

Annexure-1

Terms & Conditions of Subscription to ActPlease on Software-as-a-Service (SaaS) user basis

1. Introduction & Purpose

This transaction is between our company, Peach Technovations Pvt. Ltd. (herein after referred to as “PEACH”), and your company (hereinafter referred to as “CUSTOMER”). PEACH has developed a web-based portal (hereinafter referred to as “PORTAL”), currently operating with domains “actplease.com”, “xerp.it”, “genieerp.com”, “it4pcb.com”, which provide the facilities (hereinafter referred to as “SERVICES”) of accepting and monitoring action requests from stakeholders of organizations. CUSTOMER seeks to avail SERVICES on PORTAL for the period specified (hereinafter referred to as “PERIOD”) in the preceding document. These services will be availed by CUSTOMER’s employees, CUSTOMER’s customers, CUSTOMER’s stakeholders and all other people that provide input to PORTAL with relevance to CUSTOMER, who will all be collectively referred to hereinafter as “USERS”.

2. Availability and Usage of SERVICES & PORTAL

(a) The basic coverage of SERVICES will include entry, progress update, and monitoring of action tasks for CUSTOMER. The specific definition of and features covered in SERVICES and PORTAL will be decided & modified by PEACH without any notification to CUSTOMER. The system configuration will be done by an administrator appointed by CUSTOMER internally from amongst its executives (a.k.a. officers). The product is intuitive and does not require training; however PEACH may voluntarily provide help.

(b) PEACH will, during the PERIOD, make available the PORTAL and SERVICES for CUSTOMER to use. PEACH will make commercially reasonable endeavours to keep services available 24 hours a day, seven days a week, except for (i) planned maintenance and (ii) unscheduled repairs as defined and determined necessary by PEACH.

(c) In case PEACH finds itself unable to continue providing SERVICES or making PORTAL available for CUSTOMER to use for reasons within control of PEACH, PEACH will refund on pro-rata basis a part of the amount of subscription charges (not including setup charges) collected from CUSTOMER for the remainder of the PERIOD during which CUSTOMER cannot avail SERVICES.

(d) PEACH neither warrants that the SERVICES will be uninterrupted and error-free, nor warrants that SERVICES, PORTAL, and the information obtained by CUSTOMER and USERS through SERVICES will meet CUSTOMER's requirements or expectations.

(e) CUSTOMER assumes sole responsibility for results obtained from the use of PORTAL and SERVICES, and for conclusions drawn from such use.

(f) CUSTOMER will not hold PEACH responsible for any delay, delivery failures, or any other loss or damage resulting from (i) use or misuse of PORTAL or SERVICES, or (ii) malfunction of or inaccuracy in or or temporary unavailability of PORTAL or SERVICES for any reason, or (iii) inability to access PORTAL or SERVICES due to malfunction of or delays in network connectivity, SMS text messaging service, Internet, email services, etc. CUSTOMER acknowledges that SERVICES may be subject to limitations, delays and other problems inherent in the use of various communications facilities such as Internet, SMS text messages, emails, etc.

(g) CUSTOMER shall ensure that all USERS shall abide by all guidelines and laws of the Government of India and all its states, and shall not use the PORTAL or SERVICES, directly or indirectly, for commercial, financial, discriminatory, offensive (racially, ethnically, or in any other way), religious, political, defamatory, threatening, obscene, illegal or indecent activities, or any activities that may hurt the sensitivities of people of any religion, caste, gender, sexual orientation, disability, nationality or residence, by way of files, images, material, information, data, or any content in any form. CUSTOMER alone will face all consequences, liabilities and penalties arising out of violation of any laws or rights and out of any lawsuits, and pay for all expenses incurred by PEACH on account of these. PEACH reserves the right, without liability of PEACH and without providing any advance notice, to disable CUSTOMER’s access to any content that breaches the provisions of this clause or to entirely suspend CUSTOMER’s subscription without having the liability to refund any amount to CUSTOMER.

(h) If CUSTOMER chooses to stop using SERVICES or PORTAL at any time before completion of the PERIOD, CUSTOMER will not be entitled to receive any refund from PEACH.

(i) PEACH has tried to ensure that the PORTAL and SERVICES are intuitive and easy to use, and has also made provisions to guide USERS through pop-ups and messages. PEACH is not liable to provide any other form of support to CUSTOMER or USERS, but may do so at its own initiative.

(j) The rights to use SERVICES are granted to CUSTOMER only, and NOT to any subsidiary or holding company of CUSTOMER.

