

## PEAK-RYZEX CANADIAN GENERAL TERMS AND CONDITIONS (Rev. 050416)

These General Terms and Conditions form the general agreement ("Agreement") between the parties hereto. Peak-Ryzex 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-Ryzex shall provide to Customer such Services and/or Hardware 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-Ryzex may reasonably request, during Customer's normal business hours or as otherwise agreed upon by the parties. Peak-Ryzex shall observe all reasonable access, health, safety and security requirements of Customer of which Peak-Ryzex is informed in writing in advance and that are not inconsistent with Peak-Ryzex's own business practices. Customer shall make available to Peak-Ryzex appropriate Customer personnel familiar with Customer's equipment, software and/or applications. Except as set forth in an Attachment, any Services provided by Peak-Ryzex 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-Ryzex designated holidays. In the event that Customer requests Peak-Ryzex perform Services outside of these hours or days, fees for such Services shall be subject to Peak-Ryzex's then-current applicable rates. Associated actual and reasonable expenses include travel, lodging and project expenses incurred by Peak-Ryzex in the performance of the Services.

**3. PAYMENT.** Except as expressly provided herein, all Orders are non-cancellable and non-refundable. Customer shall pay Peak-Ryzex for an Order in accordance with the payment terms of the Attachment. Unless otherwise agreed to in writing, payment shall be made in Canadian dollars. Customer shall pay all applicable taxes excluding taxes based on Peak-Ryzex's income, or provide satisfactory proof of exemption. If Customer fails to make payments when due and such failure continues after Peak-Ryzex notifies Customer of such failure, Peak-Ryzex may refuse to perform any further Services or deliver any further Hardware. If Customer fails to make payments when due, Peak-Ryzex 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-Ryzex reserves the right to revoke any credit extended to Customer at any time for good and sufficient cause.

**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-Ryzex 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-Ryzex and Customer shall survive this Agreement, including but not limited to Sections 3, 5, 8, and 9.

**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-Ryzex will manage its personnel and be free to exercise independent judgment as to the manner and method of performance of the Services. Peak-Ryzex 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 attorneys 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-Ryzex 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-Ryzex'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-Ryzex for the Services or Hardware (to the extent that Customer purchased the Hardware from Peak-Ryzex pursuant to this Agreement) giving rise to the claim. Peak-Ryzex shall have no responsibility for defects in hardware, software or services supplied by persons other than Peak-Ryzex or for modifications to any hardware or software manufactured by persons other than Peak-Ryzex. IN NO EVENT SHALL PEAK-RYZEX 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.

**10. FORCE MAJEURE.** Notwithstanding anything in this Agreement to the contrary, Peak-Ryzex shall not be liable for any delay or failure to provide the Hardware and/or Services hereunder, if the delay or failure is caused by war, terrorist attacks, riots, civil commotion, fire, flood, earthquake or any act of God, 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-Ryzex'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-Ryzex cannot find a suitable replacement vendor, then Peak-Ryzex 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-Ryzex 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 and the rights and obligations of the Parties hereto shall be governed by the laws of the Province of Ontario, and the Parties agree to submit to the jurisdiction of the courts of the Province of Ontario. The Parties

acknowledge that it is their wish that this Agreement and all documents relating to it be in the English language only. Les parties aux présentes reconnaissent avoir voulu que cette convention ainsi que tous les documents qui s'y rattachent soient rédigés en langue anglaise seulement. (g) All notices hereunder shall be in writing, sent by overnight delivery service addressed to the parties at their respective addresses set forth in the introductory paragraph. (h) Customer hereby grants to Peak-Ryzex, 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-Ryzex 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.

