



## PEAK TECHNOLOGIES, INC. GENERAL TERMS AND CONDITIONS

These General Terms and Conditions form the general agreement ("Agreement") between the parties hereto. Peak shall provide to Customer such Hardware, Media and/or Services as purchased by Customer in accordance with a quote (an "Order") and as further defined in the Hardware Maintenance & Support Attachment, Hardware and Media Purchase Attachment and Professional Services Attachment, attached hereto and incorporated within this Agreement ("Attachments"). Therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. SCOPE OF AGREEMENT.** Peak shall provide to Customer such Services, Hardware, Media, and other products as purchased by Customer in accordance with a quote, statement of work, order or proposal (an "Order") and as further defined in the service descriptions attached hereto and incorporated within this Agreement ("Attachments").

**2. ONSITE SERVICES.** Customer shall provide such access to Customer's facilities as Peak may reasonably request, during Customer's normal business hours or as otherwise agreed upon by the parties. Peak shall observe all reasonable access, health, safety and security requirements of Customer of which Peak is informed in writing in advance and that are not inconsistent with Peak's own business practices. Customer shall make available to Peak appropriate Customer personnel familiar with Customer's equipment, software and/or applications. Except as set forth in an Attachment, any Services provided by Peak at a Customer location will be provided on a time and materials basis. A "day" is an eight (8) hour billable workday during 8:00 AM to 5:00 PM, local time at the location of performance of the Services, Monday through Friday, excluding Peak designated holidays. In the event that Customer requests Peak perform Services outside of these hours or days, fees for such Services shall be subject to Peak's then-current applicable rates. Associated actual and reasonable expenses including travel, lodging and project expenses incurred by Peak in the performance of the Services will be invoiced to Customer.

**3. PAYMENT.** Except as expressly provided herein, all Orders are non-cancellable and non-refundable. Customer shall pay Peak for an Order in accordance with the payment terms of the Attachment. Customer shall pay all applicable taxes excluding taxes based on Peak's income, or provide satisfactory proof of exemption. If Customer fails to make payments when due and such failure continues after Peak notifies Customer of such failure, Peak may refuse to perform any further Services or deliver any further Hardware. If Customer fails to make payments when due, Peak may charge Customer interest on the overdue amounts, from the date such amount became due at the lesser of the rate of one and one-half percent (1.5%) per month or the maximum interest rate permitted by applicable law. Peak reserves the right to revoke any credit extended to Customer at any time for good and sufficient cause. In the event Peak owes Customer any funds, Peak may, in its discretion, apply the amount of such funds shown on Customer's account to reduce the amount due to Peak on any open invoice.

**4. TERM AND TERMINATION.** The initial term of the Agreement shall be for a period of one (1) year from the Effective Date and shall renew automatically unless one party provides the other party with a thirty (30) days written notice of its intent to terminate. Termination of this Agreement shall not affect any Attachments still in effect as of the date of termination or any Orders placed prior to the date of termination. Either party may terminate this Agreement in the event that a party commits a material breach of this Agreement and such breach is not cured within thirty (30) days of notice to the breaching party. Customer shall pay Peak for all fees and expenses incurred up until the date of termination. Any obligations and duties which by their nature extend beyond the expiration or termination of the relationship between Peak and Customer shall survive this Agreement, including but not limited to Sections 3, 5, 7, 8, 9, and 11.

**5. HIRING OF EMPLOYEES.** Neither party shall solicit or recruit for employment (other than by general advertising), any person who was an employee of the other party during the provision of the Services and for a period of one (1) year thereafter, without the other party's written consent.

Any violation of this section shall be deemed a material breach hereof and the non-breaching party may immediately terminate this Agreement.

**6. INDEPENDENT CONTRACTOR.** Peak will manage its personnel and be free to exercise independent judgment as to the manner and method of performance of the Services. Peak is an independent contractor and nothing herein will be deemed to make one party the agent of the other.

