

SmartMax Software Inc. Terms and Conditions (GDPR)

Effective Date: May 25, 2018

This Terms and Conditions update applies to the ChatBeacon software (Version 3 or later), ("the Software") and the ChatBeacon.io website. To comply with the new GDPR legislation, we have updated our procedures and policies and made the appropriate alterations to the Software beginning with ChatBeacon (Version 3 or later). By using the Software, a trial of the Software, or purchase of any product offered by SmartMax Software, Inc., means the acceptance of this SSI Privacy Policy, SSI Terms, and Conditions and SSI Data Processing Agreement. We will not share or use your information with anyone except as outlined in this Privacy Policy but does not apply to information collected by other means (including live or offline) or from other sources.

The SmartMax Software Inc. ("Agreement") set forth below provides the complete Terms and Conditions that will apply between "Licensee" and SmartMax Software, Inc. "SSI" "SmartMax," an Oklahoma corporation having offices at 8801 South Yale Avenue, Suite 460, Tulsa, OK 74137, USA. Within this Agreement, the word "Licensee" refers to "Customer or "you," and you agree, along with SSI to be bound by and are obligated to all the terms and conditions of this Agreement. If you are accessing or using the Software or Services on behalf of your company, you are representing authorization to accept this Agreement.

MODIFICATIONS TO THIS AGREEMENT

SmartMax reserves the right to modify this Agreement (including policies) at any time and will use reasonable efforts to notify Licensee of the changes via our website, direct email or other means. Changes to this Agreement may, for example, include security and product updates, company updates or legal compliance, and becomes effective at the time of the modification.

SMARTMAX IS WILLING TO PROVIDE SOFTWARE AND SUBSCRIPTION SERVICES TO YOU ONLY UPON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS, CONDITIONS, AND NOTICES CONTAINED IN THIS AGREEMENT. PLEASE READ THIS AGREEMENT CAREFULLY AS IT IS LEGALLY BINDING. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS HEREIN, SMARTMAX IS UNWILLING TO PROVIDE SOFTWARE LICENSING OR SUBSCRIPTION SERVICES TO YOU.

ACCEPTANCE OF TERMS

WHEREAS, SmartMax has developed, owns and markets proprietary, Internet-based, e-commerce solutions and offers subscription services on the Internet and On-Premise Software; and WHEREAS Licensee wishes to make use of the ChatBeacon live chat solution, purchase and or retain the subscription services of SmartMax.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, SmartMax and Licensee agree as follows:

If all of the following conditions are met: (1) you read and agree to

the Terms and Conditions of this Agreement and indicate your Acceptance of the Terms and Conditions of the Agreement by clicking "I Agree" at the Order Page; (2) you fully and correctly submit all information requested of you in a provided order form; and (3) you submit proper payment. This Agreement shall become effective on the date (the "Effective Date") that payment is received and accepted by SmartMax. If your order is placed with your sales representative, it is acknowledgment and acceptance of the conditions as mentioned above.

1. DEFINITIONS

"Agent" means an individual who takes live chats and monitors customers across all channels, (i.e., Website, SMS, Social Media), where the ChatBeacon (Version 3 or later) Software is in operation.

"AUP" means SmartMax's Acceptable Use Policy.

"ChatBeacon Agent Application" means the console that your Chat Agents log into, to take live chats on your website, also known as the "Operator Console."

"ChatBeacon Code" means proprietary JavaScript code, other code, or software development kits (SDK's), provided to you by SmartMax for deployment on Customer websites.

"PII" means data that is provided directly by a Customer to a ChatBeacon Agent or ChatBeacon AI ChatBot or indirectly, on behalf of a Customer to a ChatBeacon Agent or ChatBeacon AI ChatBot and is far more generalized than Personal Data. It can include, but not limited to basic information provided by a Customer when completing a pre-chat or post chat form, the chat information itself and the corresponding logs, type of communication device (i.e., type of mobile device or OS or browser used).

"Effective Date" means the date this Agreement shall become effective (the "Effective Date"), either by contractual execution, online provisioning, placement of order (website, phone or email sign up with SSI representative, or the date that payment is received and accepted by SmartMax.

"End User" means an individual who uses the ChatBeacon Software (Version 3 or later), to communicate with a customer.

"Feedback" means questions, comments, and suggestions provided to SSI regarding a product, service, usage or website.

"Licensee" means Customer or you.

"Site" means www.chatBeacon.io.

"SMS Chat" means the chat feature which allows your customers and prospects to communicate with your live chat agents via SMS text message.