## HARDWARE AND MEDIA PURCHASE ATTACHMENT

Peak-Ryzex desires to provide to Customer, and Customer desires to obtain the hardware ("Hardware"), third party repair services, such as extended manufacturer warranty services, resold by Peak-Ryzex to Customer under an Order ("OEM Services"), third party software resold by Peak-Ryzex to Customer under an Order ("Third Party Software") and consumable supplies such as paper, ribbons and print heads ("Media") identified in an Order in accordance with the terms and conditions set forth in this Hardware and Media Purchase Attachment ("Attachment") and the Agreement. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. DELIVERY.** All Hardware and Media listed in an Order shall be delivered to Customer F.O.B. Origin (FCA Origin), at which time title and risk of loss to such Hardware and Media shall pass to Customer. Customer acknowledges and agrees that the quantity for Media orders may vary by plus or minus ten percent (10%) of the quantity ordered and Customer agrees that delivery of the Media within such variance shall be deemed acceptable by Customer.

**2. RESTOCKING FEE.** At Peak-Ryzex's discretion, Customer may return or cancel a Hardware order for reasons other than a warranty claim. Peak-Ryzex reserves the right to charge Customer restocking and/or handling fees equal to the actual restocking and/or handling fee charged to Peak-Ryzex by the third-party Hardware or Media provider for the returned Hardware and/or Media ("Restocking Fee"). Such Restocking Fee shall be due upon receipt of Peak-Ryzex's invoice. Peak-Ryzex will not accept the return of custom Media or custom Hardware.

**3. BILLING AND PAYMENT.** Peak-Ryzex shall invoice Customer for the Hardware and Media at time of shipment and Customer shall pay Peak-Ryzex upon receipt of Peak-Ryzex's invoice. Peak-Ryzex shall invoice Customer for any additional installation charges upon installation of the Hardware by Peak-Ryzex at Customer's location. Peak-Ryzex retains a security interest in the Hardware and Media until payment in full is received.

**4. BLANKET ORDERS.** In the event that Customer has purchased the Hardware or Media in a blanket order with multiple shipment dates, Peak-Ryzex will invoice Customer on the shipment date of each installment of the blanket order. Customer shall be responsible for the total purchase price of the blanket order. In the event that Customer has not requested delivery of the total quantities of the Hardware or Media prior to the expiration date of the blanket order, Peak-Ryzex will invoice the Customer for the remaining balance due and Customer agrees to pay the remainder of the total purchase price upon receipt of Peak-Ryzex's invoice. If no expiration date is stated on the Order, the blanket order shall expire twelve (12) months from the date of the Order.

**5. WARRANTY.** Peak-Ryzex hereby assigns to Customer, to the extent possible, the benefits of any warranties provided to Peak-Ryzex by the manufacturer(s) of the Hardware and Media. Zebra's warranty information is found at:

<https://www.zebra.com/us/en/support-downloads/warranty/product-warranty.html>.

Peak-Ryzex's obligations and liability under this warranty is conditioned upon the receipt of prompt notice of defects as to parts and/or workmanship from Customer, and is limited to repairing or, at Peak-Ryzex's sole option, to replacing the Hardware/Media or if Peak-Ryzex is unable to repair or replace the Hardware/Media to refund the purchase price paid by Customer to Peak-Ryzex. This warranty shall be void if the Hardware/Media is damaged or rendered unusable by the willful act, negligence and/or tampering of persons other than Peak-Ryzex. Peak-Ryzex makes no warranty or guaranty for any hardware or third party materials. Customer understands that Peak-Ryzex is not responsible for, and will have no liability for, hardware, software, or any other items or any services provided to Customer by any persons other than Peak-Ryzex. TO THE FULLEST EXTENT ALLOWED BY LAW, THE WARRANTIES PROVIDED IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS ATTACHMENT, PEAK-RYZEX DISCLAIMS ALL WARRANTIES EXPRESSED OR IMPLIED WITH REGARD TO THE SERVICES PROVIDED UNDER THIS ATTACHMENT, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THESE DISCLAIMERS OF WARRANTY CONSTITUTE AN ESSENTIAL PART OF THIS ATTACHMENT.

