PEER SOFTARE END USER LICENSE AGREEMENT

PLEASE READ THIS AGREEMENT CAREFULLY. BY CHECKING THE "ACCEPT" BUTTON BELOW, OPENING THE PACKAGE, DOWNLOADING THE SOFTWARE, OR USING THE SOFTWARE, YOU ARE AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK THE "DO NOT ACCEPT" BUTTON AND THE INSTALLATION PROCESS WILL NOT CONTINUE, RETURN THE SOFTWARE TO THE PLACE OF PURCHASE FOR A FULL REFUND, OR DO NOT DOWNLOAD THE SOFTWARE. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A CORPORATION OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT.

This **Peer Software End User License Agreement** ("**Agreement**") is legally binding between the purchasing entity identified on the applicable ordering document (e.g., quote or purchase order) ("**Customer**") and Peer Software, Inc. ("**Peer Software**") regarding Customer's purchase, evaluation, and/or license of the Software, as described below. This Agreement is effective as of the earlier of the date set forth on the applicable ordering document or the date that Customer accepted this Agreement as described above.

1. Definitions.

1.1. "**Documentation**" means any user instructions, manuals, and online help files regarding the use of the Software that are generally provided by Peer Software in connection with the Software.

1.2. "**Software**" means Peer Software's commercially released machine-executable object code version of its proprietary software, as may be more fully described in the applicable ordering document.

2. Software Licenses and Restrictions.

2.1. **License**. Subject to the terms and conditions of this Agreement, Peer Software grants to Customer a non-exclusive, non-sublicensable and non-transferable license to (a) use the Software solely for its own internal needs; and (b) use the Documentation in connection with the permitted use of the Software.

2.2. **Restrictions**. Customer will not: (i) copy or reproduce the Software; (ii) modify or create any derivative works of the Software; (iii) decompile, disassemble, or reverse engineer the Software; (iv) redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer rights to the Software; (v) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols, or labels in the Software; (vi) provide access to or disclose the Software to any third party, or use the Software to create or provide any offering or service, whether or not it

is similar or competitive to the Software, including without limitation processing third-party data files as a consultant, service provider, or otherwise; (vii) extract or use any software or content that is furnished by Peer Software except as part of the Software; (viii) use the Software for any unlawful purpose; (ix) use the Software in connection with the storage or transmission of infringing, libelous, or otherwise unlawful or tortuous material, or in violation of any third-party privacy rights, or (x) publish or disclose to any third party any performance or benchmark tests or analyses relating to the Software, except for internal use by the Customer.

3. Term and Termination.

3.1. **Term of Agreement.** This Agreement will be effective from the date of purchase of the Software and shall end upon the earlier of: (i) the end of the License Term (if any) specified in the applicable ordering document (and any renewal thereof), or (ii) the termination of this Agreement pursuant to Section 3.3. In the case of an evaluation of the Software, this Agreement will terminate at the conclusion of the evaluation period as stated on the applicable ordering document, unless Customer purchases and/or licenses the Software prior to the conclusion of the evaluation period.

3.2. **Term of Software Licenses.** The Software License Term shall be specified in the applicable ordering document for the Software and/or the time period as specified in the Software license key provided by Peer Software to the Customer.

3.3. **Termination.** This Agreement may be terminated for cause by either party, in the event that the other party commits a material breach of this Agreement and does not cure such breach within thirty (30) days of receipt of written notice specifying such breach and the intent to terminate.

3.4. **Effect of Termination.** Upon termination of this Agreement, all rights granted to Customer with respect to term- and subscription-based Software and Documentation will terminate, and Customer will immediately discontinue use of such Software and Documentation and any of Peer Software's Confidential Information. Upon request by Peer Software, Customer will certify in writing to Peer Software within thirty (30) days that the affected copies of the Software, in whole or in part, in any form, and any Confidential Information, have either been returned to Peer Software or destroyed in accordance with Peer Software's instructions. With respect to Software installed for which the license grant was perpetual, if this Agreement is terminated pursuant to Section 3.3 because of Customer's uncured breach of the license or restrictions of Section 2, or the confidentiality obligations of Section 10, the licenses granted under Section 2 will terminate and Customer shall promptly cease all use of the Software and Documentation and destroy (and in writing certify such destruction) or return to Peer Software all copies of the Software and Documentation then in Customer's possession or control. If this Agreement is terminated by either party for any reason other than those given in the preceding sentence, then provided that Customer has paid the entire license fee, applicable maintenance and support fees, all fees due under any

applicable Statement of Work for services, and any other fees due, then any Software licenses identified as "perpetual" on the applicable order form will survive such termination, subject to the following:

(a) the terms and conditions of this Agreement pertaining to the Software will survive any such termination (including without limitation Sections 2.1 and 2.2);

(b) any such "perpetual" license will always be subject to subsequent termination by Peer Software for Customer's uncured breach of the license and restrictions of Section 2 or confidentiality obligations of Section 10; and

(c) Peer Software's obligation to provide Software Support or other services under this Agreement will terminate.