(k) PEACH shall have right to monitor the usage of PORTAL and SERVICES by CUSTOMER in order to fine-tune the quality of SERVICES and PORTAL.

3. Data

(a) CUSTOMER takes responsibility of ensuring that all email addresses and mobile phone numbers of USERS (with or without login access, having role of officers, administrators, or complainants on PORTAL) are accurate, genuine, and acquired after informing these USERS about the communications (by SMS text messages and emails) that they are likely to receive from PORTAL and taking their consent for receiving these communications. In case one or more of USERS takes offense or sues PEACH or PORTAL for sending unwanted information, CUSTOMER will take responsibility of the act and legal proceedings, and accept all costs, legal expenses, penalties, etc. directly as well as on behalf of PEACH.

(b) CUSTOMER shall also ensure that all of the material or content (including files and images) uploaded or placed on PORTAL by USERS is freely redistributable, and not in violation of any copyright or intellectual property rights (IPR) in any form. CUSTOMER alone will face all consequences and penalties arising out of violation of any rights or laws. CUSTOMER shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all data CUSTOMER places on or receives from the PORTAL.

(c) PEACH has the right to use, during and after completion of the PERIOD, the name, logo, feedback, and contact details of CUSTOMER on its marketing publications and promotional materials (such as brochures, blogs, advertisements, leaflets, tweets, websites, PORTAL, third party portals, etc.) to mention the fact that CUSTOMER is or was a customer of PEACH and a user of PORTAL and services. PEACH also maintains the right to publish statistics of usage by CUSTOMER.

(d) PEACH may take backup of data and files associated with PORTAL from time to time. The database and files may include data associated with configuration, usage, images, etc. placed by or received by CUSTOMER. CUSTOMER will not consider maintenance of such data as infringement of any copyright or intellectual property rights. PEACH will make sincere effort to maintain the confidentiality of such data. However PEACH will not be responsible for any loss, destruction, alteration or disclosure of the data or content.

(e) In the event of any loss or damage to data or content of CUSTOMER on PORTAL, the CUSTOMER's sole and exclusive remedy shall be for PEACH to use reasonable commercial endeavours to restore the lost or damaged data from the latest backup of such data maintained by PEACH. PEACH shall not be responsible for any loss or destruction or damage to the data by action of any party or under any other circumstances. PEACH recommends that CUSTOMER should frequently use the "Export to Excel" function in the PORTAL to fetch and save parts of CUSTOMER's data.

4. Usage Rights, Intellectual Property Rights (IPR) & Copyright

(a) CUSTOMER shall not (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the PORTAL and/or its documentation (as applicable) in any form or media or by any means; or (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the software associated with the PORTAL; or (iii) access all or any part of the SERVICES and PORTAL in order to build a product or service which competes with the SERVICES or PORTAL; or (iv) use the SERVICES or PORTAL to provide services to third parties.

(b) CUSTOMER accepts that PEACH solely owns all intellectual property rights associated with PORTAL and SERVICES, and that CUSTOMER has and will have no claim over IPR or copyright on SERVICES, PORTAL, or any content or data associated with PORTAL.

(c) CUSTOMER acknowledges that the PORTAL and SERVICES are available on shared and not exclusive basis, and that PEACH is free to provide these to other organizations and individuals at any rates and terms.

5. Indemnity: CUSTOMER shall hold harmless, indemnify and defend PEACH against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with CUSTOMER's use of SERVICES and the PORTAL.

6. Limitation of Liability: PEACH shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this transaction; and PEACH's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with performance or contemplated performance of the PORTAL & SERVICES shall be limited to a maximum cumulative total amount of Rs. 10,000 (Ten thousand rupees) or less.

7. Force Majeure: PEACH shall have no liability to CUSTOMER in case of malfunction or unavailability of PORTAL or SERVICES due to acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, industrial disputes, failure of a utility service or telecommunications network, act of God, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

8. Renewal of Subscription: CUSTOMER and PEACH may extend the PERIOD prior to completion of PERIOD upon payment of a subscription amount decided and proposed by PEACH and accepted and paid by CUSTOMER. The terms and conditions listed in this document will continue to remain in effect for the extended PERIOD also.

9. Payment: 100% advance, incl. all taxes, by online bank transfer, and through e-commerce setup of Peach if and when available.

10. Jurisdiction: Any disputes arising out of this transaction will only be subject to Gandhinagar, Gujarat jurisdiction.

11. Continuity: The terms of confidentiality and IPR ownership mentioned in this document shall remain in force for three calendar years after the completion of the PERIOD of subscription.

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