"Subscription Services" means the Chatbeacon Live Chat Software (Version 3 or later), provided as a software-as-a-service solution

(SaaS) and designed to enable Licensees to communicate to their "customer" on their website via the ChatBeacon Agent Application.

"Software" means the Chatbeacon Live Chat Software (Version 3 or later), including any updates provided by SmartMax, and "SmartMax" proprietary technology and source code.

"SmartMax Content" means any and all material developed by SmartMax and made available for use by Licensee including any designing of Licensee website, and templates prepared by SmartMax for use by Licensee.

"Trial" means the ChatBeacon Trial (Version 3 or later) and are available for either the ChatBeacon Cloud Subscription or ChatBeacon On-Premises Software for a period of fourteen (14) days. Once the trial period has ended and you have signed up for a paid Cloud account, your account will continue as agreed. If you have opted to purchase the Software license, you will be provided with licensing for your Server. SmartMax reserves the right to cancel service or licensing at any time due to Prohibited Practices and Gross Infringement thereof.

"Personal Data" means data, in context of GDPR, in Europe and other countries with privacy protection laws derived from the OECD privacy principles. Also known as Sensitive Personal Information, this covers a much broader range of information and is any information that can be directly or indirectly linked to a particular individual by reference to specific, identifiable factors (i.e. name, SSN, home address, employment information, tax information, medical, date and place of birth, financial information and geo-location data from computers or mobile devices).

"Personally Identifiable Information" (PII) This term is widely accepted in the United States to describe any data that can potentially identify a specific individual or can be used to distinguish one individual from another, which then can be used collectively to identify an individual in context.

"Visitor" means an individual who is browsing a website where ChatBeacon Live Chat is in use.

"Third-Party Platform" means software applications that are not provided nor manufactured by SSI, but may integrate to ChatBeacon (Version 3 or later).

"Website" means Licensee Internet presence, identified by the domain name provided by Licensee.

2. SOFTWARE AND SUBSCRIPTION SERVICES OVERVIEW

2.1 ChatBeacon On-Premise Overview (Version 3 or later).

Customers purchase a perpetual software license; install and manage their own software installations, networks, data and security, and therefore are entirely responsible for the handling of any Personal Data or PII collected through the ChatBeacon Software, ChatBeacon Chat Window or ChatBeacon AI ChatBots.

2.2 ChatBeacon Cloud Services Overview (Version 3 or later).

Customers may sign up for ChatBeacon Cloud, which is provided as a software-as-a-service solution (SaaS), and designed to enable the licensee to communicate to their "Customer" on their website through the ChatBeacon Agent Application. Service is provided on a subscription basis for a set term with Personal Data and PII being housed and stored on a Shared server unless the Customer wishes to upgrade to a Dedicated Server. Pricing for this option is provisioned for the Customer by request.

3. CHATBEACON ON-PREMISE SOFTWARE & CLOUD SOLUTION, ACCESS TO AND LICENSING

3.1 On-Premise Customers - Please refer to the ChatBeacon On-Premise License Agreement

3.2 ChatBeacon Cloud Customers - Please refer to the ChatBeacon Cloud Subscription Terms of Service.

4. ACCEPTABLE USE POLICY

4.1 This Acceptable Use Policy (AUP) applies to SmartMax Software, Inc., ChatBeacon, "the Software" and "Services" accessible through but not limited to <https://www.chatbeacon.io>, <https://kb.chatbeacon.io>, <https://docs.chatbeacon.io>, <https://my.chatbeacon.io>, mobile versions and related URL's. SmartMax reserves the right to modify this AUP at any time and will use reasonable efforts to notify Licensee of the changes via our website, email or other means. Important: By using the Software or Services, you agree to the latest version of this AUP. If you do NOT agree, then do NOT use the Software or Service. Violation of this AUP directly or indirectly is strictly prohibited and is cause for legal breach of Agreement.

4.2 In accordance with the Terms and Conditions, Licensee must NOT engage or use the Software or Services in a manner that is offensive, illegal, fraudulently, infringing, misrepresented, impersonating, phishing, violates rights of individuals or laws, nor encourage or promote harmful behavior in any way. Licensee will NOT provide content that is offensive, illegal, fraudulent, infringing or harmful. It is considered gross infringement of the Terms and Conditions for any one or more of the following reasons: (i) the Content is adjudicated to be in violation of the laws of the state where the server resides; illegal or sexually explicit Content or activities, or any Content that allegedly violates the law, rules or regulations of any country or subdivision thereof; (ii) the Content constitutes harassment of Users, including, but not limited to, by means of Licensee billing practices; or (iii) Licensee noncompliance with or material breach of any of the terms and conditions of this Agreement; or (iv) claims made by third parties against SmartMax that Licensee or any of its end users has engaged in one or more of the above practices. (v) Reserve Engineering, Disassembly, and Decompilation (ref 7.2).