3.5. **Survival**. Sections 2.2, 3, 4, 6, and 8 through 12, inclusive shall survive the termination of this Agreement.

4. Payment. Customer shall pay all amounts net thirty (30) days from the date of invoice. Software will be invoiced at time of shipment. Fees for perpetual Software licenses will be invoiced and paid in advance of receiving final non-expiring Software license keys. Fees for term- or subscription-based Software licenses and Software Support will be invoiced for all years purchased and paid at the beginning of the period. Any fees for professional services will be invoiced according to the Statement of Work. All fees are nonrefundable. Customer will be responsible for all taxes resulting from the purchases other than taxes on Peer Software's net income.

5. Limited Warranty.

5.1. Peer Software warrants for a period of ninety (90) days from shipment that the Software will substantially conform to the Documentation.

5.2. Repair or replacement is limited to providing maintenance releases of the Software that Peer Software generally makes available from time to time.

5.3. The Software can contain some components subject to open source software, freeware, shareware, or similar licensing or distribution models ("Open Source Components"). Without limiting the generality of the foregoing, Peer Software's warranty obligations under this Agreement do not apply to Open Source Components.

6. WARRANTY DISCLAIMER. EXCEPT AS SET FORTH IN SECTION 5, PEER SOFTWARE AND ITS LICENSORS AND SUPPLIERS DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING OR RELATING TO THE SOFTWARE AND DOCUMENTATION, OR ANY OTHER MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR

A PARTICULAR PURPOSE, ANY WARRANTY THAT THE SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE, OR THAT CUSTOMER CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED.

7. SOFTWARE SUPPORT.

7.1. During Customer's paid Software Support subscription, Peer Software will provide Software Support to Customer in accordance with the level of support services purchased and detailed in the applicable ordering document and/or other technical support documentation as provided by Peer Software to Customer.

7.2. Peer Software will have no obligation to provide Software Support for: (a) improper installation of the Software; (b) any modification of the Software not made by Peer Software unless it is preapproved in writing by Peer Software; (c) any version of the Software running on any platform that is not supported by Peer Software; or (d) any version of the Software that has reached its end of support life.

7.3. The initial Software Support period will be specified in the applicable ordering document from the effective date of this Agreement. Reinstatement of lapsed Software Support, if any, is subject to Peer Software's then-current support services reinstatement policy and fees in effect on the date the reinstatement is granted.

7.4. Peer Software reserves the right to charge additional support fees at its then standard professional services rates for support services performed in connection with reported problems that are later determined to have been due to Customer error or third-party hardware or software. Any configuration or integration work must be separately quoted by Peer Software's professional services organization and agreed by the parties in writing.

8. INDEMNIFICATION.

8.1. Peer Software agrees that it will, at its own expense, defend all suits or proceedings instituted against Customer and pay any award or damages finally assessed against Customer in such suits or proceedings, insofar as the same are based on any third-party claim that the Software or any parts thereof furnished under this Agreement constitute an infringement in the United States of any United States patent, copyright trade secret or other intellectual property right of a third party; provided, however, that Customer (i) gives immediate written notice to Peer Software of the institution of the suit or proceedings, (ii) gives Peer Software sole control of the defense and settlement of such suits or proceedings, and (iii) gives Peer Software all needed information, assistance, and authority to enable Peer Software to do so. Notwithstanding the foregoing, Peer Software will not be responsible for, and the foregoing indemnity obligation shall not apply to (a) any use of the Software that is not their intended use; or (b) any modification of the Software by anybody other than Peer Software. In the event that Peer Software believes that any claim is likely to occur, Peer Software may, at its sole option and expense, either (i) secure for Customer the right to continue using such item(s), (ii) replace such item(s) with noninfringing

item(s), or (iii) require the return of such item(s) and refund the sums paid therefor. THE FOREGOING STATES PEER SOFTWARE'S ENTIRE LIABILITY AND OBLIGATION (EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE) WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT OR CLAIMS THEREFOR.