**6. OEM SERVICES AND THIRD PARTY SOFTWARE.** In the case of OEM Services and Third Party Software, Customer shall consider the third party provider to be the contracting party. The OEM Services are governed by the terms of sale set forth on the third party's website. Third Party Software is governed by the terms of sale and end user license agreement on the third party's website. The third party shall be the party responsible for providing the OEM Services and Third Party Software to Customer, and Customer shall look solely to the third party for any loss, claims or damages arising from or related to the provision of OEM Services or Third Party Software. Customer hereby releases Peak-Ryzex from any and all claims arising from the performance of the OEM Services or provision of Third Party Software.

**7. INCORPORATION OF AGREEMENT.** The parties hereby acknowledge and agree that this Attachment is attached to and forms a part of the Agreement and that the terms of the Agreement are also incorporated herein by reference.

## HARDWARE MAINTENANCE & SUPPORT ATTACHMENT

Peak-Ryzex desires to provide to Customer, and Customer desires to obtain, the maintenance and support services for the Hardware identified in an Order ("Maintenance Services") in accordance with the terms and conditions set forth in this Hardware Maintenance & Support Attachment ("Attachment") and the Agreement. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. SCOPE OF SERVICES.** Peak-Ryzex hereby agrees to provide to Customer for each Term (as hereinafter defined) the Maintenance Services at each designated site for which Customer pays to Peak-Ryzex the applicable maintenance fees. Peak-Ryzex will be available to Customer Monday through Friday 8AM-5PM, local time at Customer's location, excluding Peak-Ryzex holidays by telephone at 800-PEAKFIX or through the Internet at [www.peak-ryzex.com](http://www.peak-ryzex.com). For an additional fee (or as indicated on an Order), Customer may select 24x5 or 24x7 support for Onsite and Telephone Support. Customer may request the following service(s):

◆ **"Depot Service."** Peak-Ryzex shall provide Maintenance Services at Peak-Ryzex's maintenance facilities or manufacturer location. Customer shall contact Peak-Ryzex and place a request for Maintenance Services, at which time Peak-Ryzex will provide Customer with a Notification Number. Customer shall be responsible for shipping the Hardware (at Customer's expense) requiring service to Peak-Ryzex's maintenance facility, the address of which Peak-Ryzex will supply to Customer. Customer shall include with the Hardware a detailed description of the problems with the Hardware and shall display the Notification Number on the exterior of the shipping package for the Hardware. Peak-Ryzex shall repair the Hardware and return the Hardware via ground delivery at Peak-Ryzex's expense unless otherwise agreed in the Order to the address supplied to Peak-Ryzex by Customer, within the timeframe set forth in an Order. As indicated on the Order, Customer may purchase (at Customer's expense) a replacement unit(s) of the Hardware for storage at Peak-Ryzex's depot location ("Hot Spares"). Upon Customer's notification that it requires the Hot Spare, Peak-Ryzex will return the Hardware to Customer (at Peak-Ryzex's expense) via next day delivery. For Depot Service on Motorola Hardware only, the terms and conditions of this Agreement and Attachment are hereby replaced with the Peak-Ryzex ULC Terms and Conditions for Depot Service for Zebra Hardware located at: [https://peak-ryzex.azureedge.net/media/wysiwyg/peak-ryzex/default/files/Peak-Ryzex%20Canada%20Zebra%20Hardware%20Depot%20Services\\_Rev\\_050416.pdf](https://peak-ryzex.azureedge.net/media/wysiwyg/peak-ryzex/default/files/Peak-Ryzex%20Canada%20Zebra%20Hardware%20Depot%20Services_Rev_050416.pdf)

◆ **"Onsite Service."** Peak-Ryzex shall provide Maintenance Services at Customer's locations where the Hardware is located, as indicated on an Order. Customer shall contact Peak-Ryzex and place a request for Maintenance Services, such request to include a detailed description of the problems with the Hardware, its location and such other information as requested by the Peak-Ryzex support representative. Peak-Ryzex's goal is to dispatch a service technician to the Customer's site to perform the Maintenance Services by the next business day or within the timeframe set forth in the Order. Fees for Onsite Service in accordance with this section are inclusive of any travel, lodging and related expenses.