5. COLLECTION AND USE OF PERSONAL INFORMATION

5.1 SmartMax collects data from you, through interactions with our products, feedback, comments, reviews, our website, emails, chats and calls for example. The information collected depends upon on these interactions and the options selected when establishing your privacy settings. The type of technology used, how you use it and what information you share is entirely up to you.

When signing up for a ChatBeacon Trial (Version 3 or Later), create an account, opted-in to receive SmartMax company news and information, purchase a product, download the software, download a software update, request a new or replacement license key, sign up for training or product demo, connect to our services, contact us or participate in an online survey or promotion, provide a comment or review, we may request or collect a variety of information, including your name, email address, company name and address, mailing address, website address, phone number, contact preferences, MAC address, IP address, location information, OS, browser type, product license key, product version information, chat data collected by either a live agent or AI ChatBot (from the chat itself, pre-chat surveys, post chat surveys, offline surveys) and credit card information.

How we use your personal information:

- The personal information we collect allows us to stay in touch with product release updates, advertise and market to you, provide, documentation, tips and suggestions, announcements and company news. You may opt out of our mailing lists at any time by emailing us at legal@chatbeacon.io.
- Personal information may be used to provide or improve customer service, customer communication and support, helping us to create, develop, design, new products and update current ones, to add additional security features for anti-fraud purposes, troubleshooting, to maintaining Software and Service performance and functionality.
- Personal information may also be used to verify identity in order to determine, confirm ownership and provide support to the appropriate individual.

Collection and use of non-personal information:

- Information that is considered not personal is information, which on its own, is not specifically nor directly tied to or associated with any specific individual. We may collect, use, transfer and disclose non-personal information for any purpose. Examples of non-personal information: Area code, zip code, time zone, language, occupation and referrer URL.
- We may collect non-personal information such as interests in Software or Service and general search queries to better serve and provide more useful and relevant results.

If at any time, personal and non-personal information is merged, the data will be treated as personal information for as long as it remains combined.

Sharing of Your Personal Information:

We will not, under any circumstances share your personal information with other individuals, organizations (private or public) or corporations without your permission, except when applicable by law. We do not sell, communicate or divulge your information to any mailing lists, and at any time, you may opt-out or stop receiving correspondence from SSI. We may be required to disclose personal information in response to requests from law-enforcement officials conducting investigations; subpoenas; a court order; or if we are otherwise required to disclose such information by law and where disclosure is necessary to protect our legal rights, property, enforce our Terms of Use or other Agreements, or to defend ourselves or others, the security or integrity of our Software or Service.

6. SMARTMAX COOKIE POLICY

SmartMax may use cookies on their websites and online services. Cookies are text files which contain small amounts of information which are downloaded to your device when visiting a website, hence distinguishing you from other visitors to our website. Cookies are useful as they allow a website to recognize you when revisiting a website or another website that may recognize that cookie. Cookies enable the ability for you to sign-in, navigate web pages efficiently, use shopping carts, set and remember preferences, provide us with information on pages of the website you may have visited, measure effectiveness of ads or of user experience to improve our offerings and communication. **By continuing to browse this site, you agree to our use of cookies.** Note: The information provided below regarding cookies was obtained from the guidelines published by ICC UK Cookie Guide.

Cookies that may be used include:

Strictly Necessary Cookies: These cookies are essential and are required for the operation of our website, and enable services that you have specifically set. They allow you to move around the website, using its features, and without these cookies, you are not able to access secure areas of the website, nor use shopping carts and e-billing for instance.

Performance Cookies: These cookies collect information on how visitors use a website and can help optimize website usage for visitors, making it easier to navigate and lets us ensure users are locating what they are looking for quickly. They collect information on which pages you frequent if you've come to the website from an affiliate website, if you purchased a product or service, including details of your purchases. The information collected does not identify you, is aggregated and therefore anonymous.

Functionality Cookies: These cookies are used to recognize you when returning to our website, they enable the website to remember preferences you have set that are more personalized, such as web pages you like, language, fonts, text size, products you may have shown interest in previously. They may also help to optimize websites to allow better navigation. The information collected does not identify you, it may be anonymized and cannot

track browsing activity on other non-SmartMax websites.

Third-party Cookies: SmartMax may use third-party cookies (such as cookies from advertising or marketing companies or web traffic services. These technologies provide us with metrics and analytics to help us improve our website, products or services. Third-party cookies are most likely to be analytical/performance/targeting cookies and are covered by the third party's privacy policy.