8.2. Customer agrees to indemnify, defend, and hold Peer Software, its directors, officers, employees and agents harmless from all loss, liability, claims, demands, judgments, and expenses, including, without limitation, attorneys' fees, arising out of, or in any way connected with Customer's or its representative(s)' use of the Software.

9. LIMITATION OF LIABILITY. PEER SOFTWARE'S LIABILITY ARISING OUT OF THIS AGREEMENT AND/OR SALE WILL BE LIMITED TO REFUND OF THE PURCHASE PRICE. IN NO EVENT WILL PEER SOFTWARE BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFIT, LOSS OF DATA, LOSS OF USE, BUSINESS INTERRUPTION, SECURITY BREACH, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES) WHETHER OR NOT PEER SOFTWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY ARISING OUT OF THIS AGREEMENT. THIS EXCLUSION INCLUDES ANY LIABILITY THAT MAY ARISE OUT OF THIRD-PARTY CLAIMS AGAINST CUSTOMER. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

10. Confidentiality. "Confidential Information" means any and all information related to a party's business that is labeled or identified as "confidential" or "proprietary"; or otherwise is of such a type or disclosed in such a way that a reasonable person would understand that the information disclosed is confidential or proprietary, including without limitation software, source code and specifications, trade secrets, development plans, technical information, business forecasts and strategies. Without limiting the foregoing, the Software, their structure, organization, code, and related documentation are the "Confidential Information" of Peer Software. Each party agrees (i) to hold the other party's Confidential Information in strict confidence, (ii) not to disclose such Confidential Information to any third parties, except as described below, and (iii) not to use any Confidential Information except for the purposes of this Agreement. Each party may disclose the other party's Confidential Information to its responsible employees and contractors with a bona fide need to know, but only to the extent necessary to carry out the purposes of this Agreement, and only if such employees and contractors are subject to a nondisclosure agreement sufficient to protect the other party's Confidential Information hereunder. The restrictions set forth in this section will not apply to any Confidential Information that the receiving party can demonstrate (a) was known to it prior to its disclosure by the disclosing party; (b) is or becomes publicly known through no wrongful act of the receiving party; (c) has been rightfully received from a third party authorized to make such disclosure without restriction; (d) is independently developed by the receiving party without reference to the disclosing party's Confidential Information. The parties agree that a breach of this section may cause

irreparable damage that money cannot satisfactorily remedy and therefore, the parties agree that in addition to any other remedies available at law or hereunder, the disclosing party will be entitled to seek injunctive relief for any threatened or actual disclosure by the receiving party.

11. Proprietary Rights. The Software and Documentation contain Peer Software's proprietary information that is protected to the maximum extent by applicable intellectual property and other laws. Except for the license granted under Section 2.1, Peer Software reserves all right, title, and interest to the Software and Documentation, including without limitation any modifications, enhancements, improvements, customizations, maintenance releases, revisions, or derivative works thereof. There is no implied license, right or interest granted in any copyright, patent, trade secret, trademark, invention, or other intellectual property right under this Agreement.

12. Miscellaneous. This Agreement will be governed by and construed under the laws of the State of Delaware without regard to any conflict of laws provisions. This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter hereof and supersedes all prior discussions, proposals, and understandings between them. Without limiting the generality of the foregoing, this Agreement will supersede the terms of Customer's form of purchase order, acknowledgment, or other business forms notwithstanding Peer Software's acceptance or acknowledgment of such business forms. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless set forth in writing signed by officers of both parties hereto. Customer agrees not to export the Software in violation of the laws and regulations of the United States or any other nation. In no event may Customer assign this Agreement or its rights and obligations under this Agreement. Peer Software shall have the right to assign this Agreement to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization, or otherwise. This Agreement will be binding upon and inure to the benefit of the parties hereto, their permitted successors and assigns. If any provision of this Agreement is held to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. Any notices or communication under this Agreement will be in writing and will be hand-delivered, sent by registered or certified mail return receipt requested, by nationally-recognized express courier with a tracking system, or by confirmed facsimile transmission to the party receiving such communication, at the receiving party's address set forth on the applicable ordering document, or such other address as a party may in the future specify to the other party.