

PEAK's TERMS OF SERVICE

Peak Virtual Accounting, a California corporation ("PEAK") is pleased to welcome you to its web site currently located at <http://www.peakvirtualaccounting.com> (the "Web Site"). The following terms and conditions (collectively, the "Terms of Service") is a legal agreement between you and PEAK that states the terms that govern your access to and use of the Web Site. By accessing the Web Site, you become a user and agree to and are bound by the terms and conditions of this Agreement. **IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, DO NOT ACCESS THE WEB SITE.**

Our Client Services Agreement applies to users of the Web Site to whom we provide Services (as defined heretin) (such users being, our member "Clients"). For our Clients, all terms of this Agreement that are consistent with the terms of such Client Service Agreement shall supplement the term of the Client Service Agreement, provided that in the event of a conflict between the terms hereof and Client Services Agreement, the terms of the Client Services Agreement shall prevail. If you are not a member Client, the Client Services Agreement does not apply to you.

The Web Site is intended for use by individuals residing in the United States who are at least 18 years of age. You will only use the Web Site in a manner consistent with this Agreement and any and all applicable laws and regulations. Neither the Web Site nor its related services may be used where prohibited by law.

Changes to Terms of Service. We reserve the right, at our sole discretion, to change, add or remove portions of the Terms of Service, at any time. It is your responsibility to check the Terms of Service each time before using the Web Site. Your continued use of the Web Site following the posting of changes will mean that you accept and agree to the changes. As long as you comply with the Terms of Service, PEAK grants you a personal, non-exclusive, non-transferable, limited privilege to enter and use the Web Site.

Rules and Policies. Your use of certain sections of the Web Site may be subject to other posted terms and conditions that govern your use of that section and the specific services, features or transactions available in that section, all of which are hereby made a part of the Terms of Service. If there is conflict between the following terms, and the terms posted for a specific service, feature or transaction offered on the Web Site, unless otherwise stated in the Terms of Service the latter terms shall control regarding that specific service, feature or transaction.

Privacy. Except as otherwise expressly provided for herein, the Web Site is subject to **PEAK's Privacy Policy** at <http://www.peakvirtualaccount.com/privacy.php> which is expressly made a part of the Terms of Service. If you have not already read our Privacy Policy, you should do so now. The terms and conditions of our Privacy Policy will change from time to time, and as a condition of browsing the Web Site, using any features or making any purchase, you agree that you will first review our Privacy Policy prior to making any initial or subsequent purchases. As a convenience, PEAKS makes available to our member Clients the option to purchase access to an on-line version of Quickbooks and related services provided by Swizznet via its web site (collectively, the "Swizznet Service"). The Swizznet Service is subject to **Swizznet's Privacy Policy and Terms and Conditions** imposed by them, not PEAK. Information our member Clients provide Peak is processed using software and services provided by our third-party

provider, Infusionsoft. Such information is subject to **Infusionsoft's Privacy Policy and Terms of Service** imposed by them, not PEAK. If you have not already read their respective privacy policies and terms, you should do so now. They may change from time to time, and as a condition of browsing the Web Site, using any features or making any purchase, you agree that you will first review them. By using the Web Site after any change to the foregoing policies and terms referenced in this paragraph, you will be deemed to be bound by all such changes.

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You may not attempt to gain unauthorized access to the Web Site. Should you attempt to do so, assist others in making such attempts, or distributing instructions, software or tools for that purpose, then your Account will be terminated. YOU ARE RESPONSIBLE FOR THE TIMELY PAYMENT OF ALL FEES AND TAXES AND FOR PROVIDING PEAK WITH VALID CREDIT CARD ACCOUNT DETAILS FOR PAYMENT OF ALL FEES AND TAXES. All fees and applicable taxes will be billed to the credit card that you designate at the time of purchase or sign-up to obtain services.

Accuracy of your Account Information. You agree to provide us with accurate, current and complete information about you and your billing information as prompted by the registration process. You may update any of your Account information by clicking on the “My Account” button and entering the desired change or selecting the appropriate link to do so.

Consent to Communication With You By E-Mail. *By establishing your Account with us, you grant permission to PEAK to contact you at your e-mail address for purposes relating to the use and administration of the Web Site.* PEAK may send you notice with respect to the Web Site or your Account by sending an e-mail message to the e-mail address listed in your Account contact information, by sending a letter via postal mail to the contact address listed in your Account contact information, or by a posting on the Web Site. Notices shall become effective immediately.

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Termination. Subject to the terms of the Client Services Agreement, you or PEAK may terminate your access to and use of the Web Site, for any or no reason at any time without explanation, effective upon notice. *You agree that PEAK will not be liable to you or to any third party for termination of your access to the Web Site. All payments to PEAK or for products and services are NONREFUNDABLE unless otherwise agreed to by PEAK in writing.* You may terminate your Account by sending a notice of cancellation to: Peak Virtual Accounting, legal@peakvirtualaccounting.com Attn: Cancellations.

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Exclusion of Incidental, Consequential and Certain Other Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PEAK OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE WEB SITE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE WEB SITE OR OTHERWISE ARISING OUT OF THE USE OF THE WEB SITE OR CONTENT OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF PEAK OR ANY SUPPLIER, AND EVEN IF PEAK OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

Limitation of Liability and Remedies. NOTWITHSTANDING ANY DAMAGES THAT YOU MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, ALL DAMAGES REFERENCED HEREIN AND ALL DIRECT OR GENERAL DAMAGES IN CONTRACT OR ANYTHING ELSE), THE ENTIRE LIABILITY OF PEAK AND ANY OF ITS SUPPLIERS UNDER ANY PROVISION OF THIS AGREEMENT AND YOUR EXCLUSIVE REMEDY HEREUNDER SHALL BE LIMITED TO THE GREATER OF THE ACTUAL DAMAGES YOU INCUR IN REASONABLE RELIANCE ON THE SERVICE UP TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE SERVICE OR US\$5.00. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

Indemnity. Notwithstanding anything to the contrary, you agree to indemnify and hold PEAK (and its officers, directors, agents, representatives and affiliates) harmless against and for all costs, damages, liabilities and expenses (including reasonable attorneys' fees) incurred by any or all of them arising out of or related to: any investigation, claim, suit or proceeding in connection with your failure to comply with any provision(s) of the Terms of Service, or your violation of any applicable laws, rules or regulations.

Electronic Signatures and Contracts. Your use of the Web Site includes the ability to enter into agreements and/or to make purchases electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY SUCH AGREEMENTS AND TO PAY FOR SUCH PURCHASES. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO ON THE SITE, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND CONTRIBUTIONS.

Applicable Law and Disputes. Except as otherwise provided in the Client Services Agreement for member Clients, this Agreement shall be governed by the law of the State of California without consideration to its choice of law provisions, and any claims arising hereunder shall be prosecuted in the State of California. The parties consent to the jurisdiction of the courts of the State of California and hereby waive all objections to such jurisdiction and venue. The parties agree that sole and exclusive venue for any dispute arising under or relating to this Agreement shall be held solely and exclusively in courts of appropriate subject matter jurisdiction sitting in Orange County, California (either (1) in federal court, United States District Court, Central District of California, Southern Division (Santa Ana Courthouse – Ronald Regan Federal Building and U.S. Courthouse) or (2) in the Superior Court of California, County of Orange, Central Justice Center (Santa Ana)) and hereby submit to the sole and exclusive jurisdiction of such courts.

Assignment. We reserve the right to assign the Terms of Service without notice to you or your consent so long as the assignee agrees to be bound by its terms.

Last modified: March 27, 2009.