Opting out of or blocking of cookies: If at any time you wish to stop or restrict cookies that may already be on your computer or device, you will need to adjust your browser settings accordingly. Please refer to your browser's documentation for assistance. Please note: If you delete our cookies or disable future cookies, you may not be able to use the website, features and lose functionality you had previously.

7. PROPRIETARY RIGHTS

7.1 Reservations of Rights; Certain Restrictions and Limitations.

The Software in its entirety is protected by both United States and International Copyright Law; and other Intellectual Property Laws and Treaties. SmartMax owns without limitation, the title, copyright, any patent, trademark, designs, all copy, logos service marks, organizational layout, trade secret, domain names, business name, and other intellectual property rights in the Software and is the sole and exclusive property of SmartMax. The Software is licensed, not sold. SmartMax reserves all rights not expressly granted to you in this Agreement.

7.2 Reverse Engineering, Disassembly, and Decompilation.

Attempts to Reverse engineer, decompile or disassemble the Software is strictly prohibited and shall be a breach of this Agreement, except and only in very limited circumstances as expressly permitted by applicable law. Licensee will not use the Services to provide, or incorporate the Services into any product or service provided to a third party; otherwise, seek to obtain the source code or non-public APIs to the Services and shall be a breach of this Agreement, except and only in very limited circumstances as expressly permitted by applicable law. Licensee will not rent, lease, provide access to or sublicense the Services to a third party, this is prohibited and considered a breach of this Agreement unless the parties have entered a separate agreement with separate terms allowing for such activity. Licensee will not copy or modify the Services or any documentation, or create any derivative works. You will not remove or obscure any proprietary or other notices contained in the Services, including the "Powered by ChatBeacon" designation that may appear by default as part of the deployment on your website, nor remove nor obscure notices found on reports or data or publicly disseminate information regarding the performance of the Services.

7.3 Trademark. "CHATBEACON" is a trademark registered with the United States Patent and Trademark Office (USPTO), and therefore subject to National and International Protection.

7.4 Intellectual Property Rights. SmartMax shall retain all rights to its

Services and Software (including without limitation any code or materials provided to licensee as part of the Professional Services), technologies, brands, trade secrets, information, know-how, intellectual property, proprietary rights, information and data generated by SmartMax Software or SmartMax systems, whether pre-existing or created after the Effective Date, including any modifications, enhancements and derivatives thereof (including without limitation, data and information generated by such Services and Software). No implied licenses are granted herein.

7.5 SmartMax Content. Upon payment of any fees charged for the development of SmartMax Content, SmartMax hereby provides Licensee with a non-exclusive, royalty-free, irrevocable, non-supported license to use SmartMax Content as part of the Licensee website. Licensee agrees to maintain the "Powered by ChatBeacon" reference located within the chat window unless Licensee has been granted approval by SmartMax to remove it or paid to have it removed.

7.6 Sublicense. Licensee's that are not considered a Reseller by way of a signed Agreement with SmartMax may not sublicense or resell the ChatBeacon Service to any third parties without the prior written permission of SmartMax. As an example, Licensee may not provide the Chatbeacon service to a third party without prior written consent from SmartMax. Any attempts to do so would be considered a material breach and grounds for termination of this Agreement.

7.7 Your Proprietary Rights. Licensee legally confirms that you own or have permission to use all of the data, information, and content you submit to SmartMax in the course of using the ChatBeacon Software or Service and retain ownership thereof. We may use or disclose your content (including any personal information), only as described in these Terms and Conditions.

8. LICENSEE ACCOUNTABILITY

8.1 Licensee Content. Ownership of Content. Licensee acknowledges and agrees that (a) unless expressly stated elsewhere, SmartMax has no proprietary, financial, or other interest in Licensee Content; (b) SmartMax does not, by virtue of offering or hosting Licensee Content, edit, distribute, market, sublicense, publish or otherwise provide Licensee Content to end users; and (c) Licensee is solely responsible for the information, data, accuracy, graphics, text, quality, performance, legality of all PII, and all other aspects of its Content. Licensee agrees that none of the PII will violate or infringe onto any third-party intellectual property, publicly, privacy or any laws. Licensee warrants that it owns or has the necessary rights, consents and permission to use and offer the Content in connection with Licensee marks in the manner in which such Content is provided and will be provided by Licensee during the term of this Agreement. Licensee agrees that all PII is compliant with the SmartMax Acceptable Use Policy (AUP).