**7. INDEMNITY.** Notwithstanding any other provision of this Agreement, each party agrees to indemnify, defend and hold harmless the other party for any liabilities, costs, losses, damages and expenses (including reasonable attorney's fees actually incurred) arising from any claim or action against or incurred by the other party for any claim for personal injury or real or tangible property damage, to the extent such damages are caused by the action or inaction of indemnifying party's personnel while Peak is performing Services at Customer's facility; provided, however, such obligations and liability are contingent upon: (a) the indemnified party providing the indemnifying party with prompt, written notice of a claim or threat of claim hereunder; (b) the indemnifying party having full control of the settlement and/or defense of the claim; (c) the indemnified party providing the indemnifying party the assistance necessary to settle and defend the claim, and (d) the indemnifying party not entering into any settlement or compromise which admits the fault of, or necessitates payment by, the indemnified party without the consent of the indemnified party.

**8. LIMITATION OF LIABILITY.** Peak's liability for any and all claims, including claims of contract, negligence and strict liability, shall not exceed the amounts paid and payable by Customer to Peak for the Services or Hardware (to the extent that Customer purchased the Hardware from Peak pursuant to this Agreement) giving rise to the claim. Peak shall have no responsibility for defects in hardware, software or services supplied by persons other than Peak or for modifications to any hardware or software manufactured by persons other than Peak. IN NO EVENT SHALL PEAK BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF DATA, LOSS OF BUSINESS, AND LOSS OF PROFITS. THESE LIMITATION OF DAMAGES AND REMEDIES CONSTITUTE THE SOLE AND EXCLUSIVE REMEDIES AND MEASURE OF DAMAGES. THESE LIMITATIONS OF DAMAGES AND REMEDIES WILL NOT BE AFFECTED IF ANY REMEDY PROVIDED HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

**9. CONFIDENTIAL INFORMATION.** Each party acknowledges that during the course of this Agreement it will acquire information and materials about the other party, including, but not limited to, its business plans, systems, software, technology, methods, know-how and lists of its customers and suppliers and that all such knowledge, information and material so acquired are the trade secrets and confidential and proprietary information of the other party (hereafter "Confidential Information"). All Confidential Information shall be conspicuously marked or identified as such at or prior to the time of disclosure, or shall otherwise be obvious to the reasonable person, given the nature and context of the disclosure, that the information disclosed is confidential and/or proprietary. The party receiving Confidential Information ("Recipient") agrees to maintain and protect the Confidential Information as confidential and proprietary using the same degree of care Recipient uses to protect its own confidential and proprietary information; however in no event less than a reasonable degree of care. Recipient shall not disclose the Confidential Information to any third party, except that Recipient may disclose the Confidential Information to those of its employees, agents and consultants who, on a strict need to know basis: (i) require knowledge or

access to the Confidential Information; (ii) are made aware that the Confidential Information constitutes confidential information and/or trade secrets of the disclosing party; (iii) have signed an agreement with Recipient requiring that they protect confidential information with restrictions similar to those contained herein; and (iv) agree to treat and protect the Confidential Information accordingly. Recipient agrees that, as between the parties, any and all Confidential Information is and shall remain the proprietary/confidential information and property of the disclosing party. Recipient agrees that upon request of the disclosing party, Recipient shall, within three (3) days, return to the disclosing party all originals, copies, notes and abstracts of any such Confidential Information that Recipient previously obtained from the disclosing party. Recipient shall certify their compliance with the foregoing, in writing, signed by an officer of Recipient.

