Software created by Maintenance Professionals
for Maintenance Professionals

**EXPRESS
MAINTENANCE**
THE RIGHT TOOL FOR THE JOB
A Subsidiary of Manufacturing Asset Solutions

📞 **(888) 571-8556**
✉ **support@mas.systems**
🌐 **expressmaintenance.com**

EXPRESS MAINTENANCE SERVICES AGREEMENT (EMSA)   Version: 1.5 Version Date: 09/08/2022

Parties:

1. Provider is Manufacturing Asset Solutions (MAS), a company located in Tucson, Arizona.
2. Customer is any purchaser of Express Maintenance (EM) products.

Agreement:

1.   Definitions:

"**Agreement**" means this Agreement, including any amendments to this Agreement or this Agreement's attachments.

"**Attachment**" means any document or schedule attached to the main body of this Agreement.

"**Business Day**" means any weekday other than a national holiday.

"**Business Hours**" means the hours of 08:00 to 17:00 Arizona time.

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks, and wars).

"**Software Services**" means the software related services the Provider will supply to the Customer including updates and upgrades.

"**Software Release Version**" means the latest release of the software made available by the Provider.

"**Support Services**" means any support services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under this Agreement.

"**Software**" means the software products of Express Maintenance.

"**Software Update**" means a hotfix, patch or minor version update to the software

"**Software Upgrade**" means a major version upgrade of the Software.

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2.   Term:

2.1   This agreement becomes effective when the software registration code is provided to the Customer, (whether temporary or permanent);

2.2   This Agreement shall continue in force indefinitely subject to termination in accordance with Paragraph 11 or any other provision of this Agreement.

2.3   The EMSA is renewed annually by the Customer with the Provider. The cost is negotiated annually and provided to the Customer via a proposal or invoice transmittal.

3.   Software:

3.1   Customer to install the software and update or upgrade to the current version of the EM Software Release Version available.

3.2   The Provider shall provide computer platform compatibility specifications needed to run the Software.

3.3   The Provider shall provide the Software Services in accordance with **Attachment 1 Software Services Agreement**.

4.   Support Services:

4.1   Support Services available are contained in the Support Services Agreement which is **Attachment 2.**

5.   Customer Obligations:

5.1   It is recommended that the Customer identify to the Provider a single point of contact for the purposes of communication of information and to make certain that information produced by the Provider is transmitted and received.

5.2   The Customer will provide to the Provider reasonable access to the Customer's computer hardware, software, networks, and systems as may be reasonably required during the Business Day during Business Hours to enable the Provider to perform its obligations under this Agreement to analyze, test, remedy or reply on reported issues.

6.   Charges:

6.1   Charges means any amount contracted for or agreed to by purchase order or

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paid by electronic payment. The Customer shall pay the charges to the Provider in accordance with any agreements.

6.2   If the charges are based in whole or part upon the time spent by the Provider performing the Services, the Provider will provide project logs of activities should the Customer request such information along with the invoice.

7.   All amounts stated in or in relation to this Agreement are, exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to the Provider if applicable. Payments:

7.1   Provider shall issue invoices for the Charges to the Customer for payment as applicable during the Term of this agreement.

7.2   The Customer is expected to pay the Charges to the Provider within the period of 30 days following the issue of an invoice.

7.3   The Customer may pay the Charges by credit card, bank transfer or check using such payment details that are provided.

7.4   If the Customer does not pay any amount due to the Provider under this Agreement, the Provider may charge the Customer interest on the past due amount at the rate of 5% per annum interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month.

8.   Warranties

8.1 The Provider warrants to the Customer that:

(a)   The Provider has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement; The Provider will comply with all applicable legal and regulatory requirements applying to the exercise of the Provider's rights and the fulfilment of the Provider's obligations under this Agreement; and

(b)   The Provider has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement.

8.2   The Customer warrants to the Provider that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

8.3   All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. No other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

9.   Limitations and Exclusions of Liability

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9.1   The limitations and exclusions of liability in this Agreement govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

9.2   The Provider shall not be liable to the Customer in respect of any loss of profits or anticipated savings.

9.3   The Provider shall not be liable to the Customer in respect of any loss of revenue or income.

9.4   The Provider shall not be liable to the Customer in respect of any loss of use or production.

9.5   The Provider shall not be liable to the Customer in respect of any loss of business, contracts or opportunities.

9.6   The Provider shall not be liable to the in respect of any loss or corruption of any data, database or software.

9.7   The Provider shall not be liable to the Customer in respect of any special, indirect or consequential loss or damage.

10.   Force Majeure Event

10.1   If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under this Agreement that obligation will be suspended for the duration of the Force Majeure Event.

10.2   A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under this Agreement, must:

(a)   Promptly notify the other per the current contact information on file; and

(b)   Inform the other of the period for which it is estimated that such failure or delay will continue.

10.3   A party whose performance of its obligations under this Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

11.   Termination

11.1   Either party may terminate this Agreement by giving to the other party at least 30 days written notice of termination.

11.2   Either party may terminate this Agreement immediately by giving written notice of

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termination to the other party if the other party commits a material breach of this Agreement.

