 10.1. Athena will provide the Customer with the services under this Agreement for one year, effective the date of the purchase of this service, unless otherwise stated in the Customer’s Order Form, herein defined as the “**Support Term**”. Once the Support Term lapses, Athena is not obligated to provide any services and Athena is relieved of all obligations under this Agreement.
- 10.2. During the Support Term, the services provided under this Agreement can only be terminated pursuant to the following terms:
- (a) Athena has the right to terminate the services provided hereunder upon the occurrence of any of the following events, which shall be deemed a breach of the terms of this Agreement:
 - (i) Failure of the Customer to pay all or any part of the fees.
 - (b) Without waiving, removing, limiting or restricting any legal or equitable right and remedy otherwise available to Athena attendant upon such a breach, Athena shall have the right and option to terminate the services provided under this Agreement by providing written notice to the Customer of such termination.
 - (c) Customer shall have the right to terminate this Services provided for under this Agreement where Athena is in breach of this Agreement and fails to cure such breach within thirty (30) days. Customer must provide Athena with written notice of the alleged breach in sufficient detail to permit Athena to easily ascertain its obligations in remedying the breach and in determining whether or not Athena is in breach of the terms in this Agreement.
- 10.3. The provisions of Section titled “Disclaimer of Warranty” and “Limitation of Liability” set out in this Agreement shall continue in force after any termination or expiry of the Support Term of this Agreement
- 10.4. Except as otherwise expressly stated in this Agreement, Athena shall under no circumstances be under any obligation to refund to the Customer any amount paid by the Customer by way of fees upon termination of this Agreement for a breach of the terms of this Agreement.