Notwithstanding anything contained herein to the contrary, Recipient's obligations as to the Confidential Information shall not apply to any portion of the Confidential Information: (i) which was rightfully known or becomes rightfully known to Recipient without confidential restrictions from a source other than the disclosing party; (ii) which was or becomes publicly available or a matter of public knowledge generally, through no fault of receiving party; (iii) which is approved by the disclosing party, in writing, for disclosure without restrictions; (iv) which is independently developed by Recipient; (v) which is generalized know-how or skills; or (vi) which Recipient is legally compelled to disclose; provided that Recipient has given the disclosing party reasonable notice and opportunity to contest such compulsive disclosure, and Recipient requests that the Confidential Information disclosed be treated as confidential (collectively, the "Exclusions"). In no event shall the foregoing or following be deemed to grant to either party a license (by implication or otherwise) to the other party's copyrights or patents. Nothing in this Agreement, the disclosure of Confidential Information, or any discussions between the Parties shall be deemed to create any partnership, joint venture, or other commercial relationship; or have the effect of impairing the rights of either party to use, make, procure, sell, distribute and/or market any products or services, now or in the future, which may be competitive with those offered or contemplated by the other party. The parties each acknowledge and agree that the breach or threatened breach of any provision of this section by it may result in irreparable and continuing damage to the other party, for which there will be no adequate remedy at law. Accordingly, the non-breaching party shall be entitled to seek an injunction or specific performance to prevent breaches or threatened breaches of any of the provisions of this Agreement by an action instituted in a court having jurisdiction. These specific remedies are in addition to any other rights to which the parties may be entitled at law or in equity. Regardless of the cause of termination of this Agreement, the obligations of the Parties hereunder shall survive for three (3) years from disclosure; provided however, a party's obligations as they pertain to Confidential Information disclosed in source code form, shall remain in effect until the source code falls within one of the limitations on the obligations of confidentiality as set forth in the Exclusions above; and provided further, that a party's obligations with respect to trade secrets shall remain in effect until such time as the information is no longer afforded trade secret protection under applicable law.

**10. FORCE MAJEURE.** Notwithstanding anything in this Agreement to the contrary, Peak shall not be liable for any delay or failure to provide the Hardware, Services, Media, SSP, and other products hereunder, if the delay or failure is caused by war, terrorist attacks, riots, civil commotion or unrest, pandemic, epidemic, fire, flood, earthquake or any act of God, ransomware or other cyber-attack; delay by subcontractor or the failure of any third party subcontractor, or third party hardware, software, network system equipment,

wiring, electrical systems or utilities, or other causes beyond Peak's reasonable control. If any third party subcontractor providing service or hardware with respect to this Agreement, ceases to provide such services or hardware, and Peak cannot find a suitable replacement vendor, then Peak shall have the right to terminate the Agreement by providing thirty (30) days prior written notice to Customer.

**11. MISCELLANEOUS.** (a) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither party shall assign or otherwise transfer this Agreement without the prior express written consent of the other party, such consent not to be unreasonably withheld; provided however, either party may assign this Agreement without the other party's consent incidental to a merger, reorganization, change of control, or sale of all or substantially all of its assets or the assets of a division. (b) This Agreement supersedes and merges all prior proposals, understandings and agreements, oral and written, between the parties relating to the subject matter of this Agreement and may not be modified or altered except by written instrument duly executed by both parties. By signing this Agreement, Customer agrees that this Agreement exclusively governs and controls the rights of the parties so that any purchase order or other writing Customer may submit to Peak shall only be for Customer's convenience. Any additional or differing terms, whether or not materially different, set forth in any communication from Customer are hereby expressly rejected. (c) No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. (d) Section headings are for convenience only and do not form a part of this Agreement. (e) The invalidity or unenforceability of one or more provisions of this Agreement shall not affect the enforceability of any other provision, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. (f) This Agreement shall be governed by the internal laws of the State of Maryland, without regard to its conflict of law provisions. The United Nations Convention for the International Sale of Goods shall not apply. (g) All notices hereunder shall be in writing, sent by certified mail, or overnight delivery service addressed as specified below:

If to Peak:  
Peak Technologies, Inc.  
ATTN: Legal Department  
901 Elkridge Landing Road  
Suite 300  
Linthicum Heights, MD 21090-2919  
with a copy to Peak via email at: [Legal@peaktech.com](mailto:Legal@peaktech.com)

If to Customer:

(h) Customer hereby grants to Peak, its affiliates, successors, and assigns, all rights to reference Customer and/or its logos, including quotes, photos taken or illustrations from Customer, for advertising and marketing purposes, including but not limited to case studies, print advertisements, reference in Peak marketing materials, press releases, Internet postings and other publications electronic or printed which are produced in the ordinary course of business. (i) In the event of a conflict between the terms of this Agreement and an Attachment, the terms of the Attachment shall control. Capitalized terms used in an Attachment shall have the same meaning as set forth herein.