◆ **"Telephone Support."** Peak-Ryzex shall provide Maintenance Services to Customer via telephone. Customer shall call Peak-Ryzex at 800-PEAKFIX and place a request for Maintenance Services, such request to include a detailed description of the problems with the Hardware, its location and such other information as requested by the Peak-Ryzex support representative. Peak-Ryzex shall provide Customer with a telephone response within four (4) hours during support time following first notification of a problem.

Peak-Ryzex shall have the right to perform pre-contract inspections of Hardware within (30) days of the effective date of the Agreement or the addition of Hardware to the Agreement. Peak-Ryzex shall invoice Customer for any parts used by Peak-Ryzex during the pre-contract inspections. In the event that Peak-Ryzex does not perform pre-contract inspections, Peak-Ryzex reserves the right to invoice Customer for any parts used by Peak-Ryzex where the first service call is within thirty (30) days from either the effective date of this Agreement or from the addition of Hardware to this Agreement. Peak-Ryzex reserves the right to discontinue providing Maintenance Services for any Hardware for which it cannot obtain an adequate supply of spare parts and supplies through commercially reasonable means. Where possible, Peak-Ryzex will

provide Customer with thirty (30) days prior written notice of its intent to discontinue providing Maintenance Services for such Hardware and upon the discontinuation Peak-Ryzex shall adjust the Maintenance Fees accordingly. In the event that the Hardware specifications shown on an Order are inaccurate or incomplete, Peak-Ryzex will adjust the Maintenance Fees to reflect the accurate specifications of the Hardware and Peak-Ryzex will invoice Customer for the corrected Hardware specifications retroactive to the Effective Date (or the date at which the Hardware became covered by the Maintenance Services).

**2. ADDITIONAL SERVICES.** Maintenance Services do not include the following Additional Services: (A) site preparation and maintenance of a proper environment, (B) set up and installation of Hardware, (C) moving Hardware, (D) painting or refurbishing Hardware, (E) adding, changing or removing features or options or making other functional changes to Hardware, (F) providing consumable supplies such as paper, ribbons and print heads ("Media"), even if consumed while providing maintenance services, (G) systems engineering services, programming services and operational procedures of any sort, and (H) maintenance, repair or replacement of parts or Hardware, when such services are required because of abuse, misuse, accident, neglect, usage in an improper environment, not in accordance with manufacturer's specifications for the Hardware, or in excess of an item's duty cycle or other loss or damage to Hardware due to any insurable loss or any cause or causes external to the Hardware. Any Additional Services which Customer requests and Peak-Ryzex agrees to perform will be billed on a time and materials basis subject to Peak-Ryzex's then-current applicable rates. Associated actual and reasonable expenses include travel, lodging and project expenses incurred by Peak-Ryzex in the performance of the Additional Services.

**3. PARTS.** Peak-Ryzex will replace parts on an exchange basis only. Peak-Ryzex reserves the right to use remanufactured or refurbished parts. Such parts shall be deemed to be the equivalent to new parts when installed in the Hardware. All parts sent to Peak-Ryzex by Customer on an exchange basis shall become the property of Peak-Ryzex.

**4. CUSTOMER RESPONSIBILITIES.** Customer shall provide the following for Onsite Service: electric power for portable electric tools, sufficient light where possible, safe access to the Hardware, appropriate Media and reasonable cooperation from Customer's employees. Customer acknowledges that Peak-Ryzex is not liable for any hardware, software, or any other items or services provided to Customer by any persons other than Peak-Ryzex, except as set forth in the Agreement. Customer shall promptly notify Peak-Ryzex of any anticipated delays or deficiencies in Customer's responsibilities and shall provide prompt assistance in resolving any such delays or deficiencies to Peak-Ryzex's reasonable satisfaction. Peak-Ryzex reserves the right to stop work until Customer remedies such delays or deficiencies to Peak-Ryzex's reasonable satisfaction.