8.2 Protection of Content. Licensee acknowledges and agrees that they are solely responsible for ensuring the integrity of its Content. Although SmartMax provides data backup services, Licensee is advised SmartMax in no way is liable for any damages resulting from

the loss of Licensee Content, regardless of the reason for such loss. The licensee is solely responsible for backing-up/archiving Licensee Content.

8.3 Sensitive Personal Information. The licensee must comply with all applicable laws and warrants it will not use the ChatBeacon Service or ChatBeacon Software to violate such laws. Licensee will not collect, store, process propriety information, confidential or Personally Identifiable Information or communicate any Sensitive Personal Information. Licensee warrants that SmartMax will not be held accountable, nor liable under this Agreement. Licensee accepts full responsibility and liability for ensuring information considered to be sensitive is completely excluded. In regards to any claim brought forth, arising from or by any claim from or connected to a PII breach, Licensee agrees to indemnify, defend and hold SmartMax harmless for any and all claims, damages, losses, liabilities, costs, and expenses, without limitation and including reasonable legal fees. Further, it is agreed, that SSI has the right to manage any investigation, right to defense and right to settle any subsequent resolution of any claim that may come forth, at the full expense and full cooperation of the Licensee.

8.4 Social Media and Third-Party Data. Licensee agrees not to use any data procured through the use of social media sites, integration, features or widgets (i.e., buttons, forms) that may run on the ChatBeacon.io website or other websites where ChatBeacon is in use, as such widgets may collect Personal or Sensitive Data. Please refer to the Privacy Policy of the Social Media or Third-Party Companies you interact with to verify legal use and policies. Licensee agrees SmartMax will not be held accountable, nor liable under this Agreement for any such data collected through your activities.

8.5 Prohibited Practices. SmartMax shall have no duty or obligation to monitor Licensee Content or any other Content provided or distributed by others, and SmartMax shall not edit or otherwise exercise any control over Licensee Content. Nevertheless, SmartMax may, in its sole discretion at any time, without notice to Licensee, and without liability to Licensee, remove from public view, disconnect, or terminate the hosting of any of Licensee Content or other Content that SmartMax deems in its sole discretion to be offensive or illegal, gross infringement of the Terms and Conditions thereof, for any one or more of the following reasons: (i) the Content is adjudicated to be in violation of the laws of the state where the server resides; illegal or sexually explicit Content or activities, or any Content that allegedly violates the law, rules or regulations of any country or subdivision thereof; (ii) the Content constitutes harassment of Users, including, but not limited to, by means of Licensee billing practices; or (iii) Licensee noncompliance with or material breach of any of the terms and conditions of this Agreement; or (iv) claims made by third parties against SmartMax that Licensee or any of its end users has engaged in one or more of the above practices.

8.6 Aggregated Anonymous Data. You agree that SmartMax may obtain and aggregate technical data, behavioral data, habits, statistics and other data about the Customer's use of the services that is

non-personally identifiable to the Customer. SmartMax may, in turn, opt to use the Aggregated Anonymous Data to, but not limited to, analyze, change, update and improve the usability of the Services, Software, Website, Licensing and otherwise for any business purpose during and after the term of this Agreement.

8.7 Point of Contact. The licensee shall designate a single Point of Contact (POC) for the account, and this POC shall have full authority to enter into agreements, renew subscriptions and make binding decisions on behalf of Licensee. Licensee agrees that SmartMax may rely on representations made by POC. Licensee may change its' POC at any time by giving written notice to SmartMax, in accordance with the notice provisions of this Agreement. SmartMax is under no obligation to accept instructions from anyone other than the Point of Contact. In turn, SSI shall also assign a single Point of Contact for Licensee that is an account designated technical support representative.

9. SUBSCRIPTION TERM, PAYMENT, AND RENEWAL

9.1 Trial Subscriptions. SmartMax provides limited-time free ChatBeacon Live Chat trials for you to determine your selection. ChatBeacon Trials (Version 3 or later) and are available for either the ChatBeacon Cloud Subscription or ChatBeacon On-Premises Software for a period of fourteen (14) days. Once the trial period has ended and you have signed up for a paid Cloud account, your account will continue as agreed. If you have opted to purchase the Software license, you will be provided with licensing for your Server. During the ChatBeacon trial the product may not include all functionality and features offered, and at the end of the trial, your ability to access and use the Software or Service is terminated. SmartMax reserves the right to cancel service and or licensing at any time due to prohibited practices and gross infringement.

During the ChatBeacon trial, the product may not include all functionality and features offered. At the end of the trial, your ability to access and use the Software or Service is terminated. SmartMax has the right to terminate any trial, at any time.

