

**peak
board**

enlighten your data.

service level agreement

of
Peakboard GmbH
Kernerstrasse 50, 70182 Stuttgart,
Germany

01.01.2020

01

subject

- 1.1 Subject of the Service Level Agreement (in the following called SLA) is the full maintenance and service of all Peakboard products purchased through a legal corporate identity (company).
- 1.2 This SLA regulates the basic services and obligations between the client (hereinafter referred to as “client”) and the contractor Peakboard GmbH, Stuttgart (hereinafter referred to as “Peakboard”) as a framework agreement. Further agreements applicable to single or multiple products or services are specified in annexes to this framework agreement.
- 1.3 The services of the SLA refer exclusively to a concluded, legally binding SLA with a company as the client. The SLA is concluded if the company orders and Peakboard accepts the order by means of the written delivery of a unique SLA number.
- 1.4 The following contractual provisions of the SLA cover maintenance, service and support of application programs and software systems (hereinafter referred to as „software“), the provision of support services and the training and education of users, as well as other services according to the performance description.

02

maintenance services and times

- 2.1 These include the same services as stated in the General Terms and Conditions after expiry of the warranty period, plus additional services with which the licensed software is adapted to current conditions: Elimination of software bugs, free adaptation of the software to legal changes, delivery of improvements and extensions of the software functions resulting from further standard software development, delivery of new release updates or releases of the licensed software. Unless otherwise agreed, release updates are carried out by the client themselves.

2.2 **service hotline**

Peakboard provides access to the Service Hotline (+49 711 - 46 05 99 60) from Monday to Friday during business hours between 9:00 a.m. and 5:00 p.m. with the exception of public holidays in Baden-Wuerttemberg, Germany.

2.3 **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.

2.4 **updates**

Peakboard provides access to updates and new versions (upgrades) of the contract software. The term updates refers to improved software versions or parts thereof (incl. bug fixes and patches), which replace existing and in particular faulty functionalities of the contract software (no extension). The term upgrade, on the other hand, refers to a new or improved software version or parts thereof (extended functionality of the contract software).

2.5 **hardware**

Peakboard offers free replacement of defective hardware (Peakboard Box).

2.6 **software**

Peakboard guarantees that the contract software will run error-free according to the documentation.

03

warranty, rights and obligations

- 3.1 The client can only conclude an SLA for the software delivered by Peakboard or originating from Peakboard for which the client has a valid license with exclusive or non-exclusive usage rights.

The SLA refers to the latest release. Unless otherwise agreed, release updates are carried out by the client themselves.

- 3.2 SLA contracts apply to software that is used in accordance with the original provisions on the intended systems with the intended operating software.
- 3.3 Peakboard is entitled to involve third parties for maintenance or to have maintenance carried out by third parties. 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.
- 3.4 During the term of the SLA, Peakboard guarantees that the maintained software and its usage possibilities will be maintained. The warranty expires if the client has made their own changes/additions to the licensed programs or if the licenses are transferred to other hardware or operating software without the knowledge and/or consent of Peakboard. It also expires 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 client-owned applications. In such cases, Peakboard may charge for the rectification of the defects irrespective of the SLA. If this is no longer possible, Peakboard may withdraw from the SLA without notice, whereby fees already paid will be forfeited in favor of Peakboard and any expenses incurred - even if they were not successful - will be invoiced. In such a case the client has no claim to the source code.
- 3.5 Peakboard is committed to provide SLA 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 SLA services, the client has the right to withdraw from the maintenance contract without notice.

- 3.6 Peakboard is not liable for any advance services provided by the client. Other compensation or claims by the client or third parties are excluded.
- 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 client will be used in any form for themselves and will not be passed on to third parties under any circumstances. Realized services or projects are only used as references with the explicit permission of the client.
- 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 for the client's own data. Peakboard does not assume any liability for these data. Peakboard will charge for any data modifications to be made.
- 3.10 Reversible changes and adaptations to the hardware by the contractual partner, e.g. affixing anti-theft protection, do not affect the services and obligations of this SLA. Irreversible changes, e.g. opening or willful alteration of the housing, will void the hardware warranty.
- 3.11 In the event of hardware replacement, unsolicited, non-original components sent in, e.g. a holder, will not be replaced or Peakboard does not assume any warranty for their receipt or return.

04 term of contract

- 4.1 The SLA begins on the date of the order received by Peakboard, unless the start of the SLA has been specified otherwise in the written offer by Peakboard.
- 4.2 The SLA with possible attachments is valid for 12 months with tacit renewal for a further 12 months.

- 4.3 The client can terminate the SLA in written form and without giving reasons with a notice period of 3 months to the end of the contract.
- 4.4 Premature termination of the contract by either party is only possible with mutual written consent.
- 4.5 In case of termination by the client, all paid maintenance costs expire to Peakboard.
- 4.6 Individual supplements to the SLA can be terminated with the same notice periods. The SLA contract with the remaining addenda will remain in force.

05 conditions and terms of payment

- 5.1 The annual fee for the SLA is 20% of the currently valid list price of Peakboard products, unless the annual fee has been otherwise specified in written form in the offer by Peakboard.
- 5.2 In the case of a subscription agreement, the currently valid list prices apply.
- 5.3 The maintenance price/subscription price must be paid one year in advance. Peakboard will issue the invoice in advance, payment terms are 30 days net after invoice date.
- 5.4 The total amount of the SLA to be paid by the client for the current maintenance year is based on the total number of Peakboard Boxes purchased by the client per legal corporate identity.
- 5.5 All other Peakboard boxes purchased during the course of a maintenance year are included in this amount. After the end of the respective maintenance year, newly added Peakboard boxes will be charged.

06

final provisions

- 6.1 Changes and additions to this SLA must be made in written form and signed by both parties to the contract in order to be effective.
- 6.2 Should individual provisions of this SLA be invalid or unenforceable or become invalid or unenforceable after the conclusion of the contract, the validity of the SLA remains unaffected. The invalid or unenforceable provision shall be replaced by a valid and enforceable provision, the effects of which come closest to the economic objective that the contractual partners pursued with the invalid or unenforceable provision. The above provisions shall apply accordingly in the event that the SLA contract proves to be incomplete.
- 6.3 The place of performance and jurisdiction shall exclusively be the respective competent courts in Stuttgart, Germany.
- 6.4 This contract shall be governed exclusively by German law.
- 6.5 The conditions of the SLA are valid from 01.01.2020.