**5. TERM AND TERMINATION.** Unless otherwise agreed in an Order, Peak-Ryzex shall provide Maintenance Services to Customer on a 12-month annual basis (the "Term") upon payment in full for all Maintenance Services fees for the Term. The initial Term for the Maintenance Services shall commence following the expiration of any warranty period that may be specified in the Order (the "Initial Term"). After the Initial Term, each Order shall automatically continue for successive one (1) year Terms ("Renewal Term") unless either party provides the other with written notice of its intent to terminate the Order at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term. Prior to the commencement of a Renewal Term, Peak-Ryzex may invoice the Customer for the cost of the Services to be provided hereunder for the following Renewal Term. If Customer does not pay such renewal invoice in the manner agreed upon for payment as set forth in Section 6, then Peak-Ryzex may terminate the Order immediately, and Customer shall pay Peak-Ryzex for Maintenance Services rendered through the date of termination at Peak-Ryzex's then-current applicable rates. Customer may add Hardware to Maintenance Services by signing Peak-Ryzex's Order which may be in the form of a Peak-Ryzex quote or Peak-Ryzex's

Equipment Add Form. The term for any Hardware added under Maintenance Services during the Term shall be coterminous with the expiration of the current Term. Customer may remove any Hardware from the Maintenance Services by providing written notice to Peak-Ryzex within thirty (30) days of the commencement of the Term. Either party may terminate an Order in the event that a party commits a material breach of this Attachment and such breach is not cured within thirty (30) days of notice to the breaching party.

**6. BILLING AND PAYMENT.** Unless otherwise set forth in an Order, Peak-Ryzex shall invoice Customer for the Initial Term upon execution of this Agreement and shall invoice Customer for any Renewal Term at least thirty (30) days prior to the end of the prior Initial or Renewal Term. Customer shall pay Peak-Ryzex in full immediately upon receipt of invoice. In the event that Customer requires the issuance of a purchase order, Customer shall issue the purchase order to Peak-Ryzex for the Renewal Term prior to the expiration of the current Term.

Customer may request that Peak-Ryzex provide Maintenance Services at additional locations, which shall be subject to additional fees. Maintenance Fees are exclusive of any telephone or Internet charges incurred if remote access is required, or any shipping charges incurred when Peak-Ryzex is required to send materials to Customer. Peak-Ryzex shall invoice Customer for such expenses on a monthly basis and Customer shall pay Peak-Ryzex upon receipt of Peak-Ryzex's invoice.

**7. WARRANTY.** Peak-Ryzex warrants that it will render the Maintenance Services in a good and workmanlike manner. Peak-Ryzex warrants to Customer for a period of thirty (30) days following the

performance of any installation work by Peak-Ryzex, that such work will be performed in a good and workman-like manner. In the event of any material failure to meet such standard, Customer's exclusive remedy and Peak-Ryzex's sole responsibility shall be for Peak-Ryzex to re-perform the Maintenance Services or, if in Peak-Ryzex's discretion it is not commercially reasonable to re-perform the Maintenance Services, provide Customer with a refund of the Maintenance Fees paid by Customer for the current Term. Peak-Ryzex's obligations and liability under this warranty are conditioned upon the receipt of prompt notice of defects as to parts and/or workmanship from Customer. Timely completion of Maintenance Services by Peak-Ryzex is subject to the timely satisfaction by Customer of any Customer obligation or requirement. This warranty shall be void if the Hardware is damaged or rendered unusable by the willful act, negligence and/or tampering of persons other than Peak-Ryzex. TO THE FULLEST EXTENT ALLOWED BY LAW, THE WARRANTIES PROVIDED IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS ATTACHMENT, PEAK-RYZEX DISCLAIMS ALL WARRANTIES EXPRESSED OR IMPLIED WITH REGARD TO THE SERVICES PROVIDED UNDER THIS ATTACHMENT, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THESE DISCLAIMERS OF WARRANTY CONSTITUTE AN ESSENTIAL PART OF THIS ATTACHMENT.