9.2 Subscription Term and Renewal. In consideration of the Services, it shall begin on the Effective Date (the date service begins) and shall automatically renew one year to the date unless either Party gives the non-terminating Party Sixty (60) days' notice of its election to terminate this Agreement. If you have purchased an On-Premise license, you will renew your Annual Maintenance yearly.

9.3 Terms and Termination. If the Licensee cancels the ChatBeacon Cloud Subscription, please note that there is a mandatory 60-day cancellation. At the time of cancellation, the final billing will become due and processed immediately. The account will then be closed as requested. You must specifically cancel any service that you no longer wish to pay for or use.

9.4 Termination for Breach. Each Party shall have the right to terminate this Agreement upon Sixty (60) days prior written notice if the other Party is in material breach of any term of this Agreement, including without limitation the payment of monies, and the Party

fails to remedy such violation within the sixty-day notice period. SmartMax maintains the right to cancel any service with or without notice due to abuse, including inappropriate, unprofessional behavior and obscenity. If cancellation of service is deemed necessary, payment will not be refunded.

9.5 Fees and Payment. By accepting any of our ChatBeacon Cloud Subscription service options, you agree to maintain current billing information. In the case of Dedicated server and or Annual CLOUD accounts, these are prepaid, with service contract commitment terms for a minimum of one year. Payment is expected at the time of account setup and no later than 30 days after invoicing. If a payment is returned or rejected by the bank, or incurs additional costs for SmartMax (e.g., bank fees) for any reason, then Licensee shall pay a service fee of \$40 and reimburse all such fees and costs incurred by SmartMax, and Licensee shall be immediately deemed to be in default of this Agreement. Accounts not paid in full by the thirtieth (30) day after SmartMax submits its invoice may have their service interrupted or terminated, however, interruption does not relieve Licensee from the obligation to pay all fees due to SmartMax, including the annual account charge. Accounts and all amounts in default are subject to a late payment charge of 1.5% per month, or the maximum amount permitted by law, whichever is less until fully paid. If Licensee defaults, Licensee agrees to pay SmartMax its reasonable expenses, including attorney and collection agency fees, incurred in enforcing its rights. All payments must be received in USD. Bank wire fees assessed by SmartMax will be added to your invoice. All sales are final, and SmartMax offers no partial or full refunds.

9.6 Service Level/Service Level Warranty. As a ChatBeacon Cloud Subscriber, SmartMax guarantees that the network will be available 99% of the time in a given month. This service level warranty shall not apply to performance issues: (a) to the extent caused by factors outside of reasonable control, where unforeseeable and unavoidable service outages occur due to acts of nature, Internet, router, or Hosting Provider related downtime outside of our control (b) that resulted from any actions or inactions of Customer or any third parties not affiliated with SmartMax; (c) that resulted from Customer's equipment, internet connection interruption or failure, functionality of private systems or software existing outside of SmartMax or third party equipment and/or software that may cause interruption of the service; (d) that resulted from software related issues; or (e) that are scheduled by SmartMax for purposes of maintaining or updating the website or the Software (f) Upon experiencing downtime of more than 30 minutes in duration, you may request a refund up to 5% of the "monthly" fee (up to and not to exceed 50% of the monthly customer fee). Refunds would be issued in the form of a credit towards your next invoice unless we received written cancellation prior to the interruption within your final month of service. In this case, refunds would be issued via check or credit card payment within 90 days of the request and dependent upon our verification of service interruption. Network downtime exists when a particular customer is unable to transmit and receive data and SmartMax records such failure in the SmartMax trouble ticket system. Network downtime is measured from the time the customer opens the trouble ticket to the time the server is once

again able to transmit and receive data. If Customer fails to comply with this requirement, Customer forfeits its right to a receive service credit. (g) SmartMax makes every effort to perform all server maintenance during a pre-scheduled maintenance window.

9.7 Change in Fees. SmartMax may change its fee schedules on sixty (60) days' notice by postal mail, electronic mail, or by posting the same on the ChatBeacon.io website. Upon such notification, Licensee shall have thirty (30) calendar days prior to the effective date of the fee schedule to notify SmartMax by postal mail or electronic mail should you not agree to such rate increase and that Licensee wishes to terminate this Agreement.

9.8 Credit Card Payment. Recurring monthly ChatBeacon Cloud Subscription Service accounts require a credit card be charged automatically on your respective due date. You hereby, agree and authorize SmartMax to automatically process the credit card monthly for the Service at the agreed upon price.

9.9 Taxes. All fees charged by SmartMax for Services are exclusive of all taxes and similar fees now in force or enacted in the future imposed on the transaction and or the delivery of Services. The customer is responsible for paying all taxes on Services.

