

valid from 01/01/2024

Subscription Agreement.

1. Subject.

- 1.1. Subject of the Subscription Agreement (“SUB”) is the full maintenance and service of all Peakboard products purchased by the customer (“Customer”).
- 1.2. This SUB regulates the basic services and obligations between the Customer and Peakboard America Inc., Chicago (“Peakboard”) as a framework agreement. Further agreements applicable to single or multiple products or services are specified in Addenda to this framework agreement.
- 1.3. The services of the SUB refer exclusively to a fully executed, legally binding SUB with the Customer. The SUB is considered to be fully executed if the Customer orders, and Peakboard accepts, the order by means of the written delivery of a unique SUB number.
- 1.4. The following contractual provisions of the SUB covers maintenance, service and support of application programs and software systems (“Software”), the provision of support services and the training and education of users, as well as other services according to the performance description.

2. Maintenance Services and Times.

The ongoing Subscription contract includes the following services:

- 2.1. **Service hotline**
Peakboard provides access to the Service Hotline (+1 (872)-249 1911) from Monday to Friday during business hours between 9:00 a.m. and 5:00 p.m. Central Time (except for US public holidays).

2.2. **Online support system**

Peakboard provides access to the online support system help.peakboard.com and guarantees feedback on requests within 24 hours at support@peakboard.com.

2.3. **Updates**

Peakboard provides access to Updates and new versions (“Upgrades”) of the contracted software. The term Updates refers to improved software versions or parts thereof (including bug fixes and patches), which replace existing functionality of the contracted software as long as a valid SUB is in place. The term Upgrade refers to a new or improved software version or parts thereof (i.e., extended functionality of the contracted software).

2.4. **Hardware**

Peakboard offers free replacement of defective hardware (Peakboard Box) when Peakboard, in its sole discretion, finds such hardware to be defective.

2.5. **Software**

Peakboard pledges its best effort that the contracted software will comply with its published documentation.

2.6. **Extended services**

During the term of the SUB, the customer is permitted to use the Peakboard Hub online version free of charge.

3. Warranty, Rights and Obligations.

3.1. The Customer may only enter into a SUB for the software and hardware delivered by Peakboard or originating from Peakboard under a defined business agreement for which the Customer has a valid license with exclusive or non-exclusive usage rights.

3.2. The SUB refers to the latest release. Unless otherwise agreed, release Updates are carried out by the Customer themselves.

3.3. SUB contracts apply to software that is used in accordance with the original provisions on the intended systems with the intended operating software.

- 3.4. Peakboard reserves the right to involve third parties for maintenance. In particular, this applies, if subcontractors have been involved in the implementation of the licensed software or if the client uses software from third parties but Peakboard assumes the maintenance responsibility in accordance with separate supplements to this contract.
- 3.5. Any warranties, actual or implied, are canceled if the Customer has made their own changes/additions to the licensed programs or if the licenses are transferred to other hardware or operating software without the explicit written consent of Peakboard. Warranties are also canceled if hardware or software or communication channels have been changed, if errors occur in the licensed software in connection with the introduction of new third-party applications or Customer-owned applications. In such cases, Peakboard may charge for the remediation of the defects irrespective of the SUB. If this is no longer possible, Peakboard may withdraw from the SUB without notice, whereby fees already paid will be forfeited in favor of Peakboard and any expenses incurred will be invoiced. In no case, shall the Customer have claim to the source code or any Peakboard intellectual property.
- 3.6. Peakboard is committed to provide support services within the agreed framework. Delays due to force majeure, such as strikes, operational disruptions, official regulations or other events and occurrences for which Peakboard is not responsible, entitle Peakboard to postpone the due dates by the duration of the delay plus a reasonable ramp-up period. In the event of delays in due dates for which Peakboard is responsible, Peakboard shall only be in default if the customer has set a reasonable grace period in writing. If Peakboard is generally no longer able to provide the agreed SUB services, the Customer has the right to withdraw from the SUB contract with written notice. Peakboard is not liable for any advance services provided by the Customer. No claims for compensation by the Customer or third parties are permitted.
- 3.7. Peakboard, third parties commissioned by Peakboard and all employees of these companies are obliged to maintain strict confidentiality. No information, documents or observations from or about the Customer will be used in any form for themselves and will not be passed on to third parties under any circumstances. Customer case studies or other public relations materials are only used by Peakboard with the explicit permission of the Customer.
- 3.8. User instructions and user training for end users are offered separately by Peakboard and are not subject to software maintenance.

- 3.9. Peakboard is not responsible, nor does it assume responsibility, for the Customer's own data. Peakboard will charge for any data modifications to be made.
- 3.10. Reversible changes and adaptations to the hardware by the Customer, e.g., affixing anti-theft protection, do not affect the services and obligations of this SUB. Irreversible changes, e.g., opening or willful alteration of the housing, will void the hardware warranty.
- 3.11. In the event of hardware replacement, Peakboard assumes no responsibility for unsolicited, non-original components. Such components will not be replaced, nor does Peakboard assume any warranty for their receipt or return.
- 3.12. The Subscription prices will remain unchanged for the first year of the contract. Peakboard reserves the right to increase the annual subscription fee not more than once a year, and by no more than the greater of five percent (5%) per annum. Peakboard has to inform customers no less than 6 months in advance with a written notice of any price changes before the renewal ending date.

Increases will not apply to any orders already placed with Peakboard, or to any Products to be ordered by the customer following a quotation before the effective date of the increase.

4. Term of Contract.

- 4.1. The SUB contract begins on the date of the order received by Peakboard, unless the start of the SUB has been specified otherwise in the written offer by Peakboard.
- 4.2. The SUB and any Addenda is valid for 12 months, automatically renewing for further 12-month terms unless explicitly canceled in writing by either party.
- 4.3. The Customer can terminate the SUB in writing at least 30 days before the end of its term. Peakboard reserves the right to terminate this SUB for any material breach by Customer of this agreement, and in its sole discretion at the conclusion of any term of this agreement.

- 4.4. Premature termination of the contract by either party is only possible with mutual written consent.
- 4.5. In case of termination the customer has to return the hardware to Peakboard within a period of 30 days. If this does not happen, Peakboard reserves the right to automatically charge for the subscription license for another 12 months.
- 4.6. Individual Addenda to the SUB can be terminated in writing by Peakboard with the same notice periods. All other terms of the SUB contract will remain in force.

5. Conditions and Terms of Payment.

- 5.1. Payment for SUB or any extension is due at the beginning of its term. Peakboard will issue the invoice in advance, payment terms are 30 days net after invoice date.
- 5.2. The total amount of the SUB is to be paid by the Customer for the current maintenance year. The price is based on the total number of Peakboard Boxes purchased by the Customer. If the Customer orders more Peakboard Boxes during a running SUB period, then co-termination applies. This means that the customer only pays the subscription price proportionally, depending on the remaining time period until the actual renewal of the subscription contract.
- 5.3. **Late Payment Fee Policy**
All services provided are invoiced 30 days before due date and are subject to a 30-day payment cycle (beside another payment term has been agreed with the customer). If payment is not received within those 30 days or the agreed payment term, any overdue and unpaid balances will be charged at a rate of 2% of the customer's bill per month until the balance is paid.