**8. INCORPORATION OF AGREEMENT.** The parties hereby acknowledge and agree that this Attachment is attached to and forms a part of the Agreement and that the terms of the Agreement are also incorporated herein by reference.

## PROFESSIONAL SERVICES ATTACHMENT

Peak-Ryzex offers a variety of professional services, such as consulting, system design, software development, installation, mobility managed services, voice logistics, project management, service and support. Peak-Ryzex desires to provide to Customer, and Customer desires to obtain, the Professional Services as defined in an Order, in accordance with the terms and conditions set forth in this Professional Services Attachment ("Attachment") and the Agreement. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. SCOPE OF SERVICES.** Peak-Ryzex will provide to Customer the services described in a statement of work, order, proposal or quote ("Order") executed by the parties ("Professional Services"). The Order will set forth the amount, type and fees for any hardware, software and services purchased from Peak-Ryzex by Customer. The Order shall incorporate any blueprint or investment proposal and shall constitute the complete and exclusive definition and description of the Professional Services. The Order will include the following elements: (a) task description; (b) deliverables and schedule; (c) completion and acceptance criteria for the deliverables; (d) pricing, (e) customer defined requirements; and (f) any special or other terms. Professional Services shall be performed in accordance with Peak-Ryzex's hourly or daily rates and policies specified in an Order. Any Professional Services requested by Customer and not included in the Order may be provided by mutual agreement and at Peak-Ryzex's then-current rates.

**2. CHANGES.** Either party may propose a change to an Order by delivering such request to the other party in writing. Each party will evaluate a proposed change to the Order in good faith and will respond in writing within a reasonable time. Peak-Ryzex will determine the impact of any requested or recommended change to the price or schedule for the Professional Services and advise Customer in writing of such impact. Any change to the Order will only become effective upon the execution by both parties of an amendment to the Order. Unless otherwise agreed upon by the parties, until such time as such amendment is effective, Peak-Ryzex will continue to perform, and Customer shall continue to pay for, the Professional Services in accordance with the Order.

**3. CUSTOMER RESPONSIBILITIES.** Customer represents that (a) the information (including Confidential Information) supplied by Customer and used by Peak-Ryzex in preparation of an Order is accurate, current and complete; and (b) it has, and will continue to have during the period of performance of the Professional Services, such legal right and authority to provide Peak-Ryzex with access and use of all software and systems as Customer may be required to provide to Peak-Ryzex in an Order. Customer acknowledges that Peak-Ryzex is not liable for any hardware, software, or any other items or services provided to Customer by any persons other than Peak-Ryzex, except as set forth in the Agreement and any Attachment thereto. Customer shall promptly notify Peak-Ryzex of any anticipated delays or deficiencies in Customer's responsibilities and shall provide prompt assistance in resolving any such delays or deficiencies to Peak-Ryzex's reasonable satisfaction. In the event Peak-Ryzex determines the information, equipment, software, assistance or payments to be provided by Customer are delayed, inaccurate or incomplete, Peak-Ryzex reserves the right to stop work until Customer remedies such delay, inaccuracy or incompleteness to Peak-Ryzex's reasonable satisfaction.