10. STRATEGIC CO-MARKETING

10.1 Testimonials, Press Releases and Case Studies. You agree to participate if requested by SmartMax to a testimonial, joint press release or case study. Each party will have the right to approve the post and or announcement in advance. You may also be asked to participate in other standard marketing activities to promote the benefits of the ChatBeacon Service, including the use of the Licensee name and logo. We understand your time is valuable and such requests are limited.

11. GENERAL TERMS AND OVERVIEW

11.1 Confidential Information. SmartMax and Licensee understand and agree that in connection with the negotiation and performance of this Agreement, each party may have had or have access to or may have been or be exposed to, directly or indirectly, private or confidential information of the other party, including, but not limited to, trade secrets, computer programs and code, scripts, algorithms, features and modes of operation, inventions (whether or not patentable), techniques, processes, methodologies, schematics, testing procedures, software design and architecture, design and function specifications, analysis and performance information, documentation, details of its products and services, as well as names and expertise of, and information relating to, vendors, employees, consultants, customers and prospects, know-how, ideas, and technical, business, financial or marketing information and strategies and any other information that the receiving party reasonably should know is confidential ("Confidential Information"). Each party agrees to hold and treat all Confidential Information of the other party in confidence and will protect the Confidential Information with the same degree of care as each party uses to protect its Confidential

Information of like nature. The Confidential Information will not, without the prior written consent of the other party, be disclosed to any third-party except that the receiving party may disclose the Confidential Information or portions thereof to (i) its directors, officers, employees, agents and representatives on a need-to-know basis or (ii) as may be required by law, applicable regulation or judicial process, provided, however, that if the receiving party is required to disclose such Confidential Information under this Section (iii), the receiving party shall promptly notify the disclosing party of such pending disclosure and consult with the disclosing party prior to such disclosure as to the advisability of seeking a protective order or other means of preserving the confidentiality of the Confidential Information. Notwithstanding anything contained herein to the contrary, Confidential Information does not include any information that (iv) at the time of the disclosure or thereafter is lawfully obtained from publicly available sources generally known by the public (other than as a result of a disclosure by the receiving party or its representatives); (v) is available to the receiving party on a non-confidential basis from a source that is not and was not bound by a confidentiality agreement with respect to the Confidential Information; (vi) has been independently acquired or developed by the receiving party without violating its obligations under this Agreement or under any federal or state law. This Section shall supersede any previous agreement relating to confidential treatment and/or non-disclosure of Confidential Information provided, however, that any information disclosed pursuant to that earlier agreement shall be deemed to be Confidential Information and protected under the terms of this Agreement as if this Agreement had been in place at the time of such disclosures.

11.2 Warranties. Each party warrants and represents to the other party that it has the complete right to enter into and perform its obligations hereunder in the manner contemplated by this Agreement.

11.3 DISCLAIMER OF WARRANTIES. THE FOREGOING WARRANTIES ARE MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. THE SERVICES AND SOFTWARE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND SMARTMAX NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR SMARTMAX ANY OTHER LIABILITY IN CONNECTION WITH ANY SERVICES AND SOFTWARE PROVIDED UNDER THIS AGREEMENT.

11.4 LIMITATION OF LIABILITY. (1) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF USE, LOSS OF BUSINESS, LOSS OF REVENUE, OR LOSS OF DATA, ARISING OUT OF OR IN RELATION TO THIS AGREEMENT OR THE SERVICES. NEITHER PARTY SHALL BE LIABLE FOR ANY ACTS OR OMISSION OF THIRD-PARTIES IN THE EVENT THAT APPLICABLE LAW DOES NOT ALLOW THE LIMITATION AND WILL BE DEEMED MODIFIED SOLELY TO THE EXTENT NECESSARY TO COMPLY WITH

APPLICABLE LAW. (2) TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU ASSUME FULL RESPONSIBILITY FOR ANY LOSS THAT RESULTS FROM YOUR USE OF THE WEBSITE, SOFTWARE, AND SERVICE, INCLUDING ANY DOWNLOADS FROM THE WEBSITE. (3) IN NO EVENT SHALL SMARTMAX SOFTWARE BE LIABLE FOR ANY CAUSE OR CLAIM WHATSOEVER ARISING OUT OF OR RELATED TO THIS AGREEMENT IN EXCESS OF THE AMOUNTS SMARTMAX SOFTWARE HAS BEEN PAID HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE. IN THE EVENT THAT APPLICABLE LAW DOES NOT ALLOW THE LIMITATION OF LIABILITY AS SET FORTH ABOVE, THIS LIMITATION WILL BE DEEMED MODIFIED SOLELY TO THE EXTENT NECESSARY TO COMPLY WITH APPLICABLE LAW. (4) SMARTMAX AND ITS EMPLOYEES WILL NOT BE HELD LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES UNDER THESE OR ANY CIRCUMSTANCES, WHETHER BASED UPON NEGLIGENCE OR HAVE BEEN ADVISED OF SUCH A POSSIBILITY. (5) THE FOREGOING LIMITATIONS AND EXCLUSIONS WILL APPLY REGARDLESS OF WHETHER THE CAUSE OF ACTION ARISES IN CONTRACT, IN TORT OR OTHERWISE AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY OR NEGLIGENCE.