11.3   Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a)   the other party:

(i)   is dissolved;
(ii)   ceases to conduct all or substantially all of its business;
(iii)   becomes unable to pay its debts as they fall due;
(iv)   becomes insolvent or is declared insolvent; or
(v)   convenes a meeting or makes or proposes to make any arrangement or composition with its creditors; or

(b)   an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

12.   Effects of termination

12.1   Upon this Agreement's termination, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect.

Except to the extent that this Agreement expressly provides otherwise, this Agreement's termination shall not affect the accrued rights of either party.

12.2   Within 30 days following this Agreement's termination for any reason the Customer must pay to the Provider any Charges in respect of Services provided to the Customer before this Agreement's termination.

13.   Notices

13.1   Except as otherwise specified herein, all notices shall be in writing and shall be given to the relevant party at its address, or such other address as such party may hereafter specify by notice to the other given by courier, by certified or registered mail or by other telecommunication device capable of creating a written record of such notice and its receipt.

13.2   The parties' contact details for notices under this Paragraph 12 are as follows:

(a)   in the case of notices sent by the Customer to the Provider, Gary Brown, 1800 W. Rollercoaster Road, Tucson Arizona 85743; and
(b)   in the case of notices sent by the Provider to the Customer's address on file at the time of purchase.

13.3   The addressee and contact details set out in Paragraph 13.2 may be updated

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from time to time by a party giving written notice of the update to the other party in accordance with this paragraph.

14.   General

14.1   No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.

14.2   If any provision of this Agreement is determined by any court or other competent authority to be unlawful or unenforceable, the other provisions of this Agreement shall continue in effect. If any unlawful or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision shall continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision shall be deemed to be deleted).

14.3   This Agreement may be modified only by the Provider and without written consent of the Customer. Revision will be published to the Provider website.

14.4   The Customer may not assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

14.5   This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or

settlement under or relating to this Agreement are not subject to the consent any third party.

14.6   This Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

14.7   This Agreement shall be governed by and construed in accordance with the laws of Pima County in the State of Arizona.

EXECUTION

The Customer indicates their acceptance of this Agreement when the Customer installs the Software registration code transmitted by the Provider to the Customer or by signing below and returning to the Provider.

Signed: _____ Date: _____
                Customer Representative

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Attachment 1

Software Services Agreement

Software Services

1. MAS, through its hosting partners provide hosted software as a service (SaaS) which is available for all EM Products and is the recommended delivery method.

2. Should the Customer desire to host the software themselves, it is the responsibility of the Customer to configure the hardware/software environment that the EM Software products are installed and run from.

3. The Provider will make available Software installation guidelines for installing, updating and upgrading the EM software products that will assist the Customer with these tasks as a part of this Agreement.

4. Should the Customer require assistance with preparing the Hardware/Software environment to receive the Express Maintenance Software products, this assistance can be purchased through a Support Services Agreement.

5. The Provider shall make available to the Customer EM Software, together with written instructions to update or upgrade the software

6. Provider is responsible for the proper functionality of the software and its ability to perform as designed and programmed.

7. Customer is responsible for reviewing help files and provided software configuration, data population, and utilization guidelines to make the software ready for use and utilization for its intended purposes.

8. Should the Customer require assistance with software configuration, data population, and utilization, this assistance can be purchased through a Support Services Agreement.

9. Training is available remotely, onsite, or through the video training series on our YouTube site, all are listed in the Support Services Agreement.

10. Software support assistance and help are available from the provider via email support at (support@expressmaintenance.com); and phone support via 888-571-8556.

Attachment 2

Support Service Agreement

1.1   Service Support
Express Maintenance, Express Request or Express Request Online (ERO), Mobile Applications, API's and any Add-on Software

Support includes:

1.   updates and upgrades as released;
2.   email support (support@expressmaintenance.com; and phone support.
3.   additional support at $185/hour (8 hour minimum service contract).
4.   telephone support;
5.   remote desktop support (functionality only)
6.   Access to training manual, YouTube Videos, and in-software Help files

2.   Products Add-Ons:

2.1   Express Maintenance Mobile Application

Fee: Per current Pricing, contact Sales for Quote

Registration Charge for each Express Maintenance database. Discounts are available if more than five databases are in use. Contact a MAS sales representative for details.

2.2   Advanced Report Development Services

Fees vary based on complexity of individual needs. Contact a MAS sales representative for details.

2.3   API (Automated Programming Interface) Support

Integrating EM products to communicate with other software systems including ERP and accounting or other compatible systems. All come with a 10% Annual

Maintenance fee of the API cost to be added to Software AMA.

Fee varies based on complexity of individual needs. Contact a MAS sales representative for details.

2.1   Maintenance Engineering Services

Fees vary based on complexity of individual needs. Contact a MAS sales representative for details.

2.2   Other Software Programs and Services available for additional fees

Fees vary based on complexity of individual needs. Contact a MAS sales representative for details.

1. Hosted Service Plan – Software as a Service (SaaS)
2. Preventative and Predictive Maintenance engineering assistance
3. Condition monitoring services
4. Bar Code capabilities
5. Maintenance planning, scheduling and dispatch assistance
6. Supply Chain Management and Cycle Counting
7. Capital Planning forecasting
8. Training
    1. On-site
    2. On-line
    3. Remote
9. Database Engineering Support
    1. On-site
    2. Remote
10. Digitization of factory data
11. Report writing