**4. REVIEW OF DELIVERABLES.** Customer shall notify Peak-Ryzex within the earlier of the timeframe set forth in the Order and ten (10) business days of delivery of a deliverable whether it conforms to the requirements set forth in the Order. Customer shall specify in sufficient detail the nature and scope of any non-conforming deliverable. Upon receipt of such notice, Peak-Ryzex shall act diligently to correct such deficiencies. Customer shall not unreasonably withhold approval of deliverables and corrected deficiencies. In the event that Customer does not notify Peak-Ryzex to the contrary within the earlier of the timeframe set forth in the Order and ten (10) business days from delivery, the deliverables shall be deemed accepted and approved by Customer.

**5. PROPRIETARY RIGHTS.** Unless otherwise specified in the applicable Order, Professional Services provided by Peak-Ryzex under the relevant Order are not performed on a "work for hire" basis and therefore the intellectual property rights related to any Professional Services, including but not limited to all the ideas, concepts, plans,

techniques, designs, models, inventions, processes, methodologies, discoveries, formulae, software (other than third party software) of every kind (including all software deliverables, routines, algorithms, applications, programs, operating environments, databases, interfaces or patches), technology, improvements, materials, works of authorship, documentation, programming aids or trade secrets developed, created, designed, invented, authored, or conceived by Peak-Ryzex or any of Peak-Ryzex's personnel or contractors in respect of any Professional Services or any testing, repairs, fixes, replacements, improvements, enhancements or updates to the Professional Services, shall be that of Peak-Ryzex's; provided, however, that Customer is hereby granted a non-exclusive, non-transferable license to use the Professional Services solely for its internal business purposes, subject to the restrictions set out in this Agreement. Notwithstanding anything to the contrary herein, it is understood and agreed by the Parties that any of the aforementioned intellectual property rights that may be developed, created, designed, invented, authored, or conceived by Customer and used by Peak-Ryzex in the construction of, or incorporated into, any Professional Services shall be the property of Customer, and Peak-Ryzex shall not have any right to any such intellectual property rights and Peak-Ryzex understands and agrees that it shall not utilize any such ideas, concepts, methods, know-how, or techniques developed, created, designed, invented, authored, or conceived by the Customer when providing services to any other Peak-Ryzex customers. The foregoing restriction, however, shall not restrict Peak-Ryzex from providing services to or developing solutions for another Peak-Ryzex customer with the same or similar functionality as the solutions that are provided to Customer as part of the Professional Services provided to Customer, so long as the preceding restriction is not violated. For the avoidance of doubt, it is understood and agreed that Customer is not obligated to provide Peak-Ryzex with any code, specifications, or information regarding any solutions created solely by Customer or on Customer's sole behalf, and Peak-Ryzex agrees not to appropriate any such code, specifications, or information without Customer's knowledge and consent.

**6. BILLING AND PAYMENT.** Customer shall pay Peak-Ryzex the fees and expenses for the Professional Services upon receipt of Peak-Ryzex's invoice.

**7. WARRANTY.** Peak-Ryzex warrants that it will render any Professional Services in a good and workmanlike manner for a period of thirty (30) days from the date the Professional Services are completed or as otherwise agreed in an Order. In the event of any material failure to meet such standard, Customer's exclusive remedy and Peak-Ryzex's sole responsibility shall be for Peak-Ryzex to re-perform the Professional Services or, if in Peak-Ryzex's discretion it is not commercially reasonable to re-perform the Services, provide Customer with a refund of the Professional Service fees paid by Customer. Timely completion of Professional Services and delivery of any deliverable resulting from the Professional Services by Peak-Ryzex is subject to the timely satisfaction by Customer of any Customer obligation or requirement. TO THE FULLEST EXTENT ALLOWED BY LAW, THE WARRANTIES PROVIDED IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PEAK-RYZEX DISCLAIMS ALL WARRANTIES EXPRESSED OR IMPLIED WITH REGARD TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THESE DISCLAIMERS OF WARRANTY CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT.

**8. INCORPORATION OF AGREEMENT.** The parties hereby acknowledge and agree that this Attachment is attached to and forms a part of the Agreement and that the terms of the Agreement are also incorporated herein by reference.