11.4 INDEMNIFICATION: You agree to indemnify, defend and hold harmless Company, its employees, directors, officers, agents, business partners, affiliates, contractors, distribution partners and representatives from and against any and all claims, demands, liabilities, costs or expenses, including attorney's fees and costs, arising from, or related to (i) your use of the Software or Services, (ii) any breach by you of any of these Terms and Conditions, (iii) any violation of applicable law.

11.5 FORCE MAJEURE. The parties shall not be liable to each other or any other person for any delay or failure in the performance of this Agreement or for loss or damage of any nature whatsoever suffered by such party due to disruption or unavailability of communication facilities, utility or Internet service provider failure, acts of war, acts of terrorism, acts of vandalism, lightning, fire, strike, unavailability of energy sources or any other causes beyond the party's reasonable control.

11.6 ASSIGNMENT BY CUSTOMER. The licensee shall be entitled to assign this Agreement to an entity within its holding company, provided that such entity is a wholly owned subsidiary of Licensee, including any other entity, which directly or indirectly, or alone or in concert with others, controls, is controlled by, or is under common control with Licensee. The ChatBeacon license itself is to be used by companies which are a part of Licensee and within the platform named "www.EndUser.com." Any assignment outside of the aforementioned is discretionary by SmartMax and prior written permission by Licensee is required. To assign this Agreement without prior written permission shall be deemed null and void. SmartMax may assign this Agreement, which shall be effective under our prior written approval provided to Licensee.

12. GOVERNING LAW AND JURISDICTION

12.1 The laws of the State of Oklahoma shall govern the validity and construction of this Agreement and any dispute arising out of or relating to this Agreement, without regard to the principles of conflict of laws; (ii) THE PARTIES SUBMIT TO THE JURISDICTION OF THE COURTS OF THE STATE OF OKLAHOMA, USA, AND AGREE TO VENUE IN TULSA COUNTY, OKLAHOMA, USA; (iii) a ruling by any court that one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect shall not affect any other provision of this Agreement. Thereafter, this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had been amended to the extent necessary to be enforceable within the jurisdiction of the court making the ruling and to preserve the transactions contemplated initially by this Agreement to the greatest extent possible; (iv) the section and subsection headings have been included for convenience only, are not part of this Agreement and shall not be taken as an interpretation of any provision of this Agreement.; (v) this Agreement may be amended, waived, changed, modified or discharged only by an agreement in writing signed by all of the parties; (vi) this Agreement represents the entire understanding of the parties with respect to the subject matter hereof, and there are no representations, promises, warranties, covenants or understandings with respect to other than those contained in this Agreement. Without limiting the generality of the foregoing, it is expressly agreed that the terms of any purchase order issued by Licensee with respect to the Hosting Services provided under this Agreement shall not be applicable and that any acceptance of such purchase order by SmartMax shall be for acknowledgment purposes only; (vii) failure to insist upon strict compliance with any of the terms, covenants or conditions of this Agreement shall not be deemed a waiver of that term, covenant or condition or of any other term, covenant or condition of this Agreement. Any waiver or relinquishment of any right or power hereunder at any one or more times shall not be deemed a waiver or relinquishment of that right or power at any other time; (viii) the remedies set forth in this Agreement are cumulative and are in addition to any other remedies allowed by law. Resort to one form of remedy shall not constitute a waiver of alternate remedies; (ix) wherever used in this Agreement, the singular shall include the plural, and the plural shall include the singular. The use of any gender, tense or conjugation shall include all genders, tenses, and conjugations; (x) the Parties are independent contractors, and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership; and (xi) this Agreement is only between SmartMax and Licensee, and does not make any third-party a beneficiary of this Agreement, whether known or contemplated by either party. Further, this Agreement does not make Licensee a third-party beneficiary of any agreement that SmartMax may have with third-parties, nor does this Agreement make SmartMax a third-party beneficiary of any Agreement that Licensee